Publication 225

Farmer's Tax Guide

For use in preparing **2023** Returns

Acknowledgment: The valuable advice and assistance given us each year by the National Farm Income Tax Extension Committee is gratefully acknowledged.

Volume 9 of 10

Get forms and other information faster and easier at:
- *IRS.gov* (English)
- *IRS.gov/Spanish* (Español)
- *IRS.gov/Chinese* (中文)
- *IRS.gov/Korean* (한국어)
- *IRS.gov/Russian* (Русский)
- *IRS.gov/Vietnamese* (Tiếng Việt)

IRS

Publication 225 (Rev. 2023) Catalog Number 39248W
Department of the Treasury **Internal Revenue Service** www.irs.gov

Visit the Accessibility Page on IRS.gov

This page is intentionally left blank

Conservation Reserve Program (CRP) payments. Under the CRP, if you own or operate highly erodible or other specified cropland, you may enter into a long-term contract with the USDA, agreeing to convert to a less intensive use of that cropland. You must include the annual rental payments and any one-time incentive payment you receive under the program on Schedule F, lines 4a and 4b. Cost-share payments you receive may qualify for the cost-sharing exclusion. See *Cost-Sharing Exclusion (Improvements)*, earlier, in chapter 3. CRP payments are reported to you on Form 1099G.

TIP *Individuals who are receiving social security retirement or disability benefits may exclude CRP payments when calculating SE tax. See the Instructions for Schedule SE (Form 1040).*

Self-employed health insurance deduction. You can’t deduct the self-employed health insurance deduction you report on Schedule 1 (Form 1040), line 17, from self-employment earnings on Schedule SE (Form 1040).

Landlord Participation in Farming

As a general rule, income and deductions from rentals and from personal property leased with real estate aren’t included in determining self-employment earnings. However, income and deductions from farm rentals, including government commodity program payments received by a landowner who rents land, are included if the rental arrangement provides that the landowner will, and does, materially participate in the production or management of production of the farm products on the land.

Material participation for landlords. You materially participate if you have an arrangement with your tenant for your participation and you meet one or more of the following tests.

1. You do at least three of the following.

   a. Pay, using cash or credit, at least half the direct costs of producing the crop or livestock.

   b. Furnish at least half the tools, equipment, and livestock used in the production activities.

   c. Advise or consult with your tenant on something like deciding what crops to plant, the type of seed or fertilizer to use, or when and at what price the crops should be sold.

   d. Inspect the production activities periodically.

2. You regularly and frequently make, or take an important part in making, management decisions substantially contributing to or affecting the success of the enterprise, for example, decisions about when and where to

plant or spray, when to harvest, what standards to follow, and what records to keep.

3. You work 100 hours or more spread over a period of 5 weeks or more in activities connected with agricultural production.

4. You do things that, considered in their totality, show you are materially and significantly involved in the production of the farm commodities.

These tests may be used as general guides for determining whether you are a material participant.

Crop shares. Rent paid in the form of crop shares is included in self-employment earnings for the year you sell, exchange, give away, or use the crop shares if you meet one of the four material participation tests (discussed above) at the time the crop shares are produced. Feeding such crop shares to livestock is considered using them. Your gross income for figuring your self-employment earnings includes the fair market value of the crop shares when they are used as feed.

Example. Nancy agrees to produce a crop on G. Cohen's cotton farm, with each receiving half the proceeds. Cohen agrees to furnish all the necessary equipment, and it is understood that Cohen will advise Nancy on when to plant, spray, and pick the cotton. It is also understood that he will inspect the crop every few days to determine whether Nancy is properly taking care of the crop. Under their arrangement, it is further understood that Nancy will furnish all labor needed to grow and harvest the crop. Cohen provides the advice, makes inspections, and furnishes the equipment; Nancy furnishes all labor needed to grow and harvest the crop.

The management decisions made by Cohen in connection with the care of the cotton crop and his regular inspection of the crop establish that Cohen participates materially in the cotton production operations. The income Cohen receives from the cotton farm is included in Cohen's self-employment earnings.

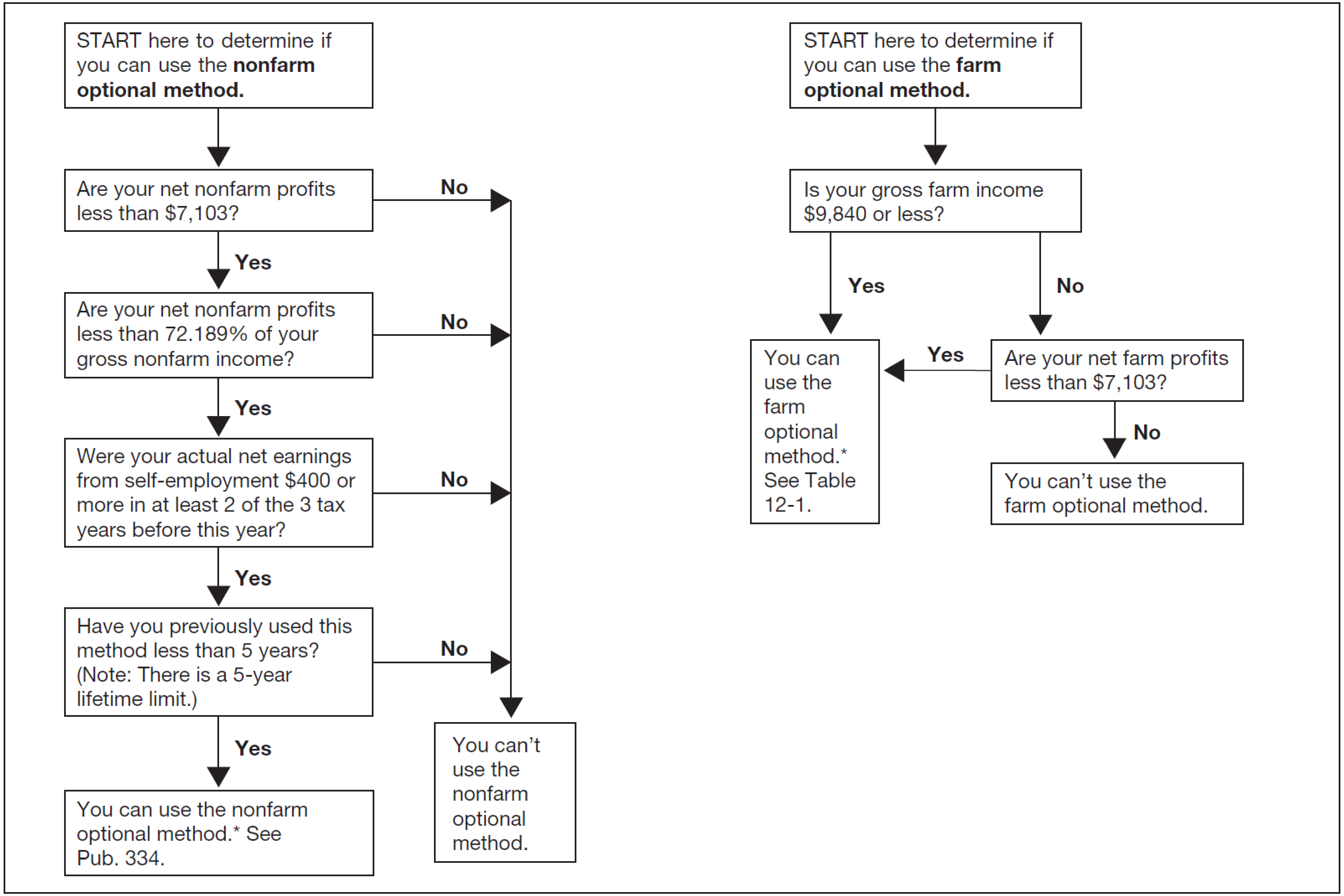
Methods for Figuring Net Earnings

There are three ways to figure net earnings from self-employment.

1. The regular method.
2. The farm optional method.
3. The nonfarm optional method.

You must use the regular method to the extent you don't use one or both of the optional methods. See Figure 12-1 to see if you are eligible to use an optional method.

Figure 12-1. **Can I Use the Optional Methods?**



*If you use both optional methods, see *Using Both Optional Methods,* later, for limits on the amount to report.

This page is intentionally left blank

Why use an optional method? You may want to use the optional methods (discussed later) when you have a loss or a small net profit and any one of the following applies.

- You want to receive credit for social security benefit coverage.
- You incurred child or dependent care expenses for which you could claim a credit. (An optional method may increase your earned income, which could increase your credit.)
- You are entitled to the earned income credit. (An optional method may increase your earned income, which could increase your credit.)
- You are entitled to the additional child tax credit. (An optional method may increase your earned income, which could increase your credit.)

Effects of using an optional method. Using an optional method could increase your

SE tax. Paying more SE tax may result in you getting higher social security disability or retirement benefits.

Using the optional methods may also decrease your adjusted gross income (AGI) due to the deduction for one-half of SE tax on Form 1040, which may affect your eligibility for credits, deductions, or other items that are subject to an AGI limit. Figure your AGI with and without using the optional methods to see if the optional methods will benefit you.

If you use either or both optional methods, you must figure and pay the SE tax due under these methods even if you would have had a smaller SE tax or no SE tax using the regular method.

The optional methods may be used only to figure your SE tax. To figure your income tax, include your actual self-employment earnings in gross income, regardless of which method you use to determine SE tax.

Regular Method

To figure net earnings using the regular method, multiply your self-employment earnings by 92.35% (0.9235). For your net earnings figured using the regular method, see line 4a of your Schedule SE (Form 1040).

Net earnings figured using the regular method are also called actual net earnings.

Farm Optional Method

Use the farm optional method only for self-employment earnings from a farming business. You can use this method if you meet either of the following tests.

1. Your gross farm income is $9,840 or less.
2. Your net farm profits are less than $7,103.

Gross farm income. Your gross farm income is the total of the amounts from:

- Schedule F (Form 1040), line 9; and
- Box 14, code B, of Schedule K-1 (Form 1065) (from farm partnerships).

Net farm profits. Net farm profits are generally the total of the amounts from:

- Schedule F (Form 1040), line 34; and
- Box 14, code A of Schedule K-1 (Form 1065) (from farm partnerships).

If you received social security retirement or disability benefits, you must subtract the amount of any CRP payments included on your Schedule F, line 4b, or listed in box 20, Code AQ, of Schedule K-1. You may also need to adjust the amount reported on Schedule K-1 if you are a general partner or if it is a loss. For more information, see *Partnership income or loss*, earlier.

Figuring farm net earnings. If you meet either of the two tests explained above, use Table 12-1 to figure your net earnings from self-employment under the farm optional method.

Table 12-1. **Figuring Farm Net Earnings**

IF your gross farm income is...	THEN your net earnings are equal to...
$9,840 or less	two-thirds of your gross farm income.
more than $9,840	$6,560.

Optional method can reduce or eliminate SE tax. If your gross farm income is $9,840 or less and your farm net earnings figured under the farm optional method are less than your actual farm net earnings, you can use the farm optional method to reduce or eliminate your SE tax. Your actual farm net earnings are your farm net earnings figured using the regular method, explained earlier.

Example. Your gross farm income is $540 and your net farm profit is $460. Consequently, your net earnings figured under the farm optional method are $360 (2/3 of $540) and your actual net earnings are $425 (92.35% of $460). You owe no SE tax if you use the optional method because your net earnings under the farm optional method are less than $400.

Nonfarm Optional Method

This is an optional method available for determining net earnings from nonfarm self-employment, much like the farm optional method.

If you are also engaged in a nonfarm business, you may be able to use this method to figure your nonfarm net earnings. You can use this method even if you don’t use the farm optional method for determining your farm net earnings and even if you have a net loss from your nonfarm business. For more information about the nonfarm optional method, see Pub. 334.

You can't combine farm and nonfarm self-employment earnings to figure your net earnings under either of the optional methods.

Using Both Optional Methods

If you use both optional methods, you must add the net earnings figured under each method to arrive at your total net earnings from self-employment. You can report less than your total actual farm and nonfarm net earnings but not less than actual nonfarm net earnings. If you use both optional methods, you can report no more than $6,560 as your combined net earnings from self-employment.

Reporting SE Tax

Use Schedule SE (Form 1040) to figure and report your SE tax. Then, enter the SE tax on Schedule 2 (Form 1040), line 4, and attach Schedule SE to Form 1040 or 1040-SR.

If you have to pay SE tax, you must file Form 1040 or 1040-SR (with Schedule SE attached) even if you don’t otherwise have to file a federal income tax return.

SE tax deduction. You can deduct half of your SE tax in figuring your AGI. This deduction only affects your income tax. It doesn’t affect either your net earnings from self-employment or your SE tax.

To deduct the tax, enter on Schedule 1 (Form 1040), line 15, the amount from line 13 of Schedule SE (Form 1040).

Joint return. Even if you file a joint return, you can’t file a joint Schedule SE. This is true whether one spouse or both spouses have self-employment earnings. Your spouse isn’t considered self-employed just because you are. If both of you have self-employment earnings, each of you must complete a separate Schedule SE. Attach both schedules to the joint return. If you and your spouse operate a business as a partnership, see *Business owned and operated by spouses* and *Qualified joint venture (QJV)*, earlier, under *Who Must Pay SE Tax*.

13.

Employment Taxes

What's New for 2023

Social security and Medicare tax for 2023. The rate of social security tax on taxable wages, including qualified sick leave wages and qualified family leave wages paid in 2023 for leave taken after March 31, 2021, and before October 1, 2021, is 6.2% each for the employer and employee or 12.4% for both. Qualified sick leave wages and qualified family leave wages paid in 2023 for leave taken after March 31, 2020, and before April 1, 2021, aren't subject to the employer share of social security tax; therefore, the tax rate on these wages is 6.2%. The social security wage base limit is $160,200.

The Medicare tax rate is 1.45% (0.0145) each for the employee and employer, unchanged from 2022. There is no wage base limit for Medicare tax.

2023 withholding tables. The federal income tax withholding tables are now included in Pub. 15-T, Federal Income Tax Withholding Methods.

Qualified small business payroll tax credit for increasing research activities. For tax years beginning before January 1, 2023, a qualified small business may elect to claim up to $250,000 of its credit for increasing research activities as a payroll tax credit. The Inflation Reduction Act of 2022 (the IRA) increases the election amount to $500,000 for tax years beginning after December 31, 2022. The payroll tax credit election must be made on or before the due date of the originally filed income tax return (including extensions). The portion of the credit used against payroll taxes is allowed in the first calendar quarter beginning after the date that the qualified small business filed its income tax return. The election and determination of the credit amount that will be used against the employer's payroll taxes are made on Form 6765, Credit for Increasing Research Activities. The amount from Form 6765, line 44, must then be reported on Form 8974, Qualified Small Business Payroll Tax Credit for Increasing Research Activities.

Starting in the first quarter of 2023, the payroll tax credit is first used to reduce the employer share of social security tax up to $250,000 per quarter and any remaining credit reduces the employer share of Medicare tax for the quarter. Any remaining credit, after reducing the employer share of social security tax and the employer share of Medicare tax, is then carried forward to the next quarter. Form 8974 is used to determine the amount of the credit that can be used in the current quarter. The amount from Form 8974, line 12 or, if applicable, line 17, is reported on Form 943, line 12a. For more information about the payroll tax credit, see the Instructions for Form 8974 and go to *IRS.gov/ ResearchPayrollTC*.

Credit for COBRA premium assistance payments. The COBRA premium assistance credit lines have been “Reserved for future use” on Form 943 because the first quarter of 2022 was the last quarter in which most employers may have been eligible to claim the COBRA premium assistance credit. Section 9501 of the American Rescue Plan Act of 2021 (the ARP) provided for COBRA premium assistance in the form of a full reduction in the premium otherwise payable by certain individuals and their families who elected COBRA continuation coverage due to a loss of coverage as the result of a reduction in hours or an involuntary termination of employment (assistance eligible individuals). This COBRA premium assistance was available for periods of coverage beginning on or after April 1, 2021, through periods of coverage beginning on or before September 30, 2021. A premium payee was entitled to the COBRA premium assistance credit at the time an eligible individual elected coverage. Therefore, due to the COBRA notice and election period requirements (generally, employers had 60 days to provide notice and assistance eligible individuals had 60 days to elect coverage), the first quarter of 2022 was the last quarter in which most employers may have been eligible to claim the COBRA premium assistance credit.

Pub. 51 discontinued after 2023. Pub. 51, Agricultural Employer's Tax Guide, will no longer be available after 2023. Instead, information specific to agricultural employers will be included in Pub. 15, Employer's Tax Guide, beginning with the Pub. 15 for use in 2024. Beginning in 2024, there will be a new Pub. 15 (sp) that is a Spanish-language version of Pub. 15. References to Pub. 51 were retained throughout this chapter because this chapter is for tax year 2023. If you need information specific to tax year 2024, you will use Pub. 15 or Pub. 15 (sp) in 2024.

What’s New for 2024

Social security and Medicare tax for 2024. The employee and employer tax rates for social security and the maximum amount of wages subject to social security tax for 2024 will be discussed in Pub. 15 (for use in 2024).

The Medicare tax rate for 2024 will also be discussed in Pub. 15 (for use in 2024). There is no limit on the amount of wages subject to Medicare tax.

Reminders

The COVID-19 related credit for qualified sick and family leave wages is limited to leave taken after March 31, 2020, and before October 1, 2021. Generally, the credit for qualified sick and family leave wages, as enacted under the Families First Coronavirus Response Act (FFCRA) and amended and extended by the COVID-related Tax Relief Act of 2020, for leave taken after March 31, 2020, and before April 1, 2021, and the credit for qualified sick and family leave wages under sections 3131, 3132, and 3133 of the Internal Revenue Code, as enacted under the ARP, for leave taken after March 31, 2021, and before October 1, 2021, have expired. However, employers that pay qualified sick and family leave wages in 2023 for leave taken after March 31, 2020, and before October 1, 2021, are eligible to claim a credit for qualified sick and family leave wages in 2023.

For more information about the credit for qualified sick and family leave wages, see the Instructions for Form 943, and go to *IRS.gov/PLC*.

TIP *An employer who receives a refund of payroll taxes resulting from qualified sick and family leave credit reported on a 2022 Form 943 generally won't receive that refund until the 2023 calendar year. Even though that credit isn't received until 2023, income reported in 2022 must be increased by the refundable and nonrefundable portions of the qualified sick and family leave credit reported on their 2022 Form 943. For more information, see the instructions for the income tax return or the Form 1040 schedule you file for your business.*

Advance payment of COVID-19 credits ended. Although you may pay qualified sick and family leave wages in 2023 for leave taken after March 31, 2020, and before October 1, 2021, you may no longer request an advance payment of any credit on Form 7200, Advance Payment of Employer Credits Due to COVID-19.

Additional employment tax information for farmers. See Pub. 51 for more detailed guidance on employment taxes for tax year 2023 for employers of agricultural workers. See Pub. 15 for more detailed guidance on employment taxes for tax year 2024 for employers of agricultural workers. For the latest information about developments related to Pub. 15, such as legislation enacted after it was published, go to *IRS.gov/Pub15*. For general tax information relevant to agricultural employers, go to *IRS.gov/AgricultureTaxCenter*. For general information about employment taxes, go to *IRS.gov/EmploymentTaxes*. For information about employer responsibilities under the Affordable Care Act, go to *IRS.gov/ACA*. For information about COVID-19 tax relief, go to *IRS.gov/Coronavirus*.

CAUTION *You may have nonfarm employees as well as farm employees, for example, workers at a retail farm market. See*

Pub.15 for employment tax rules for wages and noncash wages paid to these employees as they may differ from those discussed in this chapter.

Certification program for professional employer organizations (PEOs). The Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014 required the IRS to establish a voluntary certification program for PEOs. PEOs handle various payroll administration and tax reporting responsibilities for their business clients and are typically paid a fee based on payroll costs. To become and remain certified under the certification program, certified professional employer organizations (CPEOs) must meet various requirements described in sections 3511 and 7705 and related published guidance. Certification as a CPEO may affect the employment tax liabilities of both the CPEO and its customers. A CPEO is generally treated for employment tax purposes as the employer of any individual who performs services for a customer of the CPEO and is covered by a contract described in section 7705(e)(2) between the CPEO and the customer (CPEO contract), but only for wages and other compensation paid to the individual by the CPEO. To become a CPEO, the organization must apply through the IRS Online Registration System. For more information or to apply to become a CPEO, go to *IRS.gov/CPEO*.

CPEOs must generally file Form 943 and Schedule R (Form 943), Allocation Schedule for Aggregate Form 943 Filers, electronically. For more information about a CPEO's requirement to file electronically, see Revenue Procedure 2023-18, 2023-13 I.R.B. 605, available at *IRS.gov/irb/2023-13_IRB#REV-PROC-2023-18*.

Work opportunity tax credit for qualified tax-exempt organizations hiring qualified veterans. Qualified tax-exempt organizations that hire eligible unemployed veterans may be able to claim the work opportunity tax credit against their payroll tax liability using Form 5884-C. For more information, go to *IRS.gov/ WOTC*.

Correcting a previously filed Form 943. If you discover an error on a previously filed Form 943, or if you otherwise need to amend a previously filed Form 943, make the correction using Form 943-X, Adjusted Employer's Annual Federal Tax Return for Agricultural Employees or Claim for Refund. Form 943-X is filed separately from Form 943. For more information, see the Instructions for Form 943-X, section 9 of Pub. 51, or go to *IRS.gov/ CorrectingEmploymentTaxes*.

Federal tax deposits must be made by electronic funds transfer (EFT). You must use EFT to make all federal tax deposits. Generally, an EFT is made using the Electronic Federal Tax Payment System (EFTPS). If you don't want to use EFTPS, you can arrange for your tax professional, financial institution, payroll service, or other trusted third party to make electronic deposits on your behalf. Also, you may arrange for your financial institution to initiate a same-day wire payment on your behalf. EFTPS is a free service provided by the Department of the Treasury. Services provided by your tax professional, financial institution, payroll service, or other third party may have a fee.

Note. An exception applies to the EFT requirement for making your federal tax deposits. If your liability is less than $2,500 (Form 943, line 13), you may pay in full with a check or money order with a timely filed return. See the Instructions of Form 943 for more information.

For more information on making federal tax deposits, see section 7 of Pub. 51. To get more information about EFTPS or to enroll in EFTPS, go to *EFTPS.gov* or call one of the following numbers.

- 800-555-4477
- 800-244-4829 (Spanish)
- 303-967-5916 if you're outside the United States (toll call)

To contact EFTPS using Telecommunications Relay Services (TRS) for people who are deaf, hard of hearing, or have a speech disability, dial 711 and then provide the TRS assistant the 800-555-4477 number above or 800-733-4829. Additional information about EFTPS is also available in Pub. 966.

Electronic filing and payment. Businesses can enjoy the benefits of filing tax returns and paying their federal taxes electronically. Whether you rely on a tax professional or handle your own taxes, the IRS offers you convenient and secure programs to make filing and paying easier. Spend less time worrying about taxes and more time running your business. Use e-file and EFTPS to your benefit.

- For e-file, go to *IRS.gov/EmploymentEfile* for additional information. A fee may be charged to file electronically.
- For EFTPS, go to *EFTPS.gov* or call EFTPS at one of the numbers provided under the **Note**, earlier.
- For electronic filing of Form W-2, Wage and Tax Statement, go to *SSA.gov/employer*. You may be required to file Forms W-2 electronically. For details, see the General Instructions for Forms W-2 and W-3.

Note. For employers in Puerto Rico, references to Form W-2 also apply to Form 499R-2/W-2PR and references to Form W-3 also apply to Form W-3 (PR), unless otherwise specified.

Important Dates for 2024

You should take the actions indicated by the dates listed. The dates listed here aren't adjusted for Saturdays, Sundays, and legal holidays (see the *TIP* next). Pub. 509, Tax Calendars (for use in 2024), adjusts the dates for Saturdays, Sundays, and legal holidays. Due dates for deposits of withheld federal income taxes, social security taxes, and Medicare taxes aren't listed here. Also, the due dates for forms required for health coverage reporting aren't listed here. For these dates, see Pub. 509.

TIP *If any date shown next for filing a return, furnishing a form, or depositing taxes falls on a Saturday, Sunday, or legal holiday, the due date is the next business day. The term "legal holiday" means any legal holiday in the District of Columbia. Legal holidays in the District of Columbia are provided in section 11 of Pub. 15. A statewide legal holiday delays a filing or furnishing due date only if the IRS office where you're required to file a return or furnish a form is located in that state. However, a statewide* *legal holiday doesn't delay the due date of federal tax deposits. For any due date, you will meet the “file” or “furnish” date requirement if the envelope containing the tax return or form is properly addressed, contains sufficient postage, and is postmarked by the U.S. Postal Service on or before the due date, or sent by an IRS-designated private delivery service (PDS) on or before the due date. Go to IRS.gov/PDS for the current list of PDSs. For the IRS mailing address to use if you're using a PDS, go to IRS.gov/PDSstreetAddresses.*

Fiscal year taxpayers. The due dates listed next apply whether you use a calendar or a fiscal year.

By January 31.

- File Form 943 with the IRS. If you deposited all Form 943 taxes when due, you may file Form 943 by February 10.

- File Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return, with the IRS. If you deposited all the FUTA tax when due, you may file Form 940 by February 10.
- File Copy A of all paper and electronic Forms W-2 with Form W-3, Transmittal of Wage and Tax Statements, with the Social Security Administration (SSA). If filing electronically, the SSA generates Form W-3 automatically based on your Forms W-2. For more information on reporting Form W-2 information to the SSA electronically, go to the SSA's Employer W-2 Filing Instructions & Information webpage at *SSA.gov/employer*.
- Furnish each employee with a completed Form W-2.
- File Copy A of all paper and electronic Forms 1099-NEC, Nonemployee Compensation, that report nonemployee compensation with Form 1096, Annual

Summary and Transmittal of U.S. Information Returns, with the IRS. For information on filing information returns electronically with the IRS, see Pub. 1220. Other Forms 1099, including Forms 1099-MISC, Miscellaneous Information, have different due dates. For details about filing Forms 1099 and for information about required electronic filing, see the General Instructions for Certain Information Returns for general information, and the separate, specific instructions for each information return you file (for example, the Instructions for Forms 1099-MISC and 1099-NEC).

- Furnish each recipient to whom you paid $600 or more in nonemployee compensation with a completed Form 1099-NEC.
- File Form 945, Annual Return of Withheld Federal Income Tax, with the IRS to report any nonpayroll income tax withheld. If you

deposited all Form 945 taxes when due, you may file Form 945 by February 10.

By February 15. Ask for a new Form W4, Employee’s Withholding Certificate, or Formulario W4(SP) from each employee who claimed exemption from federal income tax withholding last year.

On February 16. Any Form W4 claiming exemption from withholding for the previous year has now expired. Begin withholding for any employee who previously claimed exemption from withholding but hasn't given you a new Form W4 for the current year. If the employee doesn't give you a new Form W4, withhold taxes as if they had checked the box for Single or Married filing separately in Step 1(c) and made no entries in Step 2, Step 3, or Step 4 of the 2024 Form W4. If the employee furnishes a new Form W4 claiming exemption from withholding after February 15, you may apply the exemption to future wages, but don't refund taxes withheld while the exempt status wasn't in place.

By April 30, July 31, October 31, and January 31. Deposit FUTA taxes. Deposit FUTA tax due if the undeposited amount is over $500.

Before December 1. Provide employees an opportunity to submit a new Form W4 if their filing status, other income, deductions, or credits have changed or will change for the next year.

Introduction

You're generally required to withhold federal income tax from the wages of your employees. You may be required to withhold social security and Medicare taxes from your employees' wages and pay the employer's share of these taxes under the Federal Insurance Contributions Act (FICA). You may also have to pay federal unemployment tax under the Federal Unemployment Tax Act

(FUTA). You must also withhold Additional Medicare Tax from wages you pay to an employee in excess of $200,000 in a calendar year. This chapter includes information about these taxes.

You must also pay self-employment tax on your net earnings from farming. See chapter 12 for information on self-employment tax.

Topics

This chapter discusses:

- Farm employment;
- Family employees;
- Crew leaders;
- Social security and Medicare taxes;
- Federal income tax withholding;
- Required notice to employees about the earned income credit (EIC);

- Reporting and paying social security, Medicare, and withheld federal income taxes; and
- FUTA tax.

Useful Items

You may want to see:

Publication

☐ **15** Employer's Tax Guide

☐ **15A** Employer's Supplemental Tax Guide

☐ **15B** Employer's Tax Guide to Fringe Benefits

☐ **15T** Federal Income Tax Withholding Methods

☐ **51** Agricultural Employer's Tax Guide

☐ **926** Household Employer's Tax Guide

Form (and Instructions)

☐ **W2** Wage and Tax Statement

☐ **W4** Employee's Withholding Certificate

☐ **W9** Request for Taxpayer Identification Number and Certification

☐ **940** Employer's Annual Federal Unemployment (FUTA) Tax Return

☐ **943** Employer's Annual Federal Tax Return for Agricultural Employees

☐ **943X** Adjusted Employer's Annual Federal Tax Return for Agricultural Employees or Claim for Refund

See chapter 16 for information about getting publications and forms.

Farm Employment

In general, you’re an employer of farmworkers if your employees do any of the following types of work.

- Raising or harvesting agricultural or horticultural products on a farm, including raising and feeding of livestock and raising bees for pollination and the production of honey.
- Operating, managing, conserving, improving, or maintaining your farm and its tools and equipment, if the major part of such service is performed on a farm.
- Services performed in salvaging timber, or clearing land of brush and other debris, left by a hurricane (also known as hurricane labor), if the major part of such service is performed on a farm.
- Handling, processing, or packaging any agricultural or horticultural commodity in

its unmanufactured state if you produced more than half of the commodity (for a group of up to 20 unincorporated operators, all of the commodity).

- Work related to cotton ginning, turpentine, gum resin products, or the operation and maintenance of irrigation facilities.

For more information, see sections 2 of Pub. 15.

Generally, a worker who performs services for you is your employee if you have the right to control what will be done and how it will be done. This is so even when you give the employee freedom of action. What matters is that you have the right to control the details of how the services are performed. You’re responsible for withholding and paying employment taxes for your employees. You’re also required to file employment tax returns. These requirements don't apply to amounts that you pay to independent contractors, as discussed later under *Nonemployee compensation*. See sections 1 and 2 of Pub. 15A for more information on how to determine whether an individual providing services is an independent contractor or an employee.

If you employ a family of workers, each worker subject to your control (not just the head of the family) is an employee.

Special rules apply to crew leaders. See *Crew Leaders*, later.

Employer identification number (EIN). If you're required to report employment taxes or give tax statements to employees, you must have an EIN. If you don't have an EIN, you may apply for one online by going to *IRS.gov/EIN*. You may also apply for an EIN by faxing or mailing Form SS4 to the IRS. Be aware that you may already have an EIN if you have previously had farm employees; previously had nonfarm employees in a different business; you file Form 2290, Heavy

Highway Vehicle Use Tax Return; or your farm business is structured as a partnership, limited liability company, S corporation, or C corporation.

Employee's social security number (SSN). An employee who doesn't have an SSN and is legally eligible to work in the United States should submit Form SS5, Application for a Social Security Card, to the SSA. Form SS5 is available from any SSA office or by calling 8007721213. It is also available from the SSA's website at *SSA.gov/online/ss-5.pdf*.

The employee must furnish evidence of age, identity, and U.S. citizenship or lawful immigration status permitting employment with the Form SS5.

Form I9. You must verify that each new employee is legally eligible to work in the United States. This includes completing the U.S. Citizenship and Immigration Services (USCIS) Form I9, Employment Eligibility

Verification. You can get Form I9 at *USCIS.gov/Forms*. For more information, go to the USCIS website at *USCIS.gov/I-9-Central* or call 8003755283 or 8007671833 (TTY). Employers and employees in Puerto Rico ONLY may use the Spanish version of Form I9.

You may use the Social Security Number Verification Service (SSNVS) at *SSA.gov/employer/ssnv.htm* to verify that an employee name matches an SSN. A person may have a valid SSN but not be authorized to work in the United States. You may use E-Verify at *E- Verify.gov* to confirm the employment eligibility of newly hired employees. Some states may require employers to also use E-Verify; check with the appropriate agency in your state.

Form W-4. You should give each new employee a Form W-4 (*IRS.gov/W4*) as soon as you hire the employee. For Spanish-speaking employees, you may use Formulario

W-4(SP), which is the Spanish translation of Form W-4. Have the employee complete and return Form W-4 to you before the first payday. If the employee doesn't return the completed form, you must withhold federal income tax as if the employee had checked the box for Single or Married filing separately in Step 1(c) and made no entries in Step 2, Step 3, or Step 4 of Form W-4.

New hire reporting. You’re required to report any new employee to a designated state new hire registry. A new employee is an employee who hasn’t previously been employed by you or was previously employed by you but has been separated from such prior employment for at least 60 consecutive days. Many states accept a copy of Form W-4 with employer information added. Go to the Office of Child Support Enforcement website at *acf.hhs.gov/css/employers* for more information.

Family Employees

Generally, the wages you pay to family members who are your employees are subject to employment taxes. However, certain exemptions may apply to wages paid to your child, spouse, or parent.

Exemptions for your child. Payments for the services of your child under age 18 who works for you in your trade or business (including a farm) aren't subject to social security and Medicare taxes. However, see *Nonexempt services of a child or spouse*, later. Payments for the services of your child under age 21 employed by you in other than a trade or business, such as payments for household services in your home, also aren't subject to social security or Medicare taxes. Payments for the services of your child under age 21 employed by you, whether or not in your trade or business, aren't subject to FUTA tax. Although not subject to social security, Medicare, or FUTA tax, the child's wages may still be subject to federal income tax withholding.

Exemptions for your spouse. Payments for the services of your spouse who works for you in your trade or business are subject to federal income tax withholding and social security and Medicare taxes, but not FUTA tax.

Payments for the services of your spouse employed by you in other than a trade or business, such as payments for household services in your home, aren't subject to social security, Medicare, or FUTA taxes.

Nonexempt services of a child or spouse. Payments for the services of your child or spouse are subject to federal income tax withholding as well as social security, Medicare, and FUTA taxes if they work for any of the following entities.

- A corporation, even if it is controlled by you.
- A partnership, even if you’re a partner. This doesn't apply to wages paid to your child if each partner is a parent of the child.
- An estate or trust, even if it is the estate of a deceased parent.

In these situations, the child or spouse is considered to work for the corporation, partnership, or estate, not you.

Exemptions for your parent. Payments for the services of your parent employed by you in your trade or business are subject to federal income tax withholding and social security and Medicare taxes. Social security and Medicare taxes don't apply to wages paid to your parent for services not in your trade or business, but they do apply to payments for household services in your home if both of the following conditions are satisfied.

- You have a child (including an adopted child or stepchild) living in your home who is under age 18 or has a physical or mental condition that requires care by an adult for at least 4 continuous weeks in the calendar quarter services were performed.
- You’re a widow or widower; or divorced and not remarried; or have a spouse in the home who, because of a physical or mental condition, can't care for your child for at least 4 continuous weeks in the calendar quarter services were performed.

Wages you pay to your parent aren't subject to FUTA tax, regardless of the type of services provided.

Qualified joint venture (QJV). If spouses elect to be treated as a QJV instead of a partnership, either spouse may report and pay the employment taxes due on the wages paid to employees using the EIN of that spouse's sole proprietorship. For more information about QJVs, see chapter 12.

Crew Leaders

If farmworkers are provided by a crew leader, the crew leader may be the employer of the workers.

Social security and Medicare taxes. For social security and Medicare tax purposes, the crew leader is the employer of the workers if both of the following requirements are met.

- The crew leader pays (either on their own behalf or on behalf of the farmer) the workers for their farm labor.
- The crew leader hasn't entered into a written agreement with the farmer under which the crew leader is designated as an employee of the farmer.

If both requirements are met, the crew leader isn't considered the employee of the farmer for services performed by the crew leader in furnishing farmworkers and as a member of the crew.

Federal income tax withholding. If the crew leader is the employer for social security and Medicare tax purposes, the crew leader is the employer for federal income tax withholding purposes.

Federal unemployment (FUTA) tax. For FUTA tax purposes, the crew leader is the employer of the workers if, in addition to the earlier requirements, either of the following requirements is met.

- The crew leader is registered under the Migrant and Seasonal Agricultural Worker Protection Act.
- Substantially all crew members operate or maintain mechanized equipment provided by the crew leader as part of the service to the farmer.

The farmer is the employer of workers furnished by a crew leader in all other situations. In addition, the farmer is the employer of workers furnished by a registered crew leader if the workers are the employees of the farmer under the common-law test. For example, some farmers employ individuals to recruit farmworkers exclusively for them. Although these individuals may be required to register under the Migrant and Seasonal Agricultural Worker Protection Act, the workers are employed directly by the farmer. The farmer is the employer in these cases. For information about common-law employees, see section 1 of Pub. 15-A. For information about the Migrant and Seasonal Agricultural Worker Protection Act, which protects migrant and seasonal agricultural workers by establishing employment standards related to wages, housing, transportation, and disclosures and recordkeeping, and which requires farm labor contractors to register with the U.S.

Department of Labor (DOL), see the DOL website at *dol.gov/whd/regs/compliance/whdfs49.htm*.

Social Security and Medicare Taxes

All cash wages that you pay to farmworkers are subject to social security and Medicare taxes for any calendar year for which you meet either of the following tests.

- You pay an employee cash wages of $150 or more in a year for farmwork (count all wages paid on a time, piecework, or other basis). The $150 test applies separately to each farmworker that you employ. If you employ a family of workers, each member is treated separately. Don't count wages paid by other employers.
- The total (cash and noncash) wages that you pay to all farmworkers is $2,500 or more.

If the $2,500-or-more test for the group isn't met, the $150-or-more test for an individual still applies. Similarly, if the $150-or-more test is not met for any individual, the $2,500-or-more test for the group still applies.

Exceptions. Annual cash wages of less than $150 you pay to a **seasonal** farmworker aren't subject to social security and Medicare taxes, even if you pay $2,500 or more to all your farmworkers. However, these wages count toward the $2,500 test for determining whether other farmworkers' wages are subject to social security and Medicare taxes.

A seasonal farmworker is a worker who:

- Works as a hand-harvest laborer,
- Is paid piece rates in an operation usually paid on this basis in the region of employment,
- Commutes daily from their permanent home to the farm, and

- Worked in agriculture less than 13 weeks in the preceding calendar year.

See *Family Employees*, earlier, for certain exemptions from social security and Medicare taxes that apply to your child, spouse, and parent.

Religious exemption. An exemption from social security and Medicare taxes is available to members of a recognized religious group or division opposed to public insurance. This exemption is available **only if both** the employee and the employer are members of the group or division. These employees are still subject to federal income tax. For more information, see Pub. 517.

Cash wages. Only cash wages paid to farmworkers are subject to social security and Medicare taxes. Cash wages include checks, money orders, and any kind of money or cash.

Only cash wages subject to social security and Medicare taxes are credited to your employees for social security benefit purposes. Payments not subject to these taxes, such as certain commodity wages (discussed next), don't contribute to your employees' social security coverage. For information about social security benefits, go to *SSA.gov* or call the SSA at 800-772-1213.

Noncash wages (including commodity wages). Noncash wages include food, lodging, clothing, transportation passes, farm products, or other goods or commodities. Noncash wages paid to farmworkers, including commodity wages, aren't subject to social security and Medicare taxes. However, they are subject to these taxes if the substance of the transaction is a cash payment. For information on lodging provided as a condition of employment, see Pub. 15-B.

Report the value of noncash wages in box 1 of Form W-2 together with cash wages. **Don't** show noncash wages in box 3 or in box 5 (unless the substance of the transaction is a cash payment).

Tax rates and social security wage limit. For 2023, the employer and the employee will pay the following taxes.

- The employer and employee each pay 6.2% of cash wages for social security tax (old-age, survivors, and disability insurance). The tax rate for qualified sick leave wages and qualified family leave wages paid in 2023 for leave taken after March 31, 2021, and before October 1, 2021, is 6.2% each for the employer and employee or 12.4% for both. Qualified sick leave wages and qualified family leave wages paid in 2023 for leave taken after March 31, 2020, and before April 1, 2021, aren't subject to the employer share of social security tax; therefore, the tax rate on these wages is 6.2%.

- The employer and employee each pay 1.45% of cash wages for Medicare tax (hospital insurance).
- The employee pays 0.9% of cash wages in excess of $200,000 for Additional Medicare Tax.

Wage limit. The limit on wages subject to the social security tax for 2023 is $160,200. There is no limit on wages subject to the Medicare tax. All covered wages are subject to the Medicare tax. Additionally, all wages in excess of $200,000 are subject to Additional Medicare Tax withholding.

Paying employee's share. If you would rather pay the employee's share of social security and Medicare taxes without deducting it from their wages, you may do so. It is additional income to the employee, thus it is subject to income tax withholding. You must include it in box 1 of the employee's Form W-2, but don't count it as social security and Medicare wages (boxes 3 and 5 of Form W-2) or as wages for FUTA tax purposes.

Example. Gabrielle operates a small family fruit farm. She employs day laborers in the picking season to enable her to timely get her crop to market. She doesn't deduct the employees' share of social security and Medicare taxes from their pay; instead, she pays it on their behalf. When she prepares her employees' Forms W-2, she adds each employee's share of social security and Medicare taxes that she paid to the employee's wage income (box 1 of Form W-2), but doesn't include it in box 3 (social security wages) or box 5 (Medicare wages and tips).

For 2023, Gabrielle paid Dan $1,000 during the year. She enters $1,076.50 in box 1 of Dan’s Form W-2 ($1,000 wages plus $76.50 social security and Medicare taxes paid for Dan). She enters $1,000.00 in boxes 3 and 5 of Dan's Form W-2.

Additional Medicare Tax. In addition to withholding Medicare tax at 1.45%, you must also withhold a 0.9% Additional Medicare Tax from wages you pay to an employee in excess of

$200,000 in a calendar year. You're required to begin withholding Additional Medicare Tax in the pay period in which you pay wages in excess of $200,000 to an employee and continue to withhold it each pay period until the end of the calendar year. Additional Medicare Tax is only imposed on the employee. There is no employer share of Additional Medicare Tax. All wages that are subject to Medicare tax are subject to Additional Medicare Tax withholding if paid in excess of the $200,000 withholding threshold.

For more information on what wages are subject to Medicare tax, see the chart, *Special Rules for Various Types of Services and Payments*, in section 15 of Pub. 15. For more information on Additional Medicare Tax, go to *IRS.gov/ADMTfaqs*.

Federal Income Tax Withholding

If the cash wages you pay to farmworkers are subject to social security and Medicare taxes, they are also subject to federal income tax withholding. Although noncash wages are subject to federal income tax, withhold income tax on these noncash wages only if you and the employee agree to do so. The amount to withhold is figured on gross wages without taking out social security and Medicare taxes, union dues, etc.

Form W-4. Generally, the amount of federal income tax you withhold is based on the employee's filing status and other information reported on the employee's Form W-4. Don't withhold federal income tax from the wages of an employee who, by writing “Exempt” on Form W-4, certifies that they had no federal income tax liability last year and anticipates no liability for the current year.

You should give each new employee a Form W-4 as soon as you hire the employee. For Spanish-speaking employees, you may use Formulario W-4(SP) which is the Spanish translation of Form W-4. Have the employee complete and return Form W-4 to you before the first payday. If the employee doesn't return the completed form, you must withhold federal income tax as if the employee had checked the box for Single or Married filing separately in Step 1(c) and made no entries in Step 2, Step 3, or Step 4 of Form W-4.

You should make the 2024 Form W-4 available to your employees and encourage them to check their income tax withholding for 2024. Those employees who owed a large amount of tax or received a large refund for 2023 may want to submit a new Form W-4. You can't accept substitute Forms W-4 developed by employees. Advise your employees to use the IRS Tax Withholding Estimator available at IRS.gov/ W4App to determine accurate withholding.

Form W-2. By January 31, you must furnish each employee a Form W-2 showing total wages for the previous year and total federal income tax, social security tax, and Medicare tax withheld. However, if an employee stops working for you and asks for the form earlier, you must give it to the employee within 30 days of the later of the following dates.

- The date the employee asks for the form.
- The date you make your final payment of wages to the employee.

Compensation paid to H-2A visa holders. Report compensation of $600 or more paid to foreign agricultural workers who entered the country on H-2A visas in box 1 of Form W-2. Compensation paid to H-2A workers for agricultural labor performed in connection with this visa isn't subject to social security and Medicare taxes, and therefore shouldn't be reported as wages subject to social security tax (line 2), Medicare tax (line 4), or Additional Medicare Tax (line 6) on Form 943, and shouldn't be reported as social security wages (box 3) or Medicare wages (box 5) on Form W-2. On Form W-2, don't check box 13 (Statutory employee), as H-2A workers aren't statutory employees.

An employer isn’t required to withhold federal income tax from compensation paid to an H-2A worker for agricultural labor performed in connection with this visa unless the worker asks for withholding and the employer agrees. In this case, the worker must give the employer a completed Form W-4. Federal income tax withheld should be reported on Form 943, line 8, and in box 2 of Form W-2.

These reporting rules apply when the H-2A worker provides their taxpayer identification number (TIN) to the employer. However, if an H-2A visa worker didn't provide the employer with a TIN, the employee is subject to backup withholding. The employer must report the wages and backup withholding on Form 1099-MISC. The employer must also report the backup withholding on Form 945, line 2.

For more information, see the Instructions for Forms 1099-MISC and 1099-NEC and the Instructions for Form 945. For more information on foreign agricultural workers on H-2A visas, go to *IRS.gov/H2A*.

Required notice to employees about the earned income credit (EIC). You must provide notification about the EIC to each employee who worked for you at any time during the year and from whom you didn't withhold any federal income tax. However, you don't have to notify employees who claim exemption from federal income tax withholding on Form W-4. You meet the notification requirement by giving each employee any of the following.

- Form W-2, which contains the EIC notification on the back of Copy B.
- A substitute Form W-2 with the exact EIC wording shown on the back of Copy B of Form W-2.
- Notice 797, Possible Federal Tax Refund Due to the Earned Income Credit (EIC).
- Your own written statement with the exact wording of Notice 797. For more information, see Pub. 15 and Notice 1015, Have You Told Your Employees About the Earned Income Credit (EIC).

How to figure withholding. You can use one of several methods to determine the amount to withhold. The methods are described in Pub. 15-T, which contains tables showing the correct amount of federal income tax you should withhold. Section 9 of Pub. 15 also contains additional information about federal income tax withholding.

Nonemployee compensation. Generally, you don't have to withhold federal income tax on payments for services to individuals who aren't your employees. However, you may be required to report these payments on Form 1099-NEC and to withhold under the backup withholding rules. For example, persons who haven’t furnished their TINs to you are subject to withholding on payments required to be reported on Form 1099-NEC. For more information, see the Instructions for Forms 1099-MISC and 1099-NEC. For backup withholding on H-2A visa holders, see *Compensation paid to H-2A visa holders*, earlier.

Example. You contract Sean Black to complete custom corn chopping on your farm. Because Sean Black is a contracted individual and not an employee, you will issue him a Form 1099-NEC to report the compensation paid for the custom corn chopping services.

Example. You rent a barn from Valerie Brown for the operation of your business. Because you pay more than $600 annually for the rental, you will need to issue a Form 1099-MISC to Valerie Brown to report the rent you paid to her.

Reporting and Paying Social Security, Medicare, and Withheld Federal Income Taxes

You must withhold federal income, social security, and Medicare taxes required to be withheld from the salaries and wages of your employees. You’re liable for the payment of these taxes to the federal government whether or not you collect them from your employees. If, for example, you withhold less than the correct tax from an employee's wages, you’re still liable for the full amount. You must also pay the employer's share of social security and Medicare taxes. There is no employer share of Additional Medicare Tax.

Form 943. Report withheld federal income tax, social security tax, and Medicare tax on Form 943. Your 2023 Form 943 is due by January 31, 2024 (or February 12, 2024, if you made deposits on time in full payment of the taxes due for the year).

Deposits. Generally, you must deposit both the employer and employee share of social security and Medicare taxes and federal income tax withheld during the year. However, you may make payments with Form 943 instead of depositing them if you accumulate less than a $2,500 tax liability ("Total taxes after adjustments and nonrefundable credits" line on Form 943) during the year and you pay in full with a timely filed return. See the Instructions for Form 943 for more information on making a payment with your return.

For more information on deposit rules, see section 7 of Pub. 51.

Electronic deposit requirement. You must use EFT to make all federal tax deposits. See *Federal tax deposits must be made by electronic funds transfer (EFT)*, earlier.

Trust fund recovery penalty. If you’re responsible for withholding, accounting for, depositing, or paying federal income, social security, and Medicare taxes (that is, trust fund taxes) and **willfully** fail to do so, you can be held liable for a penalty equal to the withheld tax not paid. The trust fund recovery penalty won't apply to any amount of trust fund taxes an employer holds back in anticipation of any credits they are entitled to.

A responsible person can be an officer of a corporation, a partner, a sole proprietor, or an employee of any form of business. A trustee or agent with authority over the funds of the business can also be held responsible for the penalty. Willfully means voluntarily, consciously, and intentionally. Paying other expenses of the business instead of the taxes due is acting willfully.

Consequences of treating an employee as an independent contractor. If you classify an employee as an independent contractor and you have no reasonable basis for doing so, you may be held liable for employment taxes for that worker. See Pub. 15-A for more information.

Federal Unemployment (FUTA) Tax

You must pay FUTA tax if you meet either of the following tests.

- You paid cash wages of $20,000 or more to farmworkers in any calendar quarter during the current or preceding calendar year.
- You employed 10 or more farmworkers for some part of at least 1 day (whether or not all at the same time) during any 20 or

more different calendar weeks during the current or preceding calendar year.

These rules don't apply to exempt services of your spouse, your parents, or your children under age 21. See *Family Employees*, earlier.

Alien farmworkers. Wages paid to aliens admitted on a temporary basis to the United States to perform farmwork (also known as H-2A visa workers) are exempt from FUTA tax. However, include your employment of these workers and the wages you paid them to determine whether you meet either of the above tests.

Commodity wages. Payments in kind for farm labor aren't cash wages. Don't count them to figure whether you’re subject to FUTA tax or to figure how much tax you owe.

Tax rate and credit. The gross FUTA tax rate is 6.0% of the first $7,000 cash wages you pay to each employee during the year. However, you’re given a credit of up to 5.4%

of the first $7,000 cash wages you pay to each employee for the state unemployment tax you pay. If your state tax rate (experience rate) is less than 5.4%, you may still be allowed the full 5.4% credit.

If all of the taxable FUTA wages you paid were excluded from state unemployment tax, the full 6.0% rate applies. See the Instructions for Form 940 for additional information.

More information. For more information on FUTA tax, see section 10 of Pub. 51.

Reporting and Paying FUTA Tax

The FUTA tax is imposed on you as the employer. It must not be collected or deducted from the wages of your employees.

Form 940. Report FUTA tax on Form 940. The 2023 Form 940 is due by January 31, 2024 (or February 12, 2024, if you timely deposited the full amount of your 2023 FUTA tax).

Deposits. If at the end of any calendar quarter you owe, but haven't yet deposited, more than $500 in FUTA tax for the year, you must make a deposit by the end of the following month. If the undeposited tax is $500 or less at the end of a quarter, you don't have to deposit it. You can add it to the tax for the next quarter. If the total undeposited tax is more than $500 at the end of the next quarter, a deposit will be required. If the total undeposited tax at the end of the 4th quarter is $500 or less, you can either make a deposit or pay it with your return by the January 31, 2024, due date.

Electronic deposit requirement. You must use EFT to make all federal tax deposits. See *Federal tax deposits must be made by electronic funds transfer (EFT)*, earlier.

14.

Fuel Excise Tax Credits and Refunds

Introduction

You may be eligible to claim a credit on your in-come tax return for the federal excise tax on certain fuels. You may also be eligible to claim a quarterly refund of the fuel taxes during the year, instead of waiting to claim a credit on your income tax return.

Whether you can claim a credit or refund depends on whether the fuel was taxed and the purpose (nontaxable use) for which you used the fuel. The nontaxable uses of fuel for which a farmer may claim a credit or refund are generally the following.

- Use on a farm for farming purposes.
- Off-highway business use.

- Uses other than as a fuel in a propulsion engine, such as home use.

Table 14-1 presents an overview of credits and refunds that may be claimed for fuels used for the nontaxable uses listed above. See Pub. 510, Excise Taxes, for more information.

Table 14-1. **Fuel Excise Tax Credits and Refunds at a Glance**

Use this table to see if you can take a credit or refund for a nontaxable use of the fuel listed.

Fuel Used	**On a Farm for Farming Purposes**	**Off-Highway Business Use**	**Household Use or Use Other Than as a Fuel**[1]
Gasoline	Credit only	Credit or refund	None
Aviation gasoline	Credit only	None	None
Undyed diesel fuel and undyed kerosene	Credit or refund	Credit or refund[2]	Credit or refund[2]
Kerosene for use in aviation	Credit or refund	None	None
Dyed diesel fuel and dyed kerosene	None	None	None
Other Fuels (including alternative fuels)[3]	Credit or refund	Credit or refund	None

[1] For a use other than as fuel in a propulsion engine.

[2] Applies to undyed kerosene not sold from a blocked pump or, under certain circumstances, for blending with undyed diesel fuel to be used for heating purposes. See Regulations section 48.6427-10(b)(1) for the definition of a blocked pump.

[3] Other Fuels means any liquid except gas oil, fuel oil, or any product taxable under section 4081. It includes the alternative fuels: liquefied petroleum gas (LPG), “P” Series fuels, compressed natural gas (CNG), liquefied hydrogen, Fischer-Tropsch process liquid fuel from coal (including peat), liquid fuel derived from biomass, liquefied natural gas (LNG), liquefied gas derived from biomass, and compressed gas derived from biomass.

This page is intentionally left blank

Topics

This chapter discusses:

- Fuels used in farming
- Dyed diesel fuel and dyed kerosene
- Fuels used in off-highway business use
- Fuels used for household purposes
- How to claim a credit or refund
- Including the credit or refund in income

Useful Items

You may want to see:

Publication

☐ **510** Excise Taxes

Form (and Instructions)

☐ **720** Quarterly Federal Excise Tax Return

☐ **4136** Credit for Federal Tax Paid on Fuels

☐ **8849** Claim for Refund of Excise Taxes

See chapter 16 for information about getting publications and forms.

Fuels Used in Farming

Owners, operators, and tenants of farms and certain other persons may be eligible to claim a credit or refund of excise taxes on fuel used in the trade or business of farming, when used on a farm in the United States for farming purposes. See Table 14-1 for a list of available fuel excise tax credits and refunds. Fuel is used on a farm for farming purposes only if used in carrying on a trade or business of farming, on a farm in the United States, and for farming purposes.

Farm. A farm includes livestock, dairy, fish, poultry, fruit, furbearing animals, truck farms, orchards, plantations, ranches, nurseries, ranges, and feed yards for finishing cattle. It also includes structures such as greenhouses used primarily for raising agricultural or horticultural commodities. A fish farm is an area where fish are grown or raised and not merely caught or harvested.

Dyed versus undyed diesel. Diesel is undyed when sold for highway use vehicles and excise tax is collected at the time of sale. The diesel is dyed when the intended use is for nontaxable purposes, such as farming, and no excise tax is collected at the time of sale. When undyed diesel is used in farming or any other qualifying purpose, the taxpayer may recover the excise tax paid by claiming a credit or filing for a refund (see Table 14-1).

Dyed diesel fuel and dyed kerosene. If you purchase dyed diesel fuel or dyed kerosene for a nontaxable use, you must use it only on a farm for farming purposes or for other nontaxable purposes. For example, you shouldn't use dyed diesel fuel in a truck that is used both on the farm for farming purposes and on the highway, even though the highway use is in connection with farm business. Excise tax applies to the fuel used by the truck on the highways. In this situation, undyed (taxed) fuel should be purchased for the truck. You should keep fuel records of the use of the truck on the farm for farming purposes, and for other uses. You may be eligible for a credit or refund for the excise tax on fuel used on the farm for farming purposes.

Penalty. A penalty is imposed on any person who knowingly uses, sells, or alters dyed diesel fuel or dyed kerosene for any purpose other than a nontaxable use. The penalty is the greater of $1,000 or $10 per gallon of the dyed diesel fuel or dyed kerosene involved. After the first violation, the $1,000 portion of the penalty increases depending on the number of violations. For more information on this penalty, see Pub. 510.

Farming purposes. As the owner, tenant, or operator and the ultimate purchaser of fuel that you purchased, you use the fuel on a farm for farming purposes if you use it in any of the following ways.

1. To cultivate the soil or to raise or harvest any agricultural or horticultural commodity.
2. To raise, shear, feed, care for, train, or manage livestock, bees, poultry, fur-bearing animals, or wildlife.
3. To operate, manage, conserve, improve, or maintain your farm and its tools and equipment.
4. To handle, dry, pack, grade, or store any raw agricultural or horticultural commodity. For this use to qualify, you must have produced more than half the commodity so treated during the tax year. The more-than-one-half test applies separately to each commodity.

Commodity means a single raw product. For example, apples and peaches are two separate commodities.

5. To plant, cultivate, care for, or cut trees or to prepare (other than sawing logs into lumber, chipping, or other milling) trees for market, but only if these activities are incidental to your farming operations. Your tree operations are incidental only if they are minor in nature when compared to the total farming operations.

If any other person, such as a neighbor or custom operator (independent contractor), performs a service for you on your farm for any of the purposes included in list item (1) or (2) above, you are considered to be the ultimate purchaser who used the fuel on a farm for farming purposes. Therefore, you can still claim the credit or refund for the fuel so used. However, see *Custom application of* *fertilizer and pesticide*, later. If the other person performs any other services for you on your farm for purposes not included in list item (1) or (2) above, no one can claim the credit or refund for fuel used on your farm for those other services.

Fuel not used for farming. You don't use fuel on a farm for farming purposes when you use it in any of the following ways.

- Off the farm, such as on the highway or in noncommercial aviation, even if the fuel is used in transporting livestock, feed, crops, or equipment.
- For personal use, such as lawn mowing.
- In processing, packaging, freezing, or canning operations.

In processing crude gum into gum spirits of turpentine or gum resin or in processing maple sap into maple syrup or maple sugar.

Buyer of fuel, including undyed diesel fuel or undyed kerosene. If doubt exists whether the owner, tenant, or operator of the farm bought the fuel, determine who actually bore the cost of the fuel. For example, if the owner of a farm and his or her tenant equally share the cost of gasoline used on the farm, each can claim a credit for the tax on half the fuel used.

Undyed diesel fuel, undyed kerosene, and other fuels (including alternative fuel). Usually, the farmer is the only person who can make a claim for credit or refund for the tax on undyed diesel fuel, undyed kerosene, or other fuels (including alternative fuel) used for farming purposes. However, see *Custom application of fertilizer and pesticide* next. Also see *Dyed diesel fuel and dyed kerosene*, earlier.

Example. Farm owner Haleigh Blue hired custom operator Tyler Steele to cultivate the soil on Haleigh's farm. Tyler purchased 200 gallons of undyed diesel fuel to perform the work on Haleigh's farm. In addition, Haleigh hired contractor Lee Brown to pack and store the farm’s apple crop. Lee bought 25 gallons of undyed diesel fuel to use in packing the apples. Haleigh can claim the credit for the 200 gallons of undyed diesel fuel used by Tyler on the farm because it qualifies as fuel used on the farm for farming purposes. No one can claim a credit for the 25 gallons used by Lee because that fuel wasn’t used for a farming purpose included in list item (1) or (2) above.

In the above example, both Tyler Steele and Lee Brown could have purchased dyed (untaxed) diesel fuel for their tasks.

Custom application of fertilizer and pesticide. Fuel used on a farm for farming purposes includes fuel used in the application (including aerial application) of fertilizer, pesticides, or other substances. Generally, the applicator is treated as having used the fuel on a farm for farming purposes and therefore claims the credit or refund. For applicators using highway vehicles, only the fuel used on the farm is exempt. Fuel used traveling on the highway to and from the farm is taxable. Fuel used by an aerial applicator for the direct flight between the airfield and one or more farms is treated as used for a farming purpose. For aviation gasoline, the aerial applicator makes the claim as the ultimate purchaser. For kerosene used in aviation, the ultimate purchaser may make the claim or waive the right to make the claim to the registered ultimate vendor. A sample waiver is included as *Model Waiver L* in the appendix of Pub. 510.

A **registered ultimate vendor** is the person who sells undyed diesel fuel, undyed kerosene, or kerosene for use in aviation to the user (ultimate purchaser) of the fuel for use on a farm for farming purposes. To claim a credit or refund of tax, the ultimate vendor must be registered with the IRS at the time the claim is made. However, registered ultimate vendors can’t make claims for undyed diesel fuel and undyed kerosene sold for use on a farm for farming purposes.

All-terrain vehicles (ATVs). Fuel used in ATVs on a farm for farming purposes, discussed earlier, is eligible for a credit or refund of excise taxes on the fuel. Fuel used in ATVs for nonfarming purposes isn’t eligible for a credit or refund of the taxes. If ATVs are used both for farming and nonfarming purposes, only that portion of the fuel used for farming purposes is eligible for the credit or refund.

Fuels Used in Off-Highway Business Use

You may be eligible to claim a credit or refund for the excise tax on fuel used in an off-highway business use.

Off-highway business use. This is any use of fuel in a trade or business or in an income-producing activity. The use must not be in a highway vehicle registered or required to be registered for use on public highways. Off-highway business use generally doesn’t include any use in a recreational motorboat.

Examples. Off-highway business use includes the use of fuels in a trade or business in any of the following ways.

- In stationary machines such as generators, compressors, power saws, and similar equipment.
- For cleaning.
- In forklift trucks, bulldozers, and earthmovers.

Off-highway nonbusiness (taxable) use of fuel includes use in minibikes, snowmobiles, power lawn mowers, chain saws, and other yard equipment. For more information, see Pub. 510.