Note: *The draft you are looking for begins on the next page.*

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This is an early release draft of an IRS tax form, instructions, or publication, which the IRS is providing for your information. **Do not file draft forms** and do **not** rely on draft forms, instructions, and publications for filing. We do **not** release draft forms until we believe we have incorporated all changes (except when explicitly stated on this coversheet). However, unexpected issues occasionally arise, or legislation is passed—in this case, we will post a new draft of the form to alert users that changes were made to the previously posted draft. Thus, there are never any changes to the last posted draft of a form and the final revision of the form. Forms and instructions generally are subject to OMB approval before they can be officially released, so we post only drafts of them until they are approved. Drafts of instructions and publications usually have some changes before their final release.

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Almost every form and publication has a page on IRS.gov with a friendly shortcut. For example, the Form 1040 page is at IRS.gov/Form1040; the Pub. 501 page is at IRS.gov/Pub501; the Form W-4 page is at IRS.gov/W4; and the Schedule A (Form 1040/SR) page is at IRS.gov/ScheduleA. If typing in a link above instead of clicking on it, be sure to type the link into the address bar of your browser, not a Search box.

If you wish, you can submit comments to the IRS about draft or final forms, instructions, or publications at IRS.gov/FormsComments. We cannot respond to all comments due to the high volume we receive and may not be able to consider many suggestions until the subsequent revision of the product.

If you have comments on reducing paperwork and respondent (filer) burden, with respect to draft or final forms, please respond to the relevant information collection through the Federal Register process; for more info, click here.

Department of the Treasury
Internal Revenue Service

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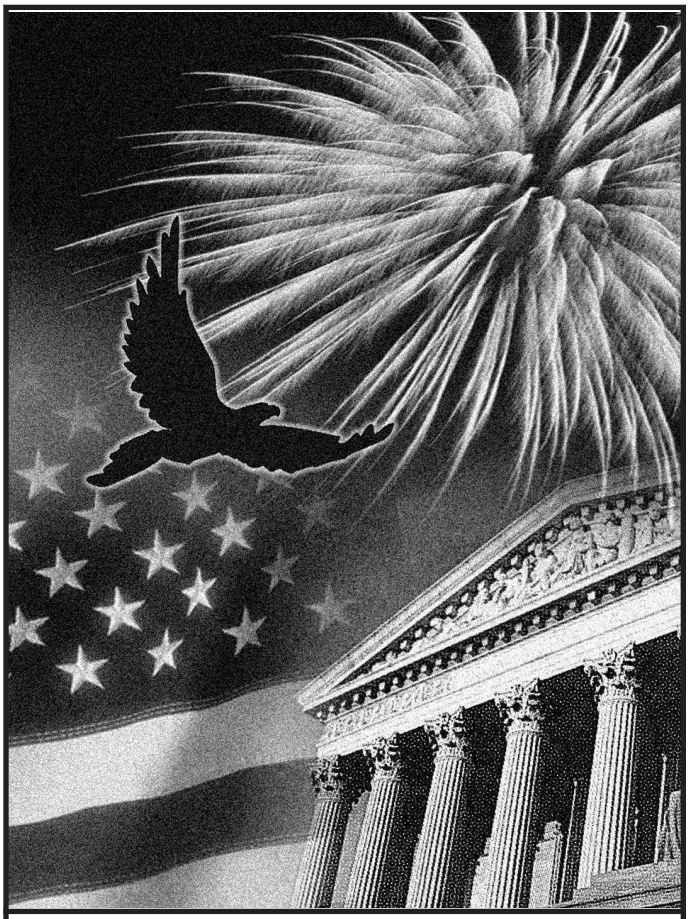
For use in **2020**



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Future Developments

For the latest information about developments related to Pub. 15, such as legislation enacted after it was published, go to *IRS.gov/Pub15*.

What's New

2020 withholding tables. The Percentage Method and Wage Bracket Method withholding tables, as well as the amount to add to a nonresident alien employee's wages for figuring income tax withholding, are no longer included in Pub. 15. These tables and the employer instructions on how to figure employee withholding are now included in Pub. 15-T, Federal Income Tax Withholding Methods.

Redesigned Form W-4 for 2020. The IRS has redesigned Form W-4 for 2020. In the past, the value of a

withholding allowance was tied to the amount of the personal exemption. Due to changes in the law, taxpayers can no longer claim personal exemptions or dependency exemptions; therefore, the 2020 Form W-4 no longer asks an employee to report the number of withholding allowances that they are claiming. The revised Form W-4 is divided into five steps. Step 1 and Step 5 apply to all employees. In Step 1, employees enter personal information like their name and filing status. In Step 5, employees sign the form. Employees who complete only Step 1 and Step 5 will have their withholding figured based on their filing status's standard deduction and tax rates with no other adjustments. If applicable, in Step 2, employees increase their withholding to account for higher tax rates due to income from other jobs in their household. Under Step 2, employees either enter an additional amount to withhold per payroll period in Step 4(c) or check the box in Step 2(c) for higher withholding rate tables to apply to their wages. In Step 3, employees decrease their withholding by reporting the annual amount of any credits they will claim on their income tax return. In Step 4, employees may increase or decrease their withholding based on the annual amount of other income or deductions they will report on their income tax return and they may also request any additional federal income tax they want withheld each pay period.

Employees who have submitted Form W-4 in any year before 2020 aren't required to submit a new form merely because of the redesign. Employers will continue to figure withholding based on the information from the employee's most recently submitted Form W-4. The withholding tables in Pub. 15-T allow employers to figure withholding based on a Form W-4 for an earlier year as well as the redesigned 2020 Form W-4. While you may ask your employees hired before 2020 to submit new Forms W-4 using the redesigned version of the form, you should explain to them that they're not required to do this and if they don't submit a new Form W-4, withholding will continue based on a valid Form W-4 previously submitted. Beginning in 2020, all newly hired employees must use the redesigned form. Similarly, any employees hired prior to 2020 who wish to adjust their withholding must use the redesigned form. New employees who are first paid wages in 2020 and who fail to submit a Form W-4 will be treated 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 2020 Form W-4. However, an employee hired on or before December 31, 2019, who was paid wages in 2019 or earlier, and who fails to furnish a valid Form W-4, should continue to be treated as single and claiming zero allowances on a 2019 Form W-4. See section 9 for additional details. For the latest information about developments related to Form W-4, go to *IRS.gov/FormW4*.

Social security and Medicare tax for 2020. The social security tax rate is 6.2% each for the employee and employer, unchanged from 2019. The social security wage base limit is $137,700.

The Medicare tax rate is 1.45% each for the employee and employer, unchanged from 2019. There is no wage base limit for Medicare tax.

Social security and Medicare taxes apply to the wages of household workers you pay $2,200 or more in cash wages for 2020. Social security and Medicare taxes apply to election workers who are paid $1,900 or more in cash or an equivalent form of compensation in 2020.

New Form 1099-NEC. There is a new Form 1099-NEC to report nonemployee compensation paid in 2020. The 2020 Form 1099-NEC will be due February 1, 2021. For nonemployee compensation paid in 2019, continue to use Form 1099-MISC, which is due January 31, 2020.

Disaster tax relief. Disaster tax relief is available for those impacted by disasters. For more information about disaster relief, go to *IRS.gov/DisasterTaxRelief*.

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Reminders

Moving expense reimbursement. P.L. 115-97 suspends the exclusion for qualified moving expense reimbursements from your employee's income for tax years beginning after 2017 and before 2026. However, the exclusion is still available in the case of a member of the U.S. Armed Forces on active duty who moves because of a permanent change of station due to a military order. The exclusion applies only to reimbursement of moving expenses that the member could deduct if he or she had paid or incurred them without reimbursement. See *Moving Expenses* in Pub. 3, Armed Forces' Tax Guide, for the definition of what constitutes a permanent change of station and to learn which moving expenses are deductible.

Withholding on supplemental wages. P.L. 115-97 lowered the withholding rates on supplemental wages for tax years beginning after 2017 and before 2026. See section 7 for the withholding rates.

Backup withholding. P.L. 115-97 lowered the backup withholding rate to 24% for tax years beginning after 2017 and before 2026. For more information on backup withholding, see *Backup withholding*, later.

Qualified small business payroll tax credit for increasing research activities. For tax years beginning after 2015, a qualified small business may elect to claim up to $250,000 of its credit for increasing research activities as a payroll tax credit against the employer's share of social security tax. The payroll tax credit must be elected on an original income tax return that is timely filed (including extensions). The portion of the credit used against the employer's share of social security tax 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 share of social security tax 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. 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, is reported on Form 941 or 941-SS, line 11 (or Form 944, line 8). For more information about the payroll tax credit, see Notice

2017-23, 2017-16 I.R.B. 1100, available at IRS.gov/irb/2017-16_IRB#NOT-2017-23, and IRS.gov/ResearchPayrollTC. Also see the line 16 instructions in the Instructions for Form 941 (line 13 instructions in the Instructions for Form 944).

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. Also see Revenue Procedure 2017-14, 2017-3 I.R.B. 426, available at IRS.gov/irb/2017-03_IRB#RP-2017-14.

Outsourcing payroll duties. Generally, as an employer, you're responsible to ensure that tax returns are filed and deposits and payments are made, even if you contract with a third party to perform these acts. You remain responsible if the third party fails to perform any required action. Before you choose to outsource any of your payroll and related tax duties (that is, withholding, reporting, and paying over social security, Medicare, FUTA, and income taxes) to a third-party payer, such as a payroll service provider or reporting agent, go to IRS.gov/OutsourcingPayrollDuties for helpful information on this topic. If a CPEO pays wages and other compensation to an individual performing services for you, and the services are covered by a contract described in section 7705(e)(2) between you and the CPEO (CPEO contract), then the CPEO is generally treated as the employer, but only for wages and other compensation paid to the individual by the CPEO. However, with respect to certain employees covered by a CPEO contract, you may also be treated as an employer of the employees and, consequently, may also be liable for federal employment taxes imposed on wages and other compensation paid by the CPEO to such employees. For more information on the different types of third-party payer arrangements, see section 16.

Aggregate Form 941 filers. Agents and CPEOs must complete Schedule R (Form 941), Allocation Schedule for Aggregate Form 941 Filers, when filing an aggregate Form 941. Aggregate Forms 941 are filed by agents approved by the IRS under section 3504 of the Internal Revenue Code. To request approval to act as an agent for an employer, the agent files Form 2678 with the IRS. Aggregate Forms 941 are also filed by CPEOs approved by the IRS under section 7705. CPEOs file Form 8973, Certified Professional Employer Organization/Customer Reporting Agreement, to notify the IRS that they've started or ended a service contract with a client or customer.

Aggregate Form 940 filers. Agents and CPEOs must complete Schedule R (Form 940), Allocation Schedule for Aggregate Form 940 Filers, when filing an aggregate Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return. Aggregate Forms 940 can be filed by agents acting on behalf of home care service recipients who receive home care services through a program administered by a federal, state, or local government. To request approval to act as an agent on behalf of home care service recipients, the agent files Form 2678 with the IRS. Aggregate Forms 940 are also filed by CPEOs approved by the IRS under section 7705. CPEOs file Form 8973 to notify the IRS that they've started or ended a service contract with a client or customer.

Work opportunity tax credit for qualified tax-exempt organizations hiring qualified veterans. The work opportunity tax credit is available for eligible unemployed veterans who begin work on or after November 22, 2011, and before January 1, 2020. Qualified tax-exempt organizations that hire eligible unemployed veterans can claim the work opportunity tax credit against their payroll tax liability using Form 5884-C. For more information, go to IRS.gov/WOTC.

COBRA premium assistance credit. Effective for tax periods beginning after 2013, the credit for COBRA premium assistance payments can't be claimed on Form 941, Employer's QUARTERLY Federal Tax Return (or Form 944, Employer's ANNUAL Federal Tax Return). Instead, after filing your Form 941 (or Form 944), file Form 941-X, Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund (or Form 944-X, Adjusted Employer's ANNUAL Federal Tax Return or Claim for Refund) to claim the COBRA premium assistance credit. Filing a Form 941-X (or Form 944-X) before filing a Form 941 (or Form 944) for the return period may result in errors or delays in processing your Form 941-X (or Form 944-X). For more information, see the Instructions for Form 941 (or the Instructions for Form 944).

Medicaid waiver payments. Notice 2014-7 provides that certain Medicaid waiver payments are excludable from income for federal income tax purposes. See Notice 2014-7, 2014-4 I.R.B. 445, available at IRS.gov/irb/2014-04_IRB#NOT-2014-7. For more information, including questions and answers related to Notice 2014-7, go to IRS.gov/MedicaidWaiverPayments.

No federal income tax withholding on disability payments for injuries incurred as a direct result of a terrorist attack directed against the United States. Disability payments for injuries incurred as a direct result of a terrorist attack directed against the United States (or its allies) aren't included in income. Because federal income tax withholding is only required when a payment is includible in income, no federal income tax should be withheld from these payments. See Pub. 907, Tax Highlights for Persons With Disabilities.

Voluntary withholding on dividends and other distributions by an Alaska Native Corporation (ANC). A

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shareholder of an ANC may request voluntary income tax withholding on dividends and other distributions paid by an ANC. A shareholder may request voluntary withholding by giving the ANC a completed Form W-4V. For more information, see Notice 2013-77, 2013-50 I.R.B. 632, available at *IRS.gov/irb/2013-50_IRB#NOT-2013-77*.

Definition of marriage. A marriage of two individuals is recognized for federal tax purposes if the marriage is recognized by the state, possession, or territory of the United States in which the marriage is entered into, regardless of legal residence. Two individuals who enter into a relationship that is denominated as marriage under the laws of a foreign jurisdiction are recognized as married for federal tax purposes if the relationship would be recognized as marriage under the laws of at least one state, possession, or territory of the United States, regardless of legal residence. Individuals who have entered into a registered domestic partnership, civil union, or other similar relationship that isn't denominated as a marriage under the law of the state, possession, or territory of the United States where such relationship was entered into aren't lawfully married for federal tax purposes, regardless of legal residence.

Severance payments. Severance payments are wages subject to social security and Medicare taxes, income tax withholding, and FUTA tax.

You must receive written notice from the IRS to file Form 944. If you've been filing Forms 941 (or Forms 941-SS, Employer's QUARTERLY Federal Tax Return—American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands, or Formularios 941-PR, Planilla para la Declaración Federal TRIMESTRAL del Patrono), and believe your employment taxes for the calendar year will be $1,000 or less, and you would like to file Form 944 instead of Forms 941, you must contact the IRS during the first calendar quarter of the tax year to request to file Form 944. You must receive written notice from the IRS to file Form 944 instead of Forms 941 before you may file this form. For more information on requesting to file Form 944, including the methods and deadlines for making a request, see the Instructions for Form 944.

Employers can request to file Forms 941 instead of Form 944. If you received notice from the IRS to file Form 944 but would like to file Forms 941 instead, you must contact the IRS during the first calendar quarter of the tax year to request to file Forms 941. You must receive written notice from the IRS to file Forms 941 instead of Form 944 before you may file these forms. For more information on requesting to file Forms 941, including the methods and deadlines for making a request, see the Instructions for Form 944.

Correcting Form 941 or 944. If you discover an error on a previously filed Form 941, make the correction using Form 941-X. If you discover an error on a previously filed Form 944, make the correction using Form 944-X. Forms 941-X and 944-X are filed separately from Forms 941 and 944. Forms 941-X and 944-X are used by employers to claim refunds or abatements of employment taxes, rather than Form 843. See section 13 for more information.

Zero wage return. If you haven't filed a "final" Form 940 and "final" Form 941 or 944, or aren't a "seasonal" employer (Form 941 only), you must continue to file a Form 940 and Form 941 or 944, even for periods during which you paid no wages. The IRS encourages you to file your "zero wage" Form 940 and Form 941 or 944 electronically. Go to *IRS.gov/EmploymentEfile* for more information on electronic filing.

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.

For more information on making federal tax deposits, see *How To Deposit* in section 11. To get more information about EFTPS or to enroll in EFTPS, go to *EFTPS.gov*, or call 800-555-4477 or 800-733-4829 (TDD). Additional information about EFTPS is also available in Pub. 966.

Pub. 5146 explains employment tax examinations and appeal rights. Pub. 5146 provides employers with information on how the IRS selects employment tax returns to be examined, what happens during an exam, and what options an employer has in responding to the results of an exam, including how to appeal the results. Pub. 5146 also includes information on worker classification issues and tip exams.

Electronic Filing and Payment

Businesses can enjoy the benefits of filing and paying their federal taxes electronically. Whether you rely on a tax professional or handle your own taxes, the IRS offers you convenient programs to make filing and payment 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 Customer Service at 800-555-4477 or 800-733-4829 (TDD).
- For electronic filing of Forms W-2, Wage and Tax Statement, go to *SSA.gov/employer*.

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If you're filing your tax return or paying your federal taxes electronically, a valid EIN is required at the time the return is filed or the payment is made. If a valid EIN isn't provided, the return or payment won't be processed. This may result in penalties. See section 1 for information about applying for an EIN.

Electronic funds withdrawal (EFW). If you file your employment tax return electronically, you can *e-file* and use EFW to pay the balance due in a single step using tax preparation software or through a tax professional. However, don't use EFW to make federal tax deposits. For more information on paying your taxes using EFW, go to *IRS.gov/EFW*.

Credit or debit card payments. You can pay the balance due shown on your employment tax return by credit or debit card. Your payment will be processed by a payment processor who will charge a processing fee. Don't use a credit or debit card to make federal tax deposits. For more information on paying your taxes with a credit or debit card, go to *IRS.gov/PayByCard*.

Online payment agreement. You may be eligible to apply for an installment agreement online if you can't pay the full amount of tax you owe when you file your employment tax return. For more information, see the instructions for your employment tax return or go to *IRS.gov/OPA*.

Forms in Spanish

You can provide Formulario W-4(SP), Certificado de Retenciones del Empleado, in place of Form W-4, Employee's Withholding Certificate, to your Spanish-speaking employees. For more information, see Pub. 17(SP), El Impuesto Federal sobre los Ingresos (Para Personas Físicas). For nonemployees, such as independent contractors, Formulario W-9(SP), Solicitud y Certificación del Número de Identificación del Contribuyente, may be used in place of Form W-9, Request for Taxpayer Identification Number and Certification.

Hiring New Employees

Eligibility for employment. 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 I-9, Employment Eligibility Verification. You can get Form I-9 at *USCIS.gov/Forms*. For more information, visit the USCIS website at *USCIS.gov/I-9-Central* or call 800-375-5283 or 800-767-1833 (TTY).

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.

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. Visit the Office of Child Support Enforcement website at *acf.hhs.gov/programs/css/employers* for more information.

W-4 request. Ask each new employee to complete the 2020 Form W-4. See section 9.

Name and social security number (SSN). Record each new employee's name and SSN from his or her social security card. Any employee without a social security card should apply for one. See section 4.

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Information Returns

You must file Forms W-2 to report wages paid to employees. You may also be required to file information returns to report certain types of payments made during the year. For example, you must file Form 1099-MISC, Miscellaneous Income, to report payments of $600 or more in 2019 to persons not treated as employees (for example, independent contractors) for services performed for your trade or business. 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 2019 Instructions for Form 1099-MISC). Generally, don't use Forms 1099 to report wages and other compensation you paid to employees; report these on Form W-2. See the General Instructions for Forms W-2 and W-3 for details about filing Form W-2 and for information about required electronic filing. If you file 250 or more Forms 1099-MISC in calendar year 2020, you must file them electronically. If you file 250 or more Forms W-2 in calendar year 2020, you must file them electronically.

There is a new Form 1099-NEC to report nonemployee compensation paid in 2020. The 2020 Form 1099-NEC will be due February 1, 2021.

Information reporting customer service site. The IRS operates an information return customer service site to answer questions about reporting on Forms W-2, W-3, 1099, and other information returns. If you have questions related to reporting on information returns, call 866-455-7438 (toll free), 304-263-8700 (toll call), or 304-579-4827 (TDD/TTY for persons who are deaf, hard of hearing, or have a speech disability). The center can also be reached by email at *mccirp@irs.gov*. Don't include tax identification numbers (TINs) or attachments in email correspondence because electronic mail isn't secure.

Federal Income Tax Withholding

Withhold federal income tax from each wage payment or supplemental unemployment compensation plan benefit payment according to the employee's Form W-4 and the correct withholding table in Pub. 15-T. If you're paying supplemental wages to an employee, see section 7. If you have nonresident alien employees, see *Withholding income taxes on the wages of nonresident alien employees* in section 9.

See section 8 of Pub. 15-A, Employer's Supplemental Tax Guide, for information about withholding on pensions (including distributions from tax-favored retirement plans), annuities, and individual retirement arrangements (IRAs).

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Nonpayroll Income Tax Withholding

Nonpayroll federal income tax withholding (reported on Forms 1099 and Form W-2G, Certain Gambling Winnings) must be reported on Form 945, Annual Return of Withheld Federal Income Tax. Separate deposits are required for payroll (Form 941 or Form 944) and nonpayroll (Form 945) withholding. Nonpayroll items include the following.

- Pensions (including distributions from tax-favored retirement plans, for example, section 401(k), section 403(b), and governmental section 457(b) plans), annuities, and IRA distributions.
- Military retirement.
- Gambling winnings.
- Indian gaming profits.
- Certain government payments on which the recipient elected voluntary income tax withholding.
- Dividends and other distributions by an ANC on which the recipient elected voluntary income tax withholding.
- Payments subject to backup withholding.

For details on depositing and reporting nonpayroll income tax withholding, see the Instructions for Form 945.

Distributions from nonqualified pension plans and deferred compensation plans. Because distributions to participants from some nonqualified pension plans and deferred compensation plans (including section 457(b) plans of tax-exempt organizations) are treated as wages and are reported on Form W-2, income tax withheld must be reported on Form 941 or Form 944, not on Form 945. However, distributions from such plans to a beneficiary or estate of a deceased employee aren't wages and are reported on Forms 1099-R, Distributions From Pensions,

Employer Responsibilities

Employer Responsibilities: The following list provides a brief summary of your basic responsibilities. Because the individual circumstances for each employer can vary greatly, responsibilities for withholding, depositing, and reporting employment taxes can differ. Each item in this list has a page reference to a more detailed discussion in this publication.

New Employees:	Page
☐ Verify work eligibility of new employees	5
☐ Record employees' names and SSNs from social security cards	5
☐ Ask employees for Form W-4	5
Each Payday:	
☐ Withhold federal income tax based on each employee's Form W-4	21
☐ Withhold employee's share of social security and Medicare taxes	24
☐ Deposit: • Withheld income tax • Withheld and employer social security taxes • Withheld and employer Medicare taxes **Note:** Due date of deposit generally depends on your deposit schedule (monthly or semiweekly).	26
Quarterly (By April 30, July 31, October 31, and January 31):	
☐ Deposit FUTA tax if undeposited amount is over $500	37
☐ File Form 941 (pay tax with return if not required to deposit)	31

Annually (see *Calendar* for due dates):	Page
☐ File Form 944 if required (pay tax with return if not required to deposit)	31
☐ Remind employees to submit a new Form W-4 if they need to change their withholding	21
☐ Ask for a new Form W-4 from employees claiming exemption from income tax withholding	22
☐ Reconcile Forms 941 (or Form 944) with Forms W-2 and W-3	33
☐ Furnish each employee a Form W-2	9
☐ File Copy A of Forms W-2 and the transmittal Form W-3 with the SSA	9
☐ Furnish each other payee a Form 1099 (for example, Form 1099-MISC)	9
☐ File Forms 1099 and the transmittal Form 1096	9
☐ File Form 940	9
☐ File Form 945 for any nonpayroll income tax withholding	9

Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.; income tax withheld must be reported on Form 945.

Backup withholding. You generally must withhold 24% of certain taxable payments if the payee fails to furnish you with his or her correct taxpayer identification number (TIN). This withholding is referred to as "backup withholding."

Payments subject to backup withholding include interest, dividends, patronage dividends, rents, royalties, commissions, nonemployee compensation, payments made in settlement of payment card or third-party network transactions, and certain other payments you make in the course of your trade or business. In addition, transactions by brokers and barter exchanges and certain payments made by fishing boat operators are subject to backup withholding.

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CAUTION *Backup withholding doesn't apply to wages, pensions, annuities, IRAs (including simplified employee pension (SEP) and SIMPLE retirement plans), section 404(k) distributions from an employee stock ownership plan (ESOP), medical savings accounts (MSAs), health savings accounts (HSAs), long-term-care benefits, or real estate transactions.*

You can use Form W-9 or Formulario W-9(SP) to request payees to furnish a TIN. Form W-9 or Formulario W-9(SP) must be used when payees must certify that the number furnished is correct, or when payees must certify that they're not subject to backup withholding or are exempt from backup withholding. The Instructions for the Requester of Form W-9 or Formulario W-9(SP) includes a list of types of payees who are exempt from backup withholding. For more information, see Pub. 1281, Backup Withholding for Missing and Incorrect Name/TIN(s).

Recordkeeping

Keep all records of employment taxes for at least 4 years. These should be available for IRS review. Your records should include the following information.

- Your EIN.
- Amounts and dates of all wage, annuity, and pension payments.
- Amounts of tips reported to you by your employees.
- Records of allocated tips.
- The fair market value of in-kind wages paid.
- Names, addresses, SSNs, and occupations of employees and recipients.
- Any employee copies of Forms W-2 and W-2c returned to you as undeliverable.
- Dates of employment for each employee.
- Periods for which employees and recipients were paid while absent due to sickness or injury and the amount and weekly rate of payments you or third-party payers made to them.
- Copies of employees' and recipients' income tax withholding certificates (Forms W-4, W-4P, W-4(SP), W-4S, and W-4V).
- Dates and amounts of tax deposits you made and acknowledgment numbers for deposits made by EFTPS.
- Copies of returns filed and confirmation numbers.
- Records of fringe benefits and expense reimbursements provided to your employees, including substantiation.

Change of Business Name

Notify the IRS immediately if you change your business name. Write to the IRS office where you file your returns, using the *Without a payment* address provided in the instructions for your employment tax return, to notify the IRS of any business name change. See Pub. 1635 to see if you need to apply for a new EIN.

Change of Business Address or Responsible Party

Notify the IRS immediately if you change your business address or responsible party. Complete and mail Form 8822-B to notify the IRS of a business address or responsible party change. For a definition of "responsible party," see the Instructions for Form SS-4.

Filing Addresses

Generally, your filing address for Form 940, 941, 943, 944, 945, or CT-1 depends on the location of your residence or principal place of business and whether or not you're including a payment with your return. There are separate filing addresses for these returns if you're a tax-exempt organization or government entity. See the separate instructions for Form 940, 941, 943, 944, 945, or CT-1 for the filing addresses.

Private Delivery Services

You can use certain private delivery services (PDSs) designated by the IRS to meet the "timely mailing as timely filing" rule for tax returns. Go to *IRS.gov/PDS* for the current list of PDSs.

The PDS can tell you how to get written proof of the mailing date.

For the IRS mailing address to use if you're using a PDS, go to *IRS.gov/PDSstreetAdresses*. Select the mailing address listed on the webpage that is in the same state as the address to which you would mail returns filed without a payment, as shown in the instructions for your employment tax return.

PDSs can't deliver items to P.O. boxes. You must use the U.S. Postal Service to mail any item to an IRS P.O. box address.

Dishonored Payments

Any form of payment that is dishonored and returned from a financial institution is subject to a penalty. The penalty is $25 or 2% of the payment, whichever is more. However, the penalty on dishonored payments of $24.99 or less is an amount equal to the payment. For example, a dishonored payment of $18 is charged a penalty of $18.

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E-News for Payroll Professionals

The IRS has a subscription-based email service for payroll professionals. Subscribers will receive periodic updates from the IRS. The updates may include information regarding recent legislative changes affecting federal payroll reporting, IRS news releases and special announcements pertaining to the payroll industry, new employment tax procedures, and other information specifically affecting federal payroll tax returns. To subscribe, go to *IRS.gov/ENewsPayroll*.

Telephone Help

Tax questions. You can call the IRS Business and Specialty Tax Line with your employment tax questions at 800-829-4933.

Help for people with disabilities. You may call 800-829-4059 (TDD/TTY for persons who are deaf, hard of hearing, or have a speech disability) with any employment tax questions. You may also use this number for assistance with unresolved tax problems.

Additional information. Go to *IRS.gov/EmploymentTaxes* for additional employment tax information. For information about employer responsibilities under the Affordable Care Act, go to *IRS.gov/ACA*.

Ordering Employer Tax Forms, Instructions, and Publications

You can view, download, or print most of the forms, instructions, and publications you may need at *IRS.gov/Forms*. Otherwise, you can go to *IRS.gov/OrderForms* to place an order and have them mailed to you.

Instead of ordering paper Forms W-2 and W-3, consider filing them electronically using the SSA's free *e-file* service. Visit the SSA's Employer W-2 Filing Instructions & Information website at *SSA.gov/employer* to register for Business Services Online. You'll be able to create Forms W-2 online and submit them to the SSA by typing your wage information into easy-to-use fill-in fields. In addition, you can print out completed copies of Forms W-2 to file with state or local governments, distribute to your employees, and keep for your records. Form W-3 will be created for you based on your Forms W-2.

Photographs of Missing Children

The IRS is a proud partner with the *National Center for Missing & Exploited Children® (NCMEC)*. Photographs of missing children selected by the Center may appear in this publication on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 1-800-THE-LOST (1-800-843-5678) if you recognize a child.

Calendar

The following is a list of important dates and responsibilities. The dates listed here haven't been adjusted for Saturdays, Sundays, and legal holidays (see the *TIP* next). Pub. 509, Tax Calendars (for use in 2020), adjusts the dates for Saturdays, Sundays, and legal holidays. See section 11 for information about depositing taxes reported on Forms 941, 944, and 945. See section 14 for information about depositing FUTA tax. 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. A statewide legal holiday delays a filing due date only if the IRS office where you're required to file is located in that state. However, a statewide legal holiday doesn't delay the due date of federal tax deposits. See* Deposits Due on Business Days Only *in section 11. For any filing due date, you'll meet the "file" or "furnish" requirement if the envelope containing the 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 PDS on or before the due date. See* Private Delivery Services *under* Reminders*, earlier, for more information.*

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

By January 31

File Form 941 or Form 944. File Form 941 for the fourth quarter of the previous calendar year and deposit any undeposited income, social security, and Medicare taxes. You may pay these taxes with Form 941 if your total tax liability for the quarter is less than $2,500. File Form 944 for the previous calendar year instead of Form 941 if the IRS has notified you in writing to file Form 944.

Pay any undeposited income, social security, and Medicare taxes with your Form 944. You may pay these taxes with Form 944 if your total tax liability for the year is less than $2,500. For additional rules on when you can pay your taxes with your return, see *Payment with return* in section 11. If you timely deposited all taxes when due, you may file by February 10.

File Form 940. File Form 940 to report any FUTA tax. However, if you deposited all of the FUTA tax when due, you may file by February 10.

Furnish Forms 1099 and W-2. Furnish each employee a completed 2019 Form W-2. Furnish 2019 Form 1099-MISC to payees for nonemployee compensation. Most Forms 1099 must be furnished to payees by January 31, but some can be furnished by February 15. For more information, see *When to furnish forms or statements* in part M of the General Instructions for Certain Information Returns.

File Form W-2. File with the SSA Copy A of all 2019 paper and electronic Forms W-2 with Form W-3, Transmittal of Wage and Tax Statements. For more information on reporting Form W-2 information to the SSA electronically, visit the SSA's Employer W-2 Filing Instructions & Information webpage at *SSA.gov/employer*. If filing electronically, via the SSA's Form W-2 Online service, the SSA will generate Form W-3 data from the electronic submission of Form(s) W-2.

File Form 1099-MISC reporting nonemployee compensation. File with the IRS Copy A of all 2019 paper and electronic Forms 1099-MISC that report nonemployee compensation, with Form 1096, Annual Summary and Transmittal of U.S. Information Returns. For information on filing information returns electronically with the IRS, see Pub. 1220, Specifications for Electronic Filing of Forms 1097, 1098, 1099, 3921, 3922, 5498, and W-2G.

File Form 945. File Form 945 to report any nonpayroll federal income tax withheld. If you deposited all taxes when due, you may file by February 10. See *Nonpayroll Income Tax Withholding* under *Reminders*, earlier, for more information.

By February 15

Request a new Form W-4 from exempt employees. Ask for a new Form W-4 from each employee who claimed exemption from income tax withholding last year.

On February 16

Forms W-4 claiming exemption from withholding expire. Any Form W-4 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 W-4 for the current year. If the employee doesn't give you a new Form W-4, withhold tax as if he or she 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 2020 Form W-4. See section 9 for more information. If the employee gives you a new Form W-4 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.

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By February 28

File paper 2019 Forms 1099 and 1096. File Copy A of all paper 2019 Forms 1099, except Forms 1099-MISC reporting nonemployee compensation, with Form 1096 with the IRS. For electronically filed returns, see *By March 31*, later.

By February 29

File paper Form 8027. File paper Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips, with the IRS. See section 6. For electronically filed returns, see *By March 31* next.

By March 31

File electronic 2019 Forms 1099 and 8027. File electronic 2019 Forms 1099, except Forms 1099-MISC reporting nonemployee compensation, with the IRS. Also file electronic Form 8027 with the IRS. For information on filing information returns electronically with the IRS, see Pub. 1220 and Pub. 1239, Specifications for Electronic Filing of Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips.

By April 30, July 31, October 31, and January 31

Deposit FUTA taxes. Deposit FUTA tax for the quarter (including any amount carried over from other quarters) if over $500. If $500 or less, carry it over to the next quarter. See section 14 for more information.

File Form 941. File Form 941 and deposit any undeposited income, social security, and Medicare taxes. You may pay these taxes with Form 941 if your total tax liability for the quarter is less than $2,500. If you timely deposited all taxes when due, you may file by May 10, August 10, November 10, or February 10, respectively. Don't file Form 941 for these quarters if you have been notified to file Form 944 and you didn't request and receive written notice from the IRS to file quarterly Forms 941.

Before December 1

New Forms W-4. Remind employees to submit a new Form W-4 if their filing status, other income, deductions, or credits have changed or will change for the next year.

Introduction

This publication explains your tax responsibilities as an employer. It explains the requirements for withholding, depositing, reporting, paying, and correcting employment taxes. It explains the forms you must give to your employees, those your employees must give to you, and those you must send to the IRS and the SSA. References to "income tax" in this guide apply only to "federal" income tax. Contact your state or local tax department to determine their rules.

When you pay your employees, you don't pay them all the money they earned. As their employer, you have the added responsibility of withholding taxes from their paychecks. The federal income tax and employees' share of social security and Medicare taxes that you withhold from your employees' paychecks are part of their wages that you pay to the U.S. Treasury instead of to your employees. Your employees trust that you pay the withheld taxes to the U.S. Treasury by making federal tax deposits. This is the reason that these withheld taxes are called trust fund taxes. If federal income, social security, or Medicare taxes that must be withheld aren't withheld or aren't deposited or paid to the U.S. Treasury, the trust fund recovery penalty may apply. See section 11 for more information.

Additional employment tax information is available in Pubs. 15-A, 15-B, and 15-T. Pub. 15-A includes specialized information supplementing the basic employment tax information provided in this publication. Pub. 15-B, Employer's Tax Guide to Fringe Benefits, contains information about the employment tax treatment and valuation of various types of noncash compensation. Pub. 15-T includes the federal income tax withholding tables and instructions on how to use the tables.

Most employers must withhold (except FUTA), deposit, report, and pay the following employment taxes.

- Income tax.
- Social security tax.
- Medicare tax.
- FUTA tax.

There are exceptions to these requirements. See section 15 for guidance. Railroad retirement taxes are explained in the Instructions for Form CT-1. Employment taxes for agricultural employers are explained in Pub. 51.

Comments and suggestions. We welcome your comments about this publication and your suggestions for future editions.

You can send us comments from *IRS.gov/FormComments*.

Or you can write to:

Internal Revenue Service
Tax Forms and Publications
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

Although we can't respond individually to each comment received, we do appreciate your feedback and will consider your comments as we revise our tax forms, instructions, and publications. We can't answer tax questions sent to the above address.

Federal government employers. The information in this publication, including the rules for making federal tax deposits, applies to federal agencies.

State and local government employers. Payments to employees for services in the employ of state and local government employers are generally subject to federal income tax withholding but not FUTA tax. Most elected and appointed public officials of state or local governments are employees under common law rules. See chapter 3 of Pub. 963, Federal-State Reference Guide. In addition, wages, with certain exceptions, are subject to social security and Medicare taxes. See section 15 for more information on the exceptions.

If an election worker is employed in another capacity with the same government entity, see Revenue Ruling 2000-6 on page 512 of Internal Revenue Bulletin 2000-6 at *IRS.gov/pub/irs-irbs/irb00-06.pdf*.

You can get information on reporting and social security coverage from your local IRS office. If you have any questions about coverage under a section 218 (Social Security Act) agreement, contact the appropriate state official. To find your State Social Security Administrator, visit the National Conference of State Social Security Administrators website at *NCSSSA.org*.

Indian tribal governments. See Pub. 4268 for employment tax information for Indian tribal governments.

Disregarded entities and qualified subchapter S subsidiaries (QSubs). Eligible single-owner disregarded entities and QSubs are treated as separate entities for employment tax purposes. Eligible single-member entities must report and pay employment taxes on wages paid to their employees using the entities' own names and EINs. See Regulations sections 1.1361-4(a)(7) and 301.7701-2(c)(2)(iv).

COBRA premium assistance credit. The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) provides certain former employees, retirees, spouses, former spouses, and dependent children the right to temporary continuation of health coverage at group rates. COBRA generally covers multiemployer health plans and health plans maintained by private-sector employers (other than churches) with 20 or more full- and part-time employees. Parallel requirements apply to these plans under the Employee Retirement Income Security Act of 1974 (ERISA). Under the Public Health Service Act, COBRA requirements also apply to health plans covering state or local government employees. Similar requirements apply under the Federal Employees Health Benefits Program and under some state laws. For the premium assistance (or subsidy) discussed below, these requirements are all referred to as COBRA requirements.

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Under the American Recovery and Reinvestment Act of 2009 (ARRA), employers are allowed a credit against "payroll taxes" (referred to in this publication as "employment taxes") for providing COBRA premium assistance to assistance-eligible individuals. For periods of COBRA continuation coverage beginning after February 16, 2009, a group health plan must treat an assistance-eligible individual as having paid the required COBRA continuation coverage premium if the individual elects COBRA coverage and pays 35% of the amount of the premium.

An assistance-eligible individual is a qualified beneficiary of an employer's group health plan who is eligible for COBRA continuation coverage during the period beginning September 1, 2008, and ending May 31, 2010, due to the involuntary termination from employment of a covered employee during the period and elects continuation COBRA coverage. The assistance for the coverage can last up to 15 months.

The COBRA premium assistance credit was available to an employer for premiums paid on behalf of employees who were involuntarily terminated from employment between September 1, 2008, and May 31, 2010. The COBRA premium assistance credit isn't available for individuals who were involuntarily terminated after May 31, 2010. Therefore, only in rare circumstances will the credit still be available, such as instances where COBRA eligibility was delayed as a result of employer-provided health insurance coverage following termination. For more information about the credit, see Notice 2009-27, 2009-16 I.R.B. 838, available at *IRS.gov/irb/2009-16_IRB#NOT-2009-27*.

Administrators of the group health plans (or other entities) that provide or administer COBRA continuation coverage must provide notice to assistance-eligible individuals of the COBRA premium assistance.

The 65% of the premium not paid by the assistance-eligible individuals is reimbursed to the employer maintaining the group health plan. The reimbursement is made through a credit against the employer's employment tax liabilities. For information on how to claim the credit, see the Instructions for Form 941-X or the Instructions for Form 944-X. The credit is treated as a deposit made on the first day of the return period (quarter or year). In the case of a multiemployer plan, the credit is claimed by the plan, rather than the employer. In the case of an insured plan subject to state law continuation coverage requirements, the credit is claimed by the insurance company, rather than the employer.

Anyone claiming the credit for COBRA premium assistance payments must maintain the following information to support their claim.

- Information on the receipt of the assistance-eligible individuals' 35% share of the premium, including dates and amounts.
- In the case of an insurance plan, a copy of an invoice or other supporting statement from the insurance carrier and proof of timely payment of the full premium to the insurance carrier required under COBRA.
- In the case of a self-insured plan, proof of the premium amount and proof of the coverage provided to the assistance-eligible individuals.
- Attestation of involuntary termination, including the date of the involuntary termination for each covered employee whose involuntary termination is the basis for eligibility for the subsidy.
- Proof of each assistance-eligible individual's eligibility for COBRA coverage and the election of COBRA coverage.
- A record of the SSNs of all covered employees, the amount of the subsidy reimbursed with respect to each covered employee, and whether the subsidy was for one individual or two or more individuals.

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1. Employer Identification Number (EIN)

If you're required to report employment taxes or give tax statements to employees or annuitants, you need an EIN.

The EIN is a nine-digit number the IRS issues. The digits are arranged as follows: 00-0000000. It is used to identify the tax accounts of employers and certain others who have no employees. Use your EIN on all of the items you send to the IRS and the SSA. For more information, see Pub. 1635.

If you don't have an EIN, you may apply for one online by visiting the IRS website at *IRS.gov/EIN*. You may also apply for an EIN by faxing or mailing Form SS-4 to the IRS. If the principal business was created or organized outside of the United States or U.S. territories, you may also apply for an EIN by calling 267-941-1099 (toll call). Don't use an SSN in place of an EIN.

You should have only one EIN. If you have more than one and aren't sure which one to use, call 800-829-4933 or 800-829-4059 (TDD/TTY for persons who are deaf, hard of hearing, or have a speech disability). Give the numbers you have, the name and address to which each was assigned, and the address of your main place of business. The IRS will tell you which number to use. For more information, see Pub. 1635.

If you took over another employer's business (see *Successor employer* in section 9), don't use that employer's EIN. If you've applied for an EIN but don't have your EIN by the time a return is due, file a paper return and write "Applied For" and the date you applied for it in the space shown for the number.

2. Who Are Employees?

Generally, employees are defined either under common law or under statutes for certain situations. See Pub. 15-A for details on statutory employees and nonemployees.

Employee status under common law. 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. See Pub. 15-A for more information on how to determine whether an individual providing services is an independent contractor or an employee.

Generally, people in business for themselves aren't employees. For example, doctors, lawyers, veterinarians, and others in an independent trade in which they offer their services to the public are usually not employees. If the business is incorporated, corporate officers who work in the business are employees of the corporation.

If an employer-employee relationship exists, it doesn't matter what it is called. The employee may be called an agent or independent contractor. It also doesn't matter how payments are measured or paid, what they're called, or if the employee works full or part time.

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Statutory employees. If someone who works for you isn't an employee under the common law rules discussed earlier, don't withhold federal income tax from his or her pay, unless backup withholding applies. Although the following persons may not be common law employees, they're considered employees by statute for social security and Medicare tax purposes under certain conditions.

- An agent or commission driver who delivers meat, vegetable, fruit, or bakery products; beverages (other than milk); laundry; or dry cleaning for someone else.
- A full-time life insurance salesperson who sells primarily for one company.
- A homeworker who works at home or off premises according to guidelines of the person for whom the work is done, with materials or goods furnished by and returned to that person or to someone that person designates.
- A traveling or city salesperson (other than an agent or commission driver) who works full time (except for sideline sales activities) for one firm or person getting orders from customers. The orders must be for merchandise for resale or supplies for use in the customer's business. The customers must be retailers, wholesalers, contractors, or operators of hotels, restaurants, or other businesses dealing with food or lodging.

For FUTA tax, an agent or commission driver and a traveling or city salesperson are considered statutory employees; however, a full-time life insurance salesperson and a homeworker aren't considered statutory employees.

Statutory nonemployees. Direct sellers, qualified real estate agents, and certain companion sitters are, by law, considered nonemployees. They're generally treated as self-employed for all federal tax purposes, including income and employment taxes. See Pub. 15-A for more information.

H-2A agricultural workers. On Form W-2, don't check box 13 (Statutory employee), as H-2A workers aren't statutory employees.

Treating employees as nonemployees. You'll generally be liable for social security and Medicare taxes and withheld income tax if you don't deduct and withhold these taxes because you treated an employee as a nonemployee. You may be able to figure your liability using special section 3509 rates for the employee share of social security and Medicare taxes and federal income tax withholding. The applicable rates depend on whether you filed required Forms 1099. You can't recover the employee share of social security tax, Medicare tax, or income tax withholding from the employee if the tax is paid under section 3509. You're liable for the income tax withholding regardless of whether the employee paid income tax on the wages. You continue to owe the full employer share of social security and Medicare taxes. The employee remains liable for the employee share of social security and Medicare taxes. See section 3509 for details. Also see the Instructions for Form 941-X or the Instructions for Form 944-X.

Section 3509 rates aren't available if you intentionally disregard the requirement to withhold taxes from the employee or if you withheld income taxes but not social security or Medicare taxes. Section 3509 isn't available for reclassifying statutory employees. See *Statutory employees*, earlier.

If the employer issued required information returns, the section 3509 rates are the following.

- For social security taxes: employer rate of 6.2% plus 20% of the employee rate of 6.2%, for a total rate of 7.44% of wages.
- For Medicare taxes: employer rate of 1.45% plus 20% of the employee rate of 1.45%, for a total rate of 1.74% of wages.
- For Additional Medicare Tax: 0.18% (20% of the employee rate of 0.9%) of wages subject to Additional Medicare Tax.
- For income tax withholding, the rate is 1.5% of wages.

If the employer didn't issue required information returns, the section 3509 rates are the following.

- For social security taxes: employer rate of 6.2% plus 40% of the employee rate of 6.2%, for a total rate of 8.68% of wages.
- For Medicare taxes: employer rate of 1.45% plus 40% of the employee rate of 1.45%, for a total rate of 2.03% of wages.
- For Additional Medicare Tax: 0.36% (40% of the employee rate of 0.9%) of wages subject to Additional Medicare Tax.
- For income tax withholding, the rate is 3.0% of wages.

Relief provisions. If you have a reasonable basis for not treating a worker as an employee, you may be relieved from having to pay employment taxes for that worker. To get this relief, you must file all required federal tax returns, including information returns, on a basis consistent with your treatment of the worker. You (or your predecessor) must not have treated any worker holding a substantially similar position as an employee for any

periods beginning after 1977. See Pub. 1976, Do You Qualify for Relief Under Section 530.

IRS help. If you want the IRS to determine whether a worker is an employee, file Form SS-8.

Voluntary Classification Settlement Program (VCSP). Employers who are currently treating their workers (or a class or group of workers) as independent contractors or other nonemployees and want to voluntarily reclassify their workers as employees for future tax periods may be eligible to participate in the VCSP if certain requirements are met. File Form 8952 to apply for the VCSP. For more information, go to *IRS.gov/VCSP*.

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Business Owned and Operated by Spouses

If you and your spouse jointly own and operate a business and share in the profits and losses, you may be partners in a partnership, whether or not you have a formal partnership agreement. See Pub. 541 for more details. The partnership is considered the employer of any employees, and is liable for any employment taxes due on wages paid to its employees.

Exception—Qualified joint venture. For tax years beginning after 2006, the Small Business and Work Opportunity Tax Act of 2007 (Public Law 110-28) provides that a "qualified joint venture," whose only members are spouses filing a joint income tax return, can elect not to be treated as a partnership for federal tax purposes. A qualified joint venture conducts a trade or business where:

- The only members of the joint venture are spouses who file a joint income tax return,
- Both spouses materially participate (see *Material participation* in the Instructions for Schedule C (Form 1040 or 1040-SR), line G) in the trade or business (mere joint ownership of property isn't enough),
- Both spouses elect to not be treated as a partnership, and
- The business is co-owned by both spouses and isn't held in the name of a state law entity such as a partnership or limited liability company (LLC).

To make the election, all items of income, gain, loss, deduction, and credit must be divided between the spouses, in accordance with each spouse's interest in the venture, and reported as sole proprietors on a separate Schedule C (Form 1040 or 1040-SR) or Schedule F (Form 1040 or 1040-SR). Each spouse must also file a separate Schedule SE (Form 1040 or 1040-SR) to pay self-employment taxes, as applicable.

Spouses using the qualified joint venture rules are treated as sole proprietors for federal tax purposes and generally don't need an EIN. If employment taxes are owed by the qualified joint venture, either spouse may report and pay the employment taxes due on the wages paid to the employees using the EIN of that spouse's sole proprietorship. Generally, filing as a qualified joint venture won't increase the spouses' total tax owed on the joint income tax return. However, it gives each spouse credit for social security earnings on which retirement benefits are based and for Medicare coverage without filing a partnership return.

Note. If your spouse is your employee, not your partner, see *One spouse employed by another* in section 3.

For more information on qualified joint ventures, go to *IRS.gov/QJV*.

Exception—Community income. If you and your spouse wholly own an unincorporated business as community property under the community property laws of a state, foreign country, or U.S. possession, you can treat the business either as a sole proprietorship (of the spouse who carried on the business) or a partnership. You may still make an election to be taxed as a qualified joint venture instead of a partnership. See *Exception—Qualified joint venture*, earlier.

3. Family Employees

Child employed by parents. Payments for the services of a child under age 18 who works for his or her parent in a trade or business aren't subject to social security and Medicare taxes if the trade or business is a sole proprietorship or a partnership in which each partner is a parent of the child. If these payments are for work other than in a trade or business, such as domestic work in the parent's private home, they're not subject to social security and Medicare taxes until the child reaches age 21. However, see *Covered services of a child or spouse*, later. Payments for the services of a child under age 21 who works for his or her parent, whether or not in a trade or business, aren't subject to FUTA tax. Payments for the services of a child of any age who works for his or her parent are generally subject to income tax withholding unless the payments are for domestic work in the parent's home, or unless the payments are for work other than in a trade or business and are less than $50 in the quarter or the child isn't regularly employed to do such work.

One spouse employed by another. The wages for the services of an individual who works for his or her spouse in a trade or business are subject to income tax withholding and social security and Medicare taxes, but not to FUTA tax. However, the payments for services of one spouse employed by another in other than a trade or business, such as domestic service in a private home, aren't subject to social security, Medicare, and FUTA taxes.

Covered services of a child or spouse. The wages for the services of a child or spouse are subject to income tax withholding as well as social security, Medicare, and FUTA taxes if he or she works for:

- A corporation, even if it is controlled by the child's parent or the individual's spouse;
- A partnership, even if the child's parent is a partner, unless each partner is a parent of the child;

- A partnership, even if the individual's spouse is a partner; or
- An estate, 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.

Parent employed by son or daughter. When the employer is a son or daughter employing his or her parent, the following rules apply.

- Payments for the services of a parent in the son's or daughter's (the employer's) trade or business are subject to income tax withholding and social security and Medicare taxes.
- Payments for the services of a parent not in the son's or daughter's (the employer's) trade or business are generally not subject to social security and Medicare taxes.

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CAUTION *Social security and Medicare taxes do apply to payments made to a parent for domestic services if all of the following apply.*

- *The parent is employed by his or her son or daughter.*
- *The son or daughter (the employer) has a child or stepchild (including an adopted child) living in the home.*
- *The son or daughter (the employer) is a widow or widower, divorced and not remarried, or living with a spouse who, because of a mental or physical condition, can't care for the child or stepchild for at least 4 continuous weeks in the calendar quarter in which the service is performed.*
- *The child or stepchild is either under age 18 or, due to a mental or physical condition, requires the personal care of an adult for at least 4 continuous weeks in the calendar quarter in which the service is performed.*

Payments made to a parent employed by his or her child aren't subject to FUTA tax, regardless of the type of services provided.

4. Employee's Social Security Number (SSN)

You're required to get each employee's name and SSN and to enter them on Form W-2. This requirement also applies to resident and nonresident alien employees. You should ask your employee to show you his or her social security card. The employee may show the card if it is available.

CAUTION *Don't accept a social security card that says "Not valid for employment." A social security number issued with this legend doesn't permit employment.*

You may, but aren't required to, photocopy the social security card if the employee provides it. If you don't provide the correct employee name and SSN on Form W-2, you may owe a penalty unless you have reasonable cause. See Pub. 1586, Reasonable Cause Regulations & Requirements for Missing and Incorrect Name/TINs, for information on the requirement to solicit the employee's SSN.

Applying for a social security card. Any employee who is legally eligible to work in the United States and doesn't have a social security card can get one by completing Form SS-5, Application for a Social Security Card, and submitting the necessary documentation. You can get Form SS-5 from the SSA website at *SSA.gov/forms/ss-5.pdf*, at SSA offices, or by calling 800-772-1213 or 800-325-0778 (TTY). The employee must complete and sign Form SS-5; it can't be filed by the employer. You may be asked to supply a letter to accompany Form SS-5 if the employee has exceeded his or her yearly or lifetime limit for the number of replacement cards allowed.

Applying for an SSN. If you file Form W-2 on paper and your employee applied for an SSN but doesn't have one when you must file Form W-2, enter "Applied For" on the form. If you're filing electronically, enter all zeros (000-00-0000 if creating forms online or 000000000 if uploading a file) in the SSN field. When the employee receives the SSN, file Copy A of Form W-2c, Corrected Wage and Tax Statement, with the SSA to show the employee's SSN. Furnish copies B, C, and 2 of Form W-2c to the employee. Up to 25 Forms W-2c for each Form W-3c, Transmittal of Corrected Wage and Tax Statements, may be filed per session over the Internet, with no limit on the number of sessions. For more information, visit the SSA's Employer W-2 Filing Instructions & Information webpage at *SSA.gov/employer*. Advise your employee to correct the SSN on his or her original Form W-2.

Correctly record the employee's name and SSN. Record the name and SSN of each employee as they're shown on the employee's social security card. If the employee's name isn't correct as shown on the card (for example, because of marriage or divorce), the employee should request an updated card from the SSA. Continue to report the employee's wages under the old name until the employee shows you the updated social security card with the corrected name.

If the SSA issues the employee an updated card after a name change, or a new card with a different SSN after a change in alien work status, file a Form W-2c to correct the name/SSN reported for the most recently filed Form W-2. It isn't necessary to correct other years if the previous name and number were used for years before the most recent Form W-2.

IRS individual taxpayer identification numbers (ITINs) for aliens. Don't accept an ITIN in place of an SSN for employee identification or for work. An ITIN is only available to resident and nonresident aliens who aren't eligible for U.S. employment and need identification for other tax purposes. You can identify an ITIN because it is a nine-digit number, formatted like an SSN, that starts with the number "9" and has a range of numbers from "50–65," "70–88," "90–92," and "94–99" for the fourth and fifth

digits (for example, 9NN-7N-NNNN). For more information about ITINs, see the Instructions for Form W-7 or go to *IRS.gov/ITIN*.

An individual with an ITIN who later becomes eligible to work in the United States must obtain an SSN. If the individual is currently eligible to work in the United States, instruct the individual to apply for an SSN and follow the instructions under Applying for an SSN, earlier. Don't use an ITIN in place of an SSN on Form W-2.

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Verification of SSNs. Employers and authorized reporting agents can use the Social Security Number Verification Service (SSNVS) to instantly verify that an employee name matches an SSN for up to 10 names and SSNs (per screen) at a time, or submit an electronic file of up to 250,000 names and SSNs and usually receive the results the next business day. Go to *SSA.gov/employer/ssnv.htm* for more information. A person may have a valid SSN but not be authorized to work in the United States. Employers may use E-Verify at *e-verify.gov* to confirm the employment eligibility of newly hired employees.

Registering for SSNVS. You must register online to use SSNVS. To register, visit the SSA's website at *SSA.gov/bso* and click on the *Register* link under *Business Services Online*. Follow the registration instructions to obtain a user identification (ID) and password. You'll need to provide the following information about yourself and your company.

- Name.
- SSN.
- Date of birth.
- Type of employer.
- EIN.
- Company name, address, and telephone number.
- Email address.

When you have completed the online registration process, the SSA will mail a one-time activation code to you. You must enter the activation code online to use SSNVS. Your employees must receive authorization from you to use SSNVS. If your employees register, the one-time activation code will be mailed to you.

5. Wages and Other Compensation

Wages subject to federal employment taxes generally include all pay you give to an employee for services performed. The pay may be in cash or in other forms. It includes salaries, vacation allowances, bonuses, commissions, and taxable fringe benefits. It doesn't matter how you measure or make the payments. Amounts an employer pays as a bonus for signing or ratifying a contract in connection with the establishment of an employer-employee relationship and an amount paid to an employee for cancellation of an employment contract and relinquishment of contract rights are wages subject to social security, Medicare, and FUTA taxes and income tax withholding. Also, compensation paid to a former employee for services performed while still employed is wages subject to employment taxes.

More information. See section 6 for a discussion of tips and section 7 for a discussion of supplemental wages. Also, see section 15 for exceptions to the general rules for wages. Pub. 15-A provides additional information on wages, including nonqualified deferred compensation, and other compensation. Pub. 15-B provides information on other forms of compensation, including:

- Accident and health benefits,
- Achievement awards,
- Adoption assistance,
- Athletic facilities,
- De minimis (minimal) benefits,
- Dependent care assistance,
- Educational assistance,
- Employee discounts,
- Employee stock options,
- Employer-provided cell phones,
- Group-term life insurance coverage,
- Health savings accounts,
- Lodging on your business premises,
- Meals,
- No-additional-cost services,
- Retirement planning services,
- Transportation (commuting) benefits,
- Tuition reduction, and
- Working condition benefits.

Employee business expense reimbursements. A reimbursement or allowance arrangement is a system by which you pay the advances, reimbursements, and charges for your employees' business expenses. How you report a reimbursement or allowance amount depends on whether you have an accountable or a nonaccountable plan. If a single payment includes both wages and an expense reimbursement, you must specify the amount of the reimbursement.

These rules apply to all allowable ordinary and necessary employee business expenses.

Accountable plan. To be an accountable plan, your reimbursement or allowance arrangement must require your employees to meet all three of the following rules.

1. They must have paid or incurred allowable expenses while performing services as your employees. The reimbursement or advance must be payment for the expenses and must not be an amount that would have otherwise been paid to the employee as wages.

2. They must substantiate these expenses to you within a reasonable period of time.
3. They must return any amounts in excess of substantiated expenses within a reasonable period of time.

Amounts paid under an accountable plan aren't wages and aren't subject to income, social security, Medicare, and FUTA taxes.

If the expenses covered by this arrangement aren't substantiated (or amounts in excess of substantiated expenses aren't returned within a reasonable period of time), the amount paid under the arrangement in excess of the substantiated expenses is treated as paid under a nonaccountable plan. This amount is subject to income, social security, Medicare, and FUTA taxes for the first payroll period following the end of the reasonable period of time.

A reasonable period of time depends on the facts and circumstances. Generally, it is considered reasonable if your employees receive their advance within 30 days of the time they pay or incur the expenses, adequately account for the expenses within 60 days after the expenses were paid or incurred, and return any amounts in excess of expenses within 120 days after the expenses were paid or incurred. Alternatively, it is considered reasonable if you give your employees a periodic statement (at least quarterly) that asks them to either return or adequately account for outstanding amounts and they do so within 120 days.

Nonaccountable plan. Payments to your employee for travel and other necessary expenses of your business under a nonaccountable plan are wages and are treated as supplemental wages and subject to income, social security, Medicare, and FUTA taxes. Your payments are treated as paid under a nonaccountable plan if:

- Your employee isn't required to or doesn't substantiate timely those expenses to you with receipts or other documentation,
- You advance an amount to your employee for business expenses and your employee isn't required to or doesn't return timely any amount he or she doesn't use for business expenses,
- You advance or pay an amount to your employee regardless of whether you reasonably expect the employee to have business expenses related to your business, or
- You pay an amount as a reimbursement you would have otherwise paid as wages.

See section 7 for more information on supplemental wages.

Per diem or other fixed allowance. You may reimburse your employees by travel days, miles, or some other fixed allowance under the applicable revenue procedure. In these cases, your employee is considered to have accounted to you if your reimbursement doesn't exceed rates established by the federal government. The 2019 standard mileage rate for auto expenses was 58 cents per mile. The rate for 2020 is xx cents per mile.

The government per diem rates for meals and lodging in the continental United States can be found by visiting the U.S. General Services Administration website at *GSA.gov/PerDiemRates*. Other than the amount of these expenses, your employees' business expenses must be substantiated (for example, the business purpose of the travel or the number of business miles driven). For information on substantiation methods, see Pub. 463.

If the per diem or allowance paid exceeds the amounts substantiated, you must report the excess amount as wages. This excess amount is subject to income tax withholding and payment of social security, Medicare, and FUTA taxes. Show the amount equal to the substantiated amount (that is, the nontaxable portion) in box 12 of Form W-2 using code "L."

Wages not paid in money. If in the course of your trade or business you pay your employees in a medium that is neither cash nor a readily negotiable instrument, such as a check, you're said to pay them "in kind." Payments in kind may be in the form of goods, lodging, food, clothing, or services. Generally, the fair market value of such payments at the time they're provided is subject to federal income tax withholding and social security, Medicare, and FUTA taxes.

However, noncash payments for household work, agricultural labor, and service not in the employer's trade or business are exempt from social security, Medicare, and FUTA taxes. Withhold income tax on these payments only if you and the employee agree to do so. Nonetheless, noncash payments for agricultural labor, such as commodity wages, are treated as cash payments subject to employment taxes if the substance of the transaction is a cash payment.

Meals and lodging. The value of meals isn't taxable income and isn't subject to federal income tax withholding and social security, Medicare, and FUTA taxes if the meals are furnished for the employer's convenience and on the employer's premises. The value of lodging isn't subject to federal income tax withholding and social security, Medicare, and FUTA taxes if the lodging is furnished for the employer's convenience, on the employer's premises, and as a condition of employment.

"For the convenience of the employer" means you have a substantial business reason for providing the meals and lodging other than to provide additional compensation to the employee. For example, meals you provide at the place of work so that an employee is available for emergencies during his or her lunch period are generally considered to be for your convenience. You must be able to show these emergency calls have occurred or can reasonably be expected to occur, and that the calls have resulted, or will result, in you calling on your employees to perform their jobs during their meal period.

Whether meals or lodging are provided for the convenience of the employer depends on all of the facts and circumstances. A written statement that the meals or lodging are for your convenience isn't sufficient.

50% test. If over 50% of the employees who are provided meals on an employer's business premises receive

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these meals for the convenience of the employer, all meals provided on the premises are treated as furnished for the convenience of the employer. If this 50% test is met, the value of the meals is excludable from income for all employees and isn't subject to federal income tax withholding or employment taxes. For more information, see Pub. 15-B.

Health insurance plans. If you pay the cost of an accident or health insurance plan for your employees, including an employee's spouse and dependents, your payments aren't wages and aren't subject to social security, Medicare, and FUTA taxes, or federal income tax withholding. Generally, this exclusion also applies to qualified long-term care insurance contracts. However, for income tax withholding, the value of health insurance benefits must be included in the wages of S corporation employees who own more than 2% of the S corporation (2% shareholders). For social security, Medicare, and FUTA taxes, the health insurance benefits are excluded from the 2% shareholder's wages. See Announcement 92-16 for more information. You can find Announcement 92-16 on page 53 of Internal Revenue Bulletin 1992-5.

Health savings accounts (HSAs) and medical savings accounts (MSAs). Your contributions to an employee's HSA or Archer MSA aren't subject to social security, Medicare, or FUTA taxes, or federal income tax withholding if it is reasonable to believe at the time of payment of the contributions they'll be excludable from the income of the employee. To the extent it isn't reasonable to believe they'll be excludable, your contributions are subject to these taxes. Employee contributions to their HSAs or MSAs through a payroll deduction plan must be included in wages and are subject to social security, Medicare, and FUTA taxes and income tax withholding. However, HSA contributions made under a salary reduction arrangement in a section 125 cafeteria plan aren't wages and aren't subject to employment taxes or withholding. For more information, see the Instructions for Form 8889.

Medical care reimbursements. Generally, medical care reimbursements paid for an employee under an employer's self-insured medical reimbursement plan aren't wages and aren't subject to social security, Medicare, and FUTA taxes, or income tax withholding. See Pub. 15-B for a rule regarding inclusion of certain reimbursements in the gross income of highly compensated individuals.

Differential wage payments. Differential wage payments are any payments made by an employer to an individual for a period during which the individual is performing service in the uniformed services while on active duty for a period of more than 30 days and represent all or a portion of the wages the individual would have received from the employer if the individual were performing services for the employer.

Differential wage payments are wages for income tax withholding, but aren't subject to social security, Medicare, or FUTA taxes. Employers should report differential wage payments in box 1 of Form W-2. For more information about the tax treatment of differential wage payments, see Revenue Ruling 2009-11, 2009-18 I.R.B. 896, available at *IRS.gov/irb/2009-18_IRB#RR-2009-11*.

Fringe benefits. You generally must include fringe benefits in an employee's wages (but see *Nontaxable fringe benefits* next). The benefits are subject to income tax withholding and employment taxes. Fringe benefits include cars you provide, flights on aircraft you provide, free or discounted commercial flights, vacations, discounts on property or services, memberships in country clubs or other social clubs, and tickets to entertainment or sporting events. In general, the amount you must include is the amount by which the fair market value of the benefit is more than the sum of what the employee paid for it plus any amount the law excludes. There are other special rules you and your employees may use to value certain fringe benefits. See Pub. 15-B for more information.

Nontaxable fringe benefits. Some fringe benefits aren't taxable (or are minimally taxable) if certain conditions are met. See Pub. 15-B for details. The following are some examples of nontaxable fringe benefits.

- Services provided to your employees at no additional cost to you.
- Qualified employee discounts.
- Working condition fringes that are property or services that would be allowable as a business expense or depreciation expense deduction to the employee if he or she had paid for them. Examples include a company car for business use and subscriptions to business magazines.
- Certain minimal value fringes (including an occasional cab ride when an employee must work overtime and meals you provide at eating places you run for your employees if the meals aren't furnished at below cost).
- Qualified transportation fringes subject to specified conditions and dollar limitations (including transportation in a commuter highway vehicle, any transit pass, and qualified parking).
- The use of on-premises athletic facilities operated by you if substantially all of the use is by employees, their spouses, and their dependent children.
- Qualified tuition reduction an educational organization provides to its employees for education. For more information, see Pub. 970.
- Employer-provided cell phones provided primarily for a noncompensatory business reason.

However, don't exclude the following fringe benefits from the wages of highly compensated employees unless the benefit is available to other employees on a nondiscriminatory basis.

- No-additional-cost services.
- Qualified employee discounts.
- Meals provided at an employer-operated eating facility.
- Reduced tuition for education.

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For more information, including the definition of a highly compensated employee, see Pub. 15-B.

When taxable fringe benefits are treated as paid. You may choose to treat certain taxable noncash fringe benefits as paid by the pay period, by the quarter, or on any other basis you choose, as long as you treat the benefits as paid at least once a year. You don't have to make a formal choice of payment dates or notify the IRS of the dates you choose. You don't have to make this choice for all employees. You may change methods as often as you like, as long as you treat all benefits provided in a calendar year as paid by December 31 of the calendar year. See section 4 of Pub. 15-B for more information, including a discussion of the special accounting rule for fringe benefits provided during November and December.

Valuation of fringe benefits. Generally, you must determine the value of fringe benefits no later than January 31 of the next year. Before January 31, you may reasonably estimate the value of the fringe benefits for purposes of withholding and depositing on time.

Withholding on fringe benefits. You may add the value of fringe benefits to regular wages for a payroll period and figure withholding taxes on the total, or you may withhold federal income tax on the value of the fringe benefits at the optional flat 22% supplemental wage rate. However, see *Withholding on supplemental wages when an employee receives more than $1 million of supplemental wages during the calendar year* in section 7.

You may choose not to withhold income tax on the value of an employee's personal use of a vehicle you provide. You must, however, withhold social security and Medicare taxes on the use of the vehicle. See Pub. 15-B for more information on this election.

Depositing taxes on fringe benefits. Once you choose when fringe benefits are paid, you must deposit taxes in the same deposit period you treat the fringe benefits as paid. To avoid a penalty, deposit the taxes following the general deposit rules for that deposit period.

If you determine by January 31 you overestimated the value of a fringe benefit at the time you withheld and deposited for it, you may claim a refund for the overpayment or have it applied to your next employment tax return. See *Valuation of fringe benefits*, earlier. If you underestimated the value and deposited too little, you may be subject to a failure-to-deposit (FTD) penalty. See section 11 for information on deposit penalties.

If you deposited the required amount of taxes but withheld a lesser amount from the employee, you can recover from the employee the social security, Medicare, or income taxes you deposited on his or her behalf, and included in the employee's Form W-2. However, you must recover the income taxes before April 1 of the following year.

Sick pay. In general, sick pay is any amount you pay under a plan to an employee who is unable to work because of sickness or injury. These amounts are sometimes paid by a third party, such as an insurance company or an employees' trust. In either case, these payments are subject to social security, Medicare, and FUTA taxes. These taxes don't apply to sick pay paid more than 6 calendar months after the last calendar month in which the employee worked for the employer. The payments are always subject to federal income tax. See section 6 of Pub. 15-A for more information.

Identity protection services. The value of identity protection services provided by an employer to an employee isn't included in an employee's gross income and doesn't need to be reported on an information return (such as Form W-2) filed for employees. This includes identity protection services provided before a data breach occurs. This exception doesn't apply to cash received instead of identity protection services or to proceeds received under an identity theft insurance policy. For more information, see Announcement 2015-22, 2015-35 I.R.B. 288, available at *IRS.gov/irb/2015-35_IRB#ANN-2015-22*, and Announcement 2016-02, 2016-3 I.R.B. 283, available at *IRS.gov/irb/2016-03_IRB#ANN-2016-02*.

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6. Tips

Cash tips your employee receives from customers are generally subject to withholding. Your employee must report cash tips to you by the 10th of the month after the month the tips are received. Cash tips include tips paid by cash, check, debit card, and credit card. The report should include tips you paid over to the employee for charge customers, tips the employee received directly from customers, and tips received from other employees under any tip-sharing arrangement. Both directly and indirectly tipped employees must report tips to you. No report is required for months when tips are less than $20. Your employee reports the tips on Form 4070 or on a similar statement. The statement must be signed and dated by the employee and must include:

- The employee's name, address, and SSN;
- Your name and address;
- The month and year (or the beginning and ending dates, if the statement is for a period of less than 1 calendar month) the report covers; and
- The total of tips received during the month or period.

Both Forms 4070 and 4070-A, Employee's Daily Record of Tips, are included in Pub. 1244, Employee's Daily Record of Tips and Report to Employer.

TIP *You're permitted to establish a system for electronic tip reporting by employees. See Regulations section 31.6053-1(d).*

Collecting taxes on tips. You must collect federal income tax, employee social security tax, and employee Medicare tax on the employee's tips. The withholding rules for withholding an employee's share of Medicare tax on tips also apply to withholding the Additional Medicare Tax once wages and tips exceed $200,000 in the calendar year.

You can collect these taxes from the employee's wages (excluding tips) or from other funds he or she makes available. See *Tips are treated as supplemental wages* in section 7 for more information. Stop collecting the employee social security tax when his or her wages and tips for tax year 2020 reach $137,700; collect the income and employee Medicare taxes for the whole year on all wages and tips. You're responsible for the employer social security tax on wages and tips until the wages (including tips) reach the limit. You're responsible for the employer Medicare tax for the whole year on all wages and tips. Tips are considered to be paid at the time the employee reports them to you. Deposit taxes on tips based on your deposit schedule as described in section 11. File Form 941 or Form 944 to report withholding and employment taxes on tips.

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Ordering rule. If, by the 10th of the month after the month for which you received an employee's report on tips, you don't have enough employee funds available to deduct the employee tax, you no longer have to collect it. If there aren't enough funds available, withhold taxes in the following order.

1. Withhold on regular wages and other compensation.
2. Withhold social security and Medicare taxes on tips.
3. Withhold income tax on tips.

Reporting tips. Report tips and any collected and uncollected social security and Medicare taxes on Form W-2 and on Form 941, lines 5b, 5c, and, if applicable, 5d (Form 944, lines 4b, 4c, and, if applicable, 4d). Report a negative adjustment on Form 941, line 9 (Form 944, line 6), for the uncollected social security and Medicare taxes. Enter the amount of uncollected social security tax and Medicare tax on Form W-2, box 12, with codes "A" and "B." Don't include any uncollected Additional Medicare Tax in box 12 of Form W-2. For additional information on reporting tips, see section 13 and the General Instructions for Forms W-2 and W-3.

Revenue Ruling 2012-18 provides guidance for employers regarding social security and Medicare taxes imposed on tips, including information on the reporting of the employer share of social security and Medicare taxes under section 3121(q), the difference between tips and service charges, and the section 45B credit. See Revenue Ruling 2012-18, 2012-26 I.R.B. 1032, available at *IRS.gov/irb/2012-26_IRB#RR-2012-18*.

FUTA tax on tips. If an employee reports to you in writing $20 or more of tips in a month, the tips are also subject to FUTA tax.

Allocated tips. If you operate a large food or beverage establishment, you must report allocated tips under certain circumstances. However, don't withhold income, social security, or Medicare taxes on allocated tips.

A large food or beverage establishment is one that provides food or beverages for consumption on the premises, where tipping is customary, and where there were normally more than 10 employees on a typical business day during the preceding year.

The tips may be allocated by one of three methods—hours worked, gross receipts, or good faith agreement. For information about these allocation methods, including the requirement to file Forms 8027 electronically if 250 or more forms are filed in calendar year 2020, see the Instructions for Form 8027. For information on filing Form 8027 electronically with the IRS, see Pub. 1239.

Tip Rate Determination and Education Program. Employers may participate in the Tip Rate Determination and Education Program. The program primarily consists of two voluntary agreements developed to improve tip income reporting by helping taxpayers to understand and meet their tip reporting responsibilities. The two agreements are the Tip Rate Determination Agreement (TRDA) and the Tip Reporting Alternative Commitment (TRAC). A tip agreement, the Gaming Industry Tip Compliance Agreement (GITCA), is available for the gaming (casino) industry. For more information, see Pub. 3144.

More information. Advise your employees to see Pub. 531 or use the IRS Interactive Tax Assistant at *IRS.gov/TipIncome* for help in determining if their tip income is taxable and for information about how to report tip income.

7. Supplemental Wages

Supplemental wages are wage payments to an employee that aren't regular wages. They include, but aren't limited to, bonuses, commissions, overtime pay, payments for accumulated sick leave, severance pay, awards, prizes, back pay, reported tips, retroactive pay increases, and payments for nondeductible moving expenses. However, employers have the option to treat overtime pay and tips as regular wages instead of supplemental wages. Other payments subject to the supplemental wage rules include taxable fringe benefits and expense allowances paid under a nonaccountable plan. How you withhold on supplemental wages depends on whether the supplemental payment is identified as a separate payment from regular wages. See Regulations section 31.3402(g)-1 for additional guidance. Also see Revenue Ruling 2008-29, 2008-24 I.R.B. 1149, available at *IRS.gov/irb/2008-24_IRB#RR-2008-29*.

Withholding on supplemental wages when an employee receives more than $1 million of supplemental wages from you during the calendar year. Special rules apply to the extent supplemental wages paid to any one employee during the calendar year exceed $1 million. If a supplemental wage payment, together with other supplemental wage payments made to the employee during the calendar year, exceeds $1 million, the excess is subject to withholding at 37% (or the highest rate of income tax for the year). Withhold using the 37% rate without regard to the employee's Form W-4. In determining supplemental wages paid to the employee during the year, include payments from all businesses under common control. For more information, see Treasury Decision

9276, 2006-37 I.R.B. 423, available at IRS.gov/irb/2006-37_IRB#TD-9276.

Withholding on supplemental wage payments to an employee who doesn't receive $1 million of supplemental wages during the calendar year. If the supplemental wages paid to the employee during the calendar year are less than or equal to $1 million, the following rules apply in determining the amount of income tax to be withheld.

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Supplemental wages combined with regular wages. If you pay supplemental wages with regular wages but don't specify the amount of each, withhold federal income tax as if the total were a single payment for a regular payroll period.

Supplemental wages identified separately from regular wages. If you pay supplemental wages separately (or combine them in a single payment and specify the amount of each), the federal income tax withholding method depends partly on whether you withhold income tax from your employee's regular wages.

1. If you withheld income tax from an employee's regular wages in the current or immediately preceding calendar year, you can use one of the following methods for the supplemental wages.
   a. Withhold a flat 22% (no other percentage allowed).
   b. If the supplemental wages are paid concurrently with regular wages, add the supplemental wages to the concurrently paid regular wages and withhold federal income tax as if the total were a single payment for a regular payroll period. If there are no concurrently paid regular wages, add the supplemental wages to, alternatively, either the regular wages paid or to be paid for the current payroll period or the regular wages paid for the preceding payroll period. Figure the income tax withholding as if the total of the regular wages and supplemental wages is a single payment. Subtract the tax already withheld or to be withheld from the regular wages. Withhold the remaining tax from the supplemental wages. If there were other payments of supplemental wages paid during the payroll period made before the current payment of supplemental wages, aggregate all the payments of supplemental wages paid during the payroll period with the regular wages paid during the payroll period, figure the tax on the total, subtract the tax already withheld from the regular wages and the previous supplemental wage payments, and withhold the remaining tax.
2. If you didn't withhold income tax from the employee's regular wages in the current or immediately preceding calendar year, use method 1b.

Regardless of the method you use to withhold income tax on supplemental wages, they're subject to social security, Medicare, and FUTA taxes.

Example 1. You pay John Peters a base salary on the 1st of each month. His most recent From W-4 is from 2017 and he is single and claims one withholding allowance. In January, he is paid $1,000. Using Worksheet 3 and the withholding tables in section 3 of Pub. 15-T, you withhold $xx from this amount. In February, he receives salary of $1,000 plus a commission of $500, which you combine with regular wages and don't separately identify. You figure the withholding based on the total of $1,500. The correct withholding from the tables is $xx.

Example 2. You pay Sharon Warren a base salary on the 1st of each month. She submitted a 2020 Form W-4 showing she is single and she did not complete Steps 2, 3, and 4 on her Form W-4. Her May 1 pay is $1,000. Using Worksheet 2 and the withholding tables in section 2 of Pub. 15-T, you withhold $xx. On May 15, she receives a bonus of $1,000. Electing to use supplemental wage withholding method 1b, you do the following.

1. Add the bonus amount to the amount of wages from the most recent base salary pay date (May 1) ($1,000 + $1,000 = $2,000).
2. Determine the amount of withholding on the combined $2,000 amount to be $xxx using the wage bracket tables.
3. Subtract the amount withheld from wages on the most recent base salary pay date (May 1) from the combined withholding amount ($xxx – $xx = $xxx).
4. Withhold $xxx from the bonus payment.

Example 3. The facts are the same as in *Example 2*, except you elect to use the flat rate method of withholding on the bonus. You withhold 22% of $1,000, or $220, from Sharon's bonus payment.

Example 4. The facts are the same as in *Example 2*, except you elect to pay Sharon a second bonus of $500 on May 29. Using supplemental wage withholding method 1b, you do the following.

1. Add the first and second bonus amounts to the amount of wages from the most recent base salary pay date (May 1) ($1,000 + $1,000 + $500 = $2,500).
2. Determine the amount of withholding on the combined $2,500 amount to be $xxx using the wage bracket tables.
3. Subtract the amounts withheld from wages on the most recent base salary pay date (May 1) and the amounts withheld from the first bonus payment from the combined withholding amount ($xxx – $xx – $xxx = $xx).
4. Withhold $xx from the second bonus payment.

Tips are treated as supplemental wages. Withhold income tax on tips from wages earned by the employee or from other funds the employee makes available. Don't withhold the income tax due on tips from employee tips. If an employee receives regular wages and reports tips, figure income tax withholding as if the tips were

supplemental wages. If you withheld income tax from the regular wages in the current or immediately preceding calendar year, you can withhold on the tips by method 1a or 1b discussed earlier in this section under *Supplemental wages identified separately from regular wages*. If you didn't withhold income tax from the regular wages in the current or immediately preceding calendar year, add the tips to the regular wages and withhold income tax on the total by method 1b discussed earlier. Employers also have the option to treat tips as regular wages rather than supplemental wages. Service charges aren't tips; therefore, withhold taxes on service charges as you would on regular wages.

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Vacation pay. Vacation pay is subject to withholding as if it were a regular wage payment. When vacation pay is in addition to regular wages for the vacation period (for example, an annual lump-sum payment for unused vacation leave), treat it as a supplemental wage payment. If the vacation pay is for a time longer than your usual payroll period, spread it over the pay periods for which you pay it.

8. Payroll Period

Your payroll period is a period of service for which you usually pay wages. When you have a regular payroll period, withhold income tax for that time period even if your employee doesn't work the full period.

No regular payroll period. When you don't have a regular payroll period, withhold the tax as if you paid wages for a daily or miscellaneous payroll period. Figure the number of days (including Sundays and holidays) in the period covered by the wage payment. If the wages are unrelated to a specific length of time (for example, commissions paid on completion of a sale), count back the number of days from the payment period to the latest of:

- The last wage payment made during the same calendar year;
- The date employment began, if during the same calendar year; or
- January 1 of the same year.

Employee paid for period less than 1 week. When you pay an employee for a period of less than 1 week, and the employee signs a statement under penalties of perjury indicating he or she isn't working for any other employer during the same week for wages subject to withholding, figure withholding based on a weekly payroll period. If the employee later begins to work for another employer for wages subject to withholding, the employee must notify you within 10 days. You then figure withholding based on the daily or miscellaneous period.

9. Withholding From Employees' Wages

Income Tax Withholding

TIP *The IRS has redesigned Form W-4 for 2020. Employees who have submitted Form W-4 in any year before 2020 aren't required to submit a new form merely because of the redesign. Employer instructions on how to figure employee withholding are provided in Pub. 15-T. See* Redesigned Form W-4 for 2020*, earlier, under* What's New.

Using Form W-4 to figure withholding. To know how much federal income tax to withhold from employees' wages, you should have a Form W-4 on file for each employee. Encourage your employees to file an updated Form W-4 for 2020, especially if they owed taxes or received a large refund when filing their 2019 tax return. Advise your employees to use the IRS Tax Withholding Estimator available at *IRS.gov/W4App* to determine accurate withholding.

Ask all new employees to give you a signed Form W-4 when they start work. Make the form effective with the first wage payment. If a new employee doesn't give you a completed Form W-4, then how you will treat the employee depends on when you first paid your employee wages. An employee hired on or before December 31, 2019, who was paid wages in 2019 or earlier, and who fails to furnish a valid Form W-4, should continue to be treated as single and claiming zero allowances on a 2019 Form W-4. An employee hired in 2020 who doesn't give you a completed Form W-4 should be treated as if he or she 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 2020 Form W-4.

Form in Spanish. You can provide Formulario W-4(SP) in place of Form W-4 to your Spanish-speaking employees. For more information, see Pub. 17(SP). The rules discussed in this section that apply to Form W-4 also apply to Formulario W-4(SP).

Electronic system to receive Form W-4. You may establish a system to electronically receive Forms W-4 from your employees. See Regulations section 31.3402(f)(5)-1(c) for more information.

Effective date of Form W-4. A Form W-4 for 2019 or earlier years remains in effect for 2020 until the employee gives you a 2020 Form W-4. When you receive a new Form W-4 from an employee, don't adjust withholding for pay periods before the effective date of the new form. If an employee gives you a Form W-4 that replaces an existing Form W-4, begin withholding no later than the start of the first payroll period ending on or after the 30th day from the date when you received the replacement Form W-4. For exceptions, see *Exemption from federal income tax withholding*, *IRS review of requested Forms W-4*, and *Invalid Forms W-4*, later in this section.

A Form W-4 that makes a change for the next calendar year won't take effect in the current calendar year.

Successor employer. If you're a successor employer (see *Successor employer*, later in this section), secure new Forms W-4 from the transferred employees unless the "Alternative Procedure" in section 5 of Revenue Procedure 2004-53 applies. See Revenue Procedure 2004-53, 2004-34 I.R.B. 320, available at *IRS.gov/irb/2004-34_IRB#RP-2004-53*.

Completing Form W-4. The amount of any federal income tax withholding must be based on filing status, income (including income from other jobs), deductions, and credits. Your employees may not base their withholding amounts on a fixed dollar amount or percentage. However, an employee may specify a dollar amount to be withheld each pay period in addition to the amount of withholding based on filing status and other information reported on Form W-4.

Employees have the option to report on their 2020 Form W-4 other income they will receive and other deductions they will claim in order to increase the accuracy of their federal income tax withholding. Also, employees that are married filing jointly and both they and their spouse work, or employees that hold more than one job at the same time, should account for their higher tax rate by completing Step 2 of their 2020 Form W-4.

See Pub. 505 for more information about completing Form W-4. Along with Form W-4, you may wish to order Pub. 505 for use by your employees.

Don't accept any withholding or estimated tax payments from your employees in addition to withholding based on their Form W-4. If they require additional withholding, they should submit a new Form W-4 and, if necessary, pay estimated tax by filing Form 1040-ES or by using EFTPS to make estimated tax payments. Employees who receive tips may provide funds to their employer for withholding on tips; see *Collecting taxes on tips* in section 6.

Exemption from federal income tax withholding. Generally, an employee may claim exemption from federal income tax withholding because he or she had no income tax liability last year and expects none this year. See the Form W-4 instructions for more information. However, the wages are still subject to social security and Medicare taxes. See also *Invalid Forms W-4*, later in this section.

A Form W-4 claiming exemption from withholding is effective when it is given to the employer and only for that calendar year. To continue to be exempt from withholding, an employee must give you a new Form W-4 by February 15. If the employee doesn't give you a new Form W-4 by February 15, begin withholding as if he or she 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 2020 Form W-4. If the employee provides a new Form W-4 claiming exemption from withholding on February 16 or later, you may apply it to future wages but don't refund any taxes withheld while the exempt status wasn't in place.

Withholding income taxes on the wages of nonresident alien employees. In general, you must withhold federal income taxes on the wages of nonresident alien employees. However, see Pub. 515 for exceptions to this general rule. Also see section 3 of Pub. 51 for guidance on H-2A visa workers.

Withholding adjustment for nonresident alien employees. You must add an amount to the wages of nonresident alien employees performing services within the United States in order to figure the amount of federal income tax to withhold from their wages. The amount is added to their wages solely for calculating federal income tax withholding. The amount isn't included in any box on the employee's Form W-2 and doesn't increase the income tax liability of the employee. The amount also doesn't increase the social security tax or Medicare tax liability of the employer or the employee, or the FUTA tax liability of the employer. See *Withholding Adjustment for Nonresident Alien Employees* in section 1 of Pub. 15-T for the amount to add to their wages for the payroll period.

Supplemental wage payment. The adjustment for determining the amount of income tax withholding for nonresident alien employees doesn't apply to a supplemental wage payment (see section 7) if the 37% mandatory flat rate withholding applies or if the 22% optional flat rate withholding is being used to calculate income tax withholding on the supplemental wage payment.

Nonresident alien employee's Form W-4. When completing Forms W-4, nonresident aliens are required to:

- Not claim exemption from income tax withholding;
- Request withholding as if they're single, regardless of their actual filing status;
- Not claim the child tax credit or credit for other dependents in Step 3 of Form W-4 (if the nonresident alien is a resident of Canada, Mexico, or South Korea, or a student from India, or a business apprentice from India, he or she may claim, under certain circumstances (see Notice 1392), the child tax credit or credit for other dependents); and
- Write "Nonresident Alien" or "NRA" in the space below Step 4(c) of Form W-4.

If you maintain an electronic Form W-4 system, you should provide a field for nonresident aliens to enter nonresident alien status instead of writing "Nonresident Alien" or "NRA" in the space below Step 4(c) of Form W-4. You should instruct nonresident aliens to see Notice 1392, Supplemental Form W-4 Instructions for Nonresident Aliens, before completing Form W-4.

Form 8233. If a nonresident alien employee claims a tax treaty exemption from withholding, the employee must submit Form 8233 with respect to the income exempt under the treaty, instead of Form W-4. For more information,

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see *Pay for Personal Services Performed* in the *Withholding on Specific Income* section of Pub. 515 and the Instructions for Form 8233.

IRS review of requested Forms W-4. When requested by the IRS, you must make original Forms W-4 available for inspection by an IRS employee. You may also be directed to send certain Forms W-4 to the IRS. You may receive a notice from the IRS requiring you to submit a copy of Form W-4 for one or more of your named employees. Send the requested copy or copies of Form W-4 to the IRS at the address provided and in the manner directed by the notice. The IRS may also require you to submit copies of Form W-4 to the IRS as directed by a revenue procedure or notice published in the Internal Revenue Bulletin. When we refer to Form W-4, the same rules apply to Formulario W-4(SP), its Spanish translation.

After submitting a copy of a requested Form W-4 to the IRS, continue to withhold federal income tax based on that Form W-4 if it is valid (see *Invalid Forms W-4*, later in this section). However, if the IRS later notifies you in writing that the employee isn't entitled to claim exemption from withholding or a claimed amount of deductions or credits, withhold federal income tax based on the effective date, employee's permitted filing status, and withholding instructions specified in the IRS notice (commonly referred to as a "lock-in letter").

Initial lock-in letter. The IRS uses information reported on Form W-2 to identify employees with withholding compliance problems. In some cases, if a serious underwithholding problem is found to exist for a particular employee, the IRS may issue a lock-in letter to the employer specifying the employee's permitted filing status and providing withholding instructions for the specific employee. You'll also receive a copy for the employee that identifies the permitted filing status and provides a description of the withholding instructions you're required to follow and the process by which the employee can provide additional information to the IRS for purposes of determining the appropriate withholding and/or modifying the specified filing status. You must furnish the employee copy to the employee within 10 business days of receipt if the employee is employed by you as of the date of the notice. You may follow any reasonable business practice to furnish the employee copy to the employee. Begin withholding based on the notice on the date specified in the notice.

Implementation of lock-in letter. When you receive the notice specifying the permitted filing status and providing withholding instructions, you may not withhold immediately on the basis of the notice. You must begin withholding tax on the basis of the notice for any wages paid after the date specified in the notice. The delay between your receipt of the notice and the date to begin the withholding on the basis of the notice permits the employee time to contact the IRS.

Seasonal employees and employees not currently performing services. If you receive a notice for an employee who isn't currently performing services for you, you're still required to furnish the employee copy to the employee and withhold based on the notice if any of the following apply.

- You're paying wages for the employee's prior services and the wages are subject to income tax withholding on or after the date specified in the notice.
- You reasonably expect the employee to resume services within 12 months of the date of the notice.
- The employee is on a leave of absence that doesn't exceed 12 months or the employee has a right to reemployment after the leave of absence.

Termination and rehire of employees. If you must furnish and withhold based on the notice and the employment relationship is terminated after the date of the notice, you must continue to withhold based on the notice if you continue to pay any wages subject to income tax withholding. You must also withhold based on the notice or modification notice (explained next) if the employee resumes the employment relationship with you within 12 months after the termination of the employment relationship.

Modification notice. After issuing the notice specifying the permitted filing status and providing withholding instructions, the IRS may issue a subsequent notice (modification notice) that modifies the original notice. The modification notice may change the permitted filing status and withholding instructions. You must withhold federal income tax based on the effective date specified in the modification notice.

New Form W-4 after IRS notice. After the IRS issues a notice or modification notice, if the employee provides you with a new Form W-4 claiming complete exemption from withholding or a completed Form W-4 that results in less withholding than would result under the IRS notice or modification notice, disregard the new Form W-4. You must withhold based on the notice or modification notice unless the IRS notifies you to withhold based on the new Form W-4. If the employee wants to put a new Form W-4 into effect that results in less withholding than required, the employee must contact the IRS.

If, after you receive an IRS notice or modification notice, your employee gives you a new completed Form W-4 that results in more withholding than would result under the notice or modification notice, you must withhold tax based on the new Form W-4. Otherwise, disregard any subsequent Forms W-4 provided by the employee and withhold based on the IRS notice or modification notice.

CAUTION *If, in a year before 2020, you received a lock-in letter for an employee, then for 2020 you should continue to follow the instructions in the lock-in letter. You will use the withholding methods described in Pub. 15-T for an employee with a Form W-4 from 2019 or earlier. You should continue following the instructions in the pre-2020 lock-in letter until you receive a letter releasing your employee from the lock-in procedures, you receive a modification notice, or your employee gives you a new Form W-4 that results in more withholding than would result under the notice.*

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For additional information about employer withholding compliance, see *IRS.gov/WHC*.

Substitute Forms W-4. You're encouraged to have your employees use the official version of Form W-4. You may use a substitute version of Form W-4 to meet your business needs. However, your substitute Form W-4 must contain language that is identical to the official Form W-4 and your form must meet all current IRS rules for substitute forms. At the time you provide your substitute form to the employee, you must provide him or her with all tables, instructions, and worksheets from the current Form W-4.

You can't accept substitute Forms W-4 developed by employees. An employee who submits an employee-developed substitute Form W-4 after October 10, 2007, will be treated as failing to furnish a Form W-4. However, continue to honor any valid employee-developed Forms W-4 you accepted before October 11, 2007.

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Invalid Forms W-4. Any unauthorized change or addition to Form W-4 makes it invalid. This includes taking out any language by which the employee certifies the form is correct. A Form W-4 is also invalid if, by the date an employee gives it to you, he or she clearly indicates it is false. An employee who submits a false Form W-4 may be subject to a $500 penalty. You may treat a Form W-4 as invalid if the employee wrote "exempt" below Step 4(c) and checked the box in Step 2(c) or entered numbers for Steps 3 and 4.

When you get an invalid Form W-4, don't use it to figure federal income tax withholding. Tell the employee it is invalid and ask for another one. If the employee doesn't give you a valid one, then how you will treat the employee depends on when you first paid wages to the employee. An employee hired on or before December 31, 2019, who was paid wages in 2019, should be treated as single and claiming zero allowances on a 2019 Form W-4. However, if you have an earlier Form W-4 for this employee that is valid, withhold as you did before. An employee hired by an employer that first pays wages to the employee on or after January 1, 2020, should be treated 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 the 2020 Form W-4.

Amounts exempt from levy on wages, salary, and other income. If you receive a Notice of Levy on Wages, Salary, and Other Income (Forms 668-W(ACS), 668-W(c)(DO), or 668-W(ICS)), you must withhold amounts as described in the instructions for these forms. Pub. 1494 has tables to figure the amount exempt from levy. If a levy issued in a prior year is still in effect and the taxpayer submits a new Statement of Exemptions and Filing Status, use the current year Pub. 1494 to figure the exempt amount.

Social Security and Medicare Taxes

The Federal Insurance Contributions Act (FICA) provides for a federal system of old-age, survivors, disability, and hospital insurance. The old-age, survivors, and disability insurance part is financed by the social security tax. The hospital insurance part is financed by the Medicare tax. Each of these taxes is reported separately.

Generally, you're required to withhold social security and Medicare taxes from your employees' wages and pay the employer's share of these taxes. Certain types of wages and compensation aren't subject to social security and Medicare taxes. See section 5 and section 15 for details. Generally, employee wages are subject to social security and Medicare taxes regardless of the employee's age or whether he or she is receiving social security benefits. If the employee reported tips, see section 6.

Tax rates and the social security wage base limit. Social security and Medicare taxes have different rates and only the social security tax has a wage base limit. The wage base limit is the maximum wage subject to the tax for the year. Determine the amount of withholding for social security and Medicare taxes by multiplying each payment by the employee tax rate.

For 2020, the social security tax rate is 6.2% (amount withheld) each for the employer and employee (12.4% total). The social security wage base limit is $137,700. The tax rate for Medicare is 1.45% (amount withheld) each for the employee and employer (2.9% total). There is no wage base limit for Medicare tax; all covered wages are subject to Medicare tax.

Additional Medicare Tax withholding. In addition to withholding Medicare tax at 1.45%, you must 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 section 15. For more information on Additional Medicare Tax, go to *IRS.gov/ADMT*.

Successor employer. When corporate acquisitions meet certain requirements, wages paid by the predecessor are treated as if paid by the successor for purposes of applying the social security wage base and for applying the Additional Medicare Tax withholding threshold (that is, $200,000 in a calendar year). You should determine whether or not you should file Schedule D (Form 941), Report of Discrepancies Caused by Acquisitions, Statutory Mergers, or Consolidations, by reviewing the Instructions for Schedule D (Form 941). See Regulations section 31.3121(a)(1)-1(b) for more information. Also see Revenue Procedure 2004-53, 2004-34 I.R.B. 320, available at *IRS.gov/irb/2004-34_IRB#RP-2004-53*.

Example. Early in 2020, you bought all of the assets of a plumbing business from Mr. Martin. Mr. Brown, who had been employed by Mr. Martin and received $2,000 in wages before the date of purchase, continued to work for

you. The wages you paid to Mr. Brown are subject to social security taxes on the first $135,700 ($137,700 minus $2,000). Medicare tax is due on all of the wages you pay him during the calendar year. You should include the $2,000 Mr. Brown received while employed by Mr. Martin in determining whether Mr. Brown's wages exceed the $200,000 for Additional Medicare Tax withholding threshold.

Motion picture project employers. All wages paid by a motion picture project employer to a motion picture project worker during a calendar year are subject to a single social security tax wage base ($137,700 for 2020) and a single FUTA tax wage base ($7,000 for 2020) regardless of the worker's status as a common law employee of multiple clients of the motion picture project employer. For more information, including the definition of a motion picture project employer and motion picture project worker, see section 3512.

Withholding social security and Medicare taxes on nonresident alien employees. In general, if you pay wages to nonresident alien employees, you must withhold social security and Medicare taxes as you would for a U.S. citizen or resident alien. However, see Pub. 515 for exceptions to this general rule.

International social security agreements. The United States has social security agreements, also known as totalization agreements, with many countries that eliminate dual taxation and dual coverage. Compensation subject to social security and Medicare taxes may be exempt under one of these agreements. You can get more information and a list of agreement countries from the SSA at *SSA.gov/international*. Also see Pub. 519, U.S. Tax Guide for Aliens.

Religious exemption. An exemption from social security and Medicare taxes is available to members of a recognized religious sect opposed to insurance. This exemption is available only if both the employee and the employer are members of the sect. For more information, see Pub. 517.

Foreign persons treated as American employers. Under section 3121(z), a foreign person who meets both of the following conditions is generally treated as an American employer for purposes of paying FICA taxes on wages paid to an employee who is a U.S. citizen or resident.

1. The foreign person is a member of a domestically controlled group of entities.
2. The employee of the foreign person performs services in connection with a contract between the U.S. Government (or an instrumentality of the U.S. Government) and any member of the domestically controlled group of entities. Ownership of more than 50% constitutes control.

Part-Time Workers

Part-time workers and workers hired for short periods of time are treated the same as full-time employees for federal income tax withholding and social security, Medicare, and FUTA tax purposes.

Generally, it doesn't matter whether the part-time worker or worker hired for a short period of time has another job or has the maximum amount of social security tax withheld by another employer. See *Successor employer*, earlier, for an exception to this rule.

Income tax withholding may be figured the same way as for full-time workers or it may be figured by the part-year employment method explained in section 6 of Pub. 15-T.

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10. Required Notice to Employees About the Earned Income Credit (EIC)

You must notify employees who have no federal income tax withheld that they may be able to claim a tax refund because of the EIC. Although you don't have to notify employees who claim exemption from withholding on Form W-4 about the EIC, you're encouraged to notify any employees whose wages for 2019 were less than $50,162 ($55,952 if married filing jointly) that they may be eligible to claim the credit for 2019. This is because eligible employees may get a refund of the amount of the EIC that is more than the tax they owe.

You'll meet this notification requirement if you issue the employee Form W-2 with the EIC notice on the back of Copy B, or a substitute Form W-2 with the same statement. You'll also meet the requirement by providing Notice 797, Possible Federal Tax Refund Due to the Earned Income Credit (EIC), or your own statement that contains the same wording.

If a substitute for Form W-2 is given to the employee on time but doesn't have the required statement, you must notify the employee within 1 week of the date the substitute for Form W-2 is given. If Form W-2 is required but isn't given on time, you must give the employee Notice 797 or your written statement by the date Form W-2 is required to be given. If Form W-2 isn't required, you must notify the employee by February 7, 2020.

11. Depositing Taxes

Generally, you must deposit federal income tax withheld and both the employer and employee social security and Medicare taxes. You must use EFT to make all federal tax deposits. See *How To Deposit*, later in this section, for information on electronic deposit requirements.

The credit against employment taxes for COBRA assistance payments is treated as a deposit of taxes on the first day of your return period. See COBRA premium assistance credit *under* Introduction, *earlier, for more information.*

Payment with return. You may make a payment with a timely filed Form 941 or Form 944 instead of depositing, without incurring a penalty, if one of the following applies.

- You're a monthly schedule depositor (defined later) and make a payment in accordance with the *Accuracy of Deposits Rule*, discussed later in this section. This payment may be $2,500 or more.
- Your Form 941 total tax liability for either the current quarter or the prior quarter is less than $2,500, and you didn't incur a $100,000 next-day deposit obligation during the current quarter. If you aren't sure your total tax liability for the current quarter will be less than $2,500 (and your liability for the prior quarter wasn't less than $2,500), make deposits using the semiweekly or monthly rules so you won't be subject to an FTD penalty.
- Your Form 944 net tax liability for the year is less than $2,500.
- Your Form 944 net tax liability for the year is $2,500 or more and you already deposited the taxes you owed for the first, second, and third quarters of the year; your net tax for the fourth quarter is less than $2,500; and you're paying, in full, the tax you owe for the fourth quarter with a timely filed return.

Separate deposit requirements for nonpayroll (Form 945) tax liabilities. Separate deposits are required for nonpayroll and payroll income tax withholding. Don't combine deposits for Forms 941 (or Form 944) and Form 945 tax liabilities. Generally, the deposit rules for nonpayroll liabilities are the same as discussed next, except the rules apply to an annual rather than a quarterly return period. If the total amount of tax for the year reported on Form 945 is less than $2,500, you're not required to make deposits during the year. See the separate Instructions for Form 945 for more information.

When To Deposit

There are two deposit schedules—monthly and semiweekly—for determining when you deposit social security, Medicare, and withheld federal income taxes. These schedules tell you when a deposit is due after a tax liability arises. Your tax liability is based on the dates payments were made or wages were paid. For taxable noncash fringe benefits, see *When taxable fringe benefits are treated as paid* in section 5. Before the beginning of each calendar year, you must determine which of the two deposit schedules you're required to use. The deposit schedule you must use is based on the total tax liability you reported on Form 941 during a lookback period, discussed next. Your deposit schedule isn't determined by how often you pay your employees or make deposits. See special rules for Forms 944 and 945, later. Also see *Application of Monthly and Semiweekly Schedules*, later in this section.

These rules don't apply to FUTA tax. See section 14 for information on depositing FUTA tax.

Lookback period. If you're a Form 941 filer, your deposit schedule for a calendar year is determined from the total taxes reported on Forms 941, line 12, in a 4-quarter lookback period. The lookback period begins July 1 and ends June 30 as shown next in Table 1. If you reported $50,000 or less of taxes for the lookback period, you're a monthly schedule depositor; if you reported more than $50,000, you're a semiweekly schedule depositor.

Table 1. **Lookback Period for Calendar Year 2020**

July 1, 2018, through Sept. 30, 2018	Oct. 1, 2018, through Dec. 31, 2018	Jan. 1, 2019, through Mar. 31, 2019	Apr. 1, 2019, through June 30, 2019

The lookback period for a 2020 Form 941 filer who filed Form 944 in either 2018 or 2019 is calendar year 2018.

If you're a Form 944 filer for the current year or either of the preceding 2 years, your deposit schedule for a calendar year is determined from the total taxes reported during the second preceding calendar year (either on your Form 941 for all 4 quarters of that year or your Form 944 for that year). The lookback period for 2020 for a Form 944 filer is calendar year 2018. If you reported $50,000 or less of taxes for the lookback period, you're a monthly schedule depositor; if you reported more than $50,000, you're a semiweekly schedule depositor.

If you're a Form 945 filer, your deposit schedule for a calendar year is determined from the total taxes reported on line 3 of your Form 945 for the second preceding calendar year. The lookback period for 2020 for a Form 945 filer is calendar year 2018.

Adjustments and the lookback rule. Adjustments made on Form 941-X, Form 944-X, and Form 945-X don't affect the amount of tax liability for previous periods for purposes of the lookback rule.

Example. An employer originally reported a tax liability of $45,000 for the lookback period. The employer discovered, during January 2020, that the tax reported for one of the lookback period quarters was understated by $10,000 and corrected this error by filing Form 941-X. This employer is a monthly schedule depositor for 2020 because the lookback period tax liabilities are based on the amounts originally reported, and they were $50,000 or less. The $10,000 adjustment is also not treated as part of the 2020 taxes.

Deposit period. The term "deposit period" refers to the period during which tax liabilities are accumulated for each required deposit due date. For monthly schedule depositors, the deposit period is a calendar month. The deposit periods for semiweekly schedule depositors are

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Wednesday through Friday and Saturday through Tuesday.

TIP *If you're an agent with an approved Form 2678, the deposit rules apply to you based on the total employment taxes accumulated by you for your own employees and on behalf of all employers for whom you're authorized to act. For more information on an agent with an approved Form 2678, see Revenue Procedure 2013-39, 2013-52 I.R.B. 830, available at IRS.gov/irb/2013-52_IRB#RP-2013-39.*

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Monthly Deposit Schedule

You're a monthly schedule depositor for a calendar year if the total taxes on Form 941, line 12, for the 4 quarters in your lookback period were $50,000 or less. Under the monthly deposit schedule, deposit employment taxes on payments made during a month by the 15th day of the following month. See also *Deposits Due on Business Days Only* and the *$100,000 Next-Day Deposit Rule*, later in this section. Monthly schedule depositors shouldn't file Form 941 or Form 944 on a monthly basis.

New employers. Your tax liability for any quarter in the lookback period before you started or acquired your business is considered to be zero. Therefore, you're a monthly schedule depositor for the first calendar year of your business. However, see the *$100,000 Next-Day Deposit Rule*, later in this section.

Semiweekly Deposit Schedule

You're a semiweekly schedule depositor for a calendar year if the total taxes on Form 941, line 12, during your lookback period were more than $50,000. Under the semiweekly deposit schedule, deposit employment taxes for payments made on Wednesday, Thursday, and/or Friday by the following Wednesday. Deposit taxes for payments made on Saturday, Sunday, Monday, and/or Tuesday by the following Friday. See also *Deposits Due on Business Days Only*, later in this section.

CAUTION *Semiweekly schedule depositors must complete Schedule B (Form 941), Report of Tax Liability for Semiweekly Schedule Depositors, and submit it with Form 941. If you file Form 944 or Form 945 and are a semiweekly schedule depositor, complete Form 945-A, Annual Record of Federal Tax Liability, and submit it with your return (instead of Schedule B).*

Table 2. **Semiweekly Deposit Schedule**

IF the payday falls on a . . .	THEN deposit taxes by the following . . .
Wednesday, Thursday, and/or Friday	Wednesday.
Saturday, Sunday, Monday, and/or Tuesday	Friday.

Semiweekly deposit period spanning two quarters (Form 941 filers). If you have more than one pay date during a semiweekly period and the pay dates fall in different calendar quarters, you'll need to make **separate deposits** for the separate liabilities.

Example. If you have a pay date on Wednesday, September 30, 2020 (third quarter), and another pay date on Thursday, October 1, 2020 (fourth quarter), two separate deposits would be required even though the pay dates fall within the same semiweekly period. Both deposits would be due Wednesday, October 7, 2020.

Semiweekly deposit period spanning two return periods (Form 944 or Form 945 filers). The period covered by a return is the return period. The return period for annual Forms 944 and 945 is a calendar year. If you have more than one pay date during a semiweekly period and the pay dates fall in different return periods, you'll need to make separate deposits for the separate liabilities. For example, if you have a pay date on Wednesday, December 30, 2020, and another pay date on Friday, January 1, 2021, two separate deposits will be required even though the pay dates fall within the same semiweekly period. Both deposits will be due Wednesday, January 6, 2021 (3 business days from the end of the semiweekly deposit period).

Summary of Steps to Determine Your Deposit Schedule

1. Identify your lookback period (see *Lookback period*, earlier in this section).
2. Add the total taxes you reported on Form 941, line 12, during the lookback period.
3. Determine if you're a monthly or semiweekly schedule depositor:

IF the total taxes you reported in the lookback period were	THEN you're a . . . . .
$50,000 or less	monthly schedule depositor.
more than $50,000	semiweekly schedule depositor.

Example of Monthly and Semiweekly Schedules

Rose Co. reported Form 941 taxes as follows:

2019 Lookback Period		2020 Lookback Period	
3rd Quarter 2017	$12,000	3rd Quarter 2018	$12,000
4th Quarter 2017	12,000	4th Quarter 2018	12,000
1st Quarter 2018	12,000	1st Quarter 2019	12,000
2nd Quarter 2018	12,000	2nd Quarter 2019	15,000
	$48,000		$51,000

Rose Co. is a monthly schedule depositor for 2019 because its tax liability for the 4 quarters in its lookback period (third quarter 2017 through second quarter 2018) wasn't more than $50,000. However, for 2020, Rose Co. is a semiweekly schedule depositor because the total

taxes exceeded $50,000 for the 4 quarters in its lookback period (third quarter 2018 through second quarter 2019).

Deposits Due on Business Days Only

If a deposit is required to be made on a day that isn't a business day, the deposit is considered timely if it is made by the close of the next business day. A business day is any day other than a Saturday, Sunday, or legal holiday. For example, if a deposit is required to be made on a Friday and Friday is a legal holiday, the deposit will be considered timely if it is made by the following Monday (if that Monday is a business day).

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Semiweekly schedule depositors have at least 3 business days following the close of the semiweekly period to make a deposit. If any of the 3 weekdays after the end of a semiweekly period is a legal holiday, you'll have an additional day for each day that is a legal holiday to make the required deposit. For example, if a semiweekly schedule depositor accumulated taxes for payments made on Friday and the following Monday is a legal holiday, the deposit normally due on Wednesday may be made on Thursday (this allows 3 business days to make the deposit).

Legal holiday. The term "legal holiday" means any legal holiday in the District of Columbia. For purposes of the deposit rules, the term "legal holiday" doesn't include other statewide legal holidays. Legal holidays for 2020 are listed next.

- January 1—New Year's Day
- January 20—Birthday of Martin Luther King, Jr.
- February 17—Washington's Birthday
- April 16—District of Columbia Emancipation Day
- May 25—Memorial Day
- July 3—Independence Day (observed)
- September 7—Labor Day
- October 12—Columbus Day
- November 11—Veterans Day
- November 26—Thanksgiving Day
- December 25—Christmas Day

Application of Monthly and Semiweekly Schedules

The terms "monthly schedule depositor" and "semiweekly schedule depositor" don't refer to how often your business pays its employees or even how often you're required to make deposits. The terms identify which set of deposit rules you must follow when an employment tax liability arises. The deposit rules are based on the dates when wages are paid (cash basis), not on when tax liabilities are accrued for accounting purposes.

Monthly schedule example. Spruce Co. is a monthly schedule depositor with seasonal employees. It paid wages each Friday during May but didn't pay any wages during June. Under the monthly deposit schedule, Spruce Co. must deposit the combined tax liabilities for the May paydays by June 15. Spruce Co. doesn't have a deposit requirement for June (due by July 15) because no wages were paid and, therefore, it didn't have a tax liability for June.

Semiweekly schedule example. Green, Inc., is a semiweekly schedule depositor and pays wages once each month on the last Friday of the month. Although Green, Inc., has a semiweekly deposit schedule, it will deposit just once a month because it pays wages only once a month. The deposit, however, will be made under the semiweekly deposit schedule as follows: Green, Inc.'s tax liability for the April 24, 2020 (Friday), payday must be deposited by April 29, 2020 (Wednesday). Under the semiweekly deposit schedule, liabilities for wages paid on Wednesday through Friday must be deposited by the following Wednesday.

$100,000 Next-Day Deposit Rule

If you accumulate $100,000 or more in taxes on any day during a monthly or semiweekly deposit period (see *Deposit period*, earlier in this section), you must deposit the tax by the next business day, whether you're a monthly or semiweekly schedule depositor.

For purposes of the $100,000 rule, don't continue accumulating a tax liability after the end of a deposit period. For example, if a semiweekly schedule depositor has accumulated a liability of $95,000 on a Tuesday (of a Saturday-through-Tuesday deposit period) and accumulated a $10,000 liability on Wednesday, the $100,000 next-day deposit rule doesn't apply because the $10,000 is accumulated in the next deposit period. Thus, $95,000 must be deposited by Friday and $10,000 must be deposited by the following Wednesday.

However, once you accumulate at least $100,000 in a deposit period, stop accumulating at the end of that day and begin to accumulate anew on the next day. For example, Fir Co. is a semiweekly schedule depositor. On Monday, Fir Co. accumulates taxes of $110,000 and must deposit this amount on Tuesday, the next business day. On Tuesday, Fir Co. accumulates additional taxes of $30,000. Because the $30,000 isn't added to the previous $110,000 and is less than $100,000, Fir Co. must deposit the $30,000 by Friday (following the semiweekly deposit schedule).

CAUTION *If you're a monthly schedule depositor and accumulate a $100,000 tax liability on any day during the deposit period, you become a semiweekly schedule depositor on the next day and remain so for at least the rest of the calendar year and for the following calendar year.*

Example. Elm, Inc., started its business on May 4, 2020. On Wednesday, May 6, it paid wages for the first time and accumulated a tax liability of $40,000. On Friday,

May 8, Elm, Inc., paid wages and accumulated a liability of $60,000, bringing its total accumulated tax liability to $100,000. Because this was the first year of its business, the tax liability for its lookback period is considered to be zero, and it would be a monthly schedule depositor based on the lookback rules. However, since Elm, Inc., accumulated a $100,000 liability on May 8, it became a semiweekly schedule depositor on May 9. It will be a semiweekly schedule depositor for the remainder of 2020 and for 2021. Elm, Inc., is required to deposit the $100,000 by Monday, May 11, the next business day.

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Accuracy of Deposits Rule

You're required to deposit 100% of your tax liability on or before the deposit due date. However, penalties won't be applied for depositing less than 100% if both of the following conditions are met.

- Any deposit shortfall doesn't exceed the greater of $100 or 2% of the amount of taxes otherwise required to be deposited.
- The deposit shortfall is paid or deposited by the shortfall makeup date as described next.

Makeup Date for Deposit Shortfall:

1. **Monthly schedule depositor.** Deposit the shortfall or pay it with your return by the due date of your return for the return period in which the shortfall occurred. You may pay the shortfall with your return even if the amount is $2,500 or more.
2. **Semiweekly schedule depositor.** Deposit by the earlier of:
   a. The first Wednesday or Friday (whichever comes first) that falls on or after the 15th day of the month following the month in which the shortfall occurred, or
   b. The due date of your return (for the return period of the tax liability).

For example, if a semiweekly schedule depositor has a deposit shortfall during June 2020, the shortfall makeup date is July 15, 2020 (Wednesday). However, if the shortfall occurred on the required April 1, 2020 (Wednesday), deposit due date for a March 27, 2020 (Friday), pay date, the return due date for the March 27, 2020, pay date (April 30, 2020) would come before the May 15, 2020 (Friday), shortfall makeup date. In this case, the shortfall must be deposited by April 30, 2020.

How To Deposit

You must deposit employment taxes, including Form 945 taxes, by EFT. See *Payment with return*, earlier in this section, for exceptions explaining when taxes may be paid with the tax return instead of being deposited.

Electronic deposit requirement. You must use EFT to make all federal tax deposits. Generally, an EFT is made using 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. EFTPS is a free service provided by the Department of the Treasury. To get more information about EFTPS or to enroll in EFTPS, visit *EFTPS.gov*, or call 800-555-4477 or 800-733-4829 (TDD). Additional information about EFTPS is also available in Pub. 966.

When you receive your EIN. If you're a new employer that indicated a federal tax obligation when requesting an EIN, you'll be pre-enrolled in EFTPS. You'll receive information about Express Enrollment in your Employer Identification Number (EIN) Package and an additional mailing containing your EFTPS personal identification number (PIN) and instructions for activating your PIN. Call the toll-free number located in your "How to Activate Your Enrollment" brochure to activate your enrollment and begin making your payroll tax deposits. If you outsource any of your payroll and related tax duties to a third-party payer, such as a payroll service provider (PSP) or reporting agent, be sure to tell them about your EFTPS enrollment.

Deposit record. For your records, an EFT Trace Number will be provided with each successful payment. The number can be used as a receipt or to trace the payment.

Depositing on time. For deposits made by EFTPS to be on time, you must submit the deposit by 8 p.m. Eastern time the day before the date the deposit is due. If you use a third party to make a deposit on your behalf, they may have different cutoff times.

Same-day wire payment option. If you fail to submit a deposit transaction on EFTPS by 8 p.m. Eastern time the day before the date a deposit is due, you can still make your deposit on time by using the Federal Tax Collection Service (FTCS) to make a same-day wire payment. To use the same-day wire payment method, you'll need to make arrangements with your financial institution ahead of time. Please check with your financial institution regarding availability, deadlines, and costs. Your financial institution may charge you a fee for payments made this way. To learn more about the information you'll need to give to your financial institution to make a same-day wire payment, go to *IRS.gov/SameDayWire*.

How to claim credit for overpayments. If you deposited more than the right amount of taxes for a quarter, you can choose on Form 941 for that quarter (or on Form 944 for that year) to have the overpayment refunded or applied as a credit to your next return. Don't ask EFTPS to request a refund from the IRS for you.

Deposit Penalties

TIP *Although the deposit penalties information provided next refers specifically to Form 941, these rules also apply to Form 945 and Form 944. The penalties won't apply if the employer qualifies for the exceptions to the deposit requirements discussed under* Payment with return*, earlier in this section).*

Penalties may apply if you don't make required deposits on time or if you make deposits for less than the required amount. The penalties don't apply if any failure to make a proper and timely deposit was due to reasonable cause and not to willful neglect. If you receive a penalty notice, you can provide an explanation of why you believe reasonable cause exists.

If you timely filed your employment tax return, the IRS may also waive deposit penalties if you inadvertently failed to deposit and it was the first quarter that you were required to deposit any employment tax, or if you inadvertently failed to deposit the first time after your deposit frequency changed. You must also meet the net worth and size limitations applicable to awards of administrative and litigation costs under section 7430; for individuals, this means that your net worth can't exceed $2 million, and for businesses, your net worth can't exceed $7 million and you also can't have more than 500 employees.

The IRS may also waive the deposit penalty the first time you're required to make a deposit if you inadvertently send the payment to the IRS rather than deposit it by EFT.

For amounts not properly or timely deposited, the penalty rates are as follows.

2% Deposits made 1 to 5 days late.

5% Deposits made 6 to 15 days late.

10% Deposits made 16 or more days late, but before 10 days from the date of the first notice the IRS sent asking for the tax due.

10% Amounts that should have been deposited, but instead were paid directly to the IRS, or paid with your tax return. But see *Payment with return*, earlier in this section, for exceptions.

15% Amounts still unpaid more than 10 days after the date of the first notice the IRS sent asking for the tax due or the day on which you received notice and demand for immediate payment, whichever is earlier.

Late deposit penalty amounts are determined using calendar days, starting from the due date of the liability.

Special rule for former Form 944 filers. If you filed Form 944 for the prior year and file Forms 941 for the current year, the FTD penalty won't apply to a late deposit of employment taxes for January of the current year if the taxes are deposited in full by March 15 of the current year.

Order in which deposits are applied. Deposits generally are applied to the most recent tax liability within the quarter. If you receive an FTD penalty notice, you may designate how your deposits are to be applied in order to minimize the amount of the penalty if you do so within 90 days of the date of the notice. Follow the instructions on the penalty notice you received. For more information on designating deposits, see Revenue Procedure 2001-58. You can find Revenue Procedure 2001-58 on page 579 of Internal Revenue Bulletin 2001-50 at *IRS.gov/pub/irs-irbs/irb01-50.pdf*.

Example. Cedar, Inc., is required to make a deposit of $1,000 on May 15 and $1,500 on June 15. It doesn't make the deposit on May 15. On June 15, Cedar, Inc., deposits $2,000. Under the deposits rule, which applies deposits to the most recent tax liability, $1,500 of the deposit is applied to the June 15 deposit and the remaining $500 is applied to the May deposit. Accordingly, $500 of the May 15 liability remains undeposited. The penalty on this underdeposit will apply as explained earlier.

Trust fund recovery penalty. If federal income, social security, or Medicare taxes that must be withheld (that is, trust fund taxes) aren't withheld or aren't deposited or paid to the U.S. Treasury, the trust fund recovery penalty may apply. The penalty is 100% of the unpaid trust fund tax. If these unpaid taxes can't be immediately collected from the employer or business, the trust fund recovery penalty may be imposed on all persons who are determined by the IRS to be responsible for collecting, accounting for, or paying over these taxes, and who acted willfully in not doing so.

A **responsible person** can be an officer or employee of a corporation, a partner or employee of a partnership, an accountant, a volunteer director/trustee, or an employee of a sole proprietorship, or any other person or entity that is responsible for collecting, accounting for, or paying over trust fund taxes. A responsible person also may include one who signs checks for the business or otherwise has authority to cause the spending of business funds.

Willfully means voluntarily, consciously, and intentionally. A responsible person acts willfully if the person knows the required actions of collecting, accounting for, or paying over trust fund taxes aren't taking place, or recklessly disregards obvious and known risks to the government's right to receive trust fund taxes.

Separate accounting when deposits aren't made or withheld taxes aren't paid. Separate accounting may be required if you don't pay over withheld employee social security, Medicare, or income taxes; deposit required taxes; make required payments; or file tax returns. In this case, you would receive written notice from the IRS requiring you to deposit taxes into a special trust account for the U.S. Government.

CAUTION *You may be charged with criminal penalties if you don't comply with the special bank deposit requirements for the special trust account for the U.S. Government.*

"Averaged" FTD penalty. The IRS may assess an "averaged" FTD penalty of 2% to 10% if you're a monthly schedule depositor and didn't properly complete Form 941, line 16, when your tax liability shown on Form 941, line 12, equaled or exceeded $2,500.

The IRS may also assess an "averaged" FTD penalty of 2% to 10% if you're a semiweekly schedule depositor and your tax liability shown on Form 941, line 12, equaled or exceeded $2,500 and you:

- Completed Form 941, line 16, instead of Schedule B (Form 941);
- Failed to attach a properly completed Schedule B (Form 941); or

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- Improperly completed Schedule B (Form 941) by, for example, entering tax deposits instead of tax liabilities in the numbered spaces.

The FTD penalty is figured by distributing your total tax liability shown on Form 941, line 12, equally throughout the tax period. Then we apply your deposits and payments to the averaged liabilities in the date order we received your deposits. We figure the penalty on any tax not deposited, deposited late, or not deposited in the correct amounts. Your deposits and payments may not be counted as timely because the actual dates of your tax liabilities can't be accurately determined.

You can avoid an "averaged" FTD penalty by reviewing your return before you file it. Follow these steps before submitting your Form 941.

- If you're a monthly schedule depositor, report your tax liabilities (not your deposits) in the monthly entry spaces on Form 941, line 16.
- If you're a semiweekly schedule depositor, report your tax liabilities (not your deposits) on Schedule B (Form 941) in the lines that represent the dates your employees were paid.
- Verify your total liability shown on Form 941, line 16, or the bottom of Schedule B (Form 941) equals your tax liability shown on Form 941, line 12.
- Don't show negative amounts on Form 941, line 16, or Schedule B (Form 941).
- For prior period errors, don't adjust your tax liabilities reported on Form 941, line 16, or on Schedule B (Form 941). Instead, file an adjusted return (Form 941-X, 944-X, or 945-X) if you're also adjusting your tax liability. If you're only adjusting your deposits in response to an FTD penalty notice, see the Instructions for Schedule B (Form 941) or the Instructions for Form 945-A (for Forms 944 and 945).

CAUTION *In addition to civil penalties, you may be subject to criminal prosecution (brought to trial) for willfully:*

- *Evading tax;*
- *Failing to collect or truthfully account for and pay over tax;*
- *Failing to file a return, supply information, or pay any tax due;*
- *Furnishing a false or fraudulent Form W-2 to employees or failing to furnish Form W-2;*
- *Committing fraud and providing false statements;*
- *Preparing and filing a fraudulent return; or*
- *Committing identity theft.*

12. Filing Form 941 or Form 944

Form 941. If you paid wages subject to income tax withholding (including withholding on sick pay and supplemental unemployment benefits) or social security and Medicare taxes, you must file Form 941 quarterly even if you have no taxes to report, unless you filed a final return, you receive an IRS notification that you're eligible to file Form 944, or the exceptions discussed later apply. Also, if you're required to file Forms 941 but believe your employment taxes for the calendar year will be $1,000 or less, and you would like to file Form 944 instead of Forms 941, you must contact the IRS during the first calendar quarter of the tax year to request to file Form 944. You must receive written notice from the IRS to file Form 944 instead of Forms 941 before you may file this form. For more information on requesting to file Form 944, including the methods and deadlines for making a request, see the Instructions for Form 944. Form 941 must be filed by the last day of the month that follows the end of the quarter. See the *Calendar*, earlier.

Form 944. If you receive written notification that you qualify for the Form 944 program, you must file Form 944 instead of Form 941. You must file Form 944 even if you have no taxes to report (or you have taxes in excess of $1,000 to report) unless you filed a final return for the prior year. If you received notification to file Form 944, but prefer to file Form 941, you can request to have your filing requirement changed to Form 941 during the first calendar quarter of the tax year. For more information on requesting to file Forms 941, including the methods and deadlines for making a request, see the Instructions for Form 944. File your 2019 Form 944 by January 31, 2020. However, if you timely deposited all taxes when due, you may file by February 10, 2020.

Exceptions. The following exceptions apply to the filing requirements for Forms 941 and 944.

- **Seasonal employers who don't have to file a Form 941 for quarters when they have no tax liability because they have paid no wages.** To alert the IRS you won't have to file a return for one or more quarters during the year, check the "Seasonal employer" box on Form 941, line 18. When you fill out Form 941, be sure to check the box on the top of the form that corresponds to the quarter reported. Generally, the IRS won't inquire about unfiled returns if at least one taxable return is filed each year. However, you must check the "Seasonal employer" box on **every** Form 941 you file. Otherwise, the IRS will expect a return to be filed for each quarter.
- **Household employers reporting social security and Medicare taxes and/or withheld income tax.** If you file Form 941 or Form 944 for business employees, you may include taxes for household employees

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on your Form 941 or Form 944. Otherwise, report social security and Medicare taxes and income tax withholding for household employees on Schedule H (Form 1040 or 1040-SR). See Pub. 926 for more information.

- **Employers reporting wages for employees in American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, or Puerto Rico.** If your employees aren't subject to U.S. income tax withholding, use Forms 941-SS, 944, or Formulario 944(SP). Employers in Puerto Rico use Formularios 941-PR, 944(SP), or Form 944. If you have both employees who are subject to U.S. income tax withholding and employees who aren't subject to U.S. income tax withholding, you must file only Form 941 (or Form 944 or Formulario 944(SP)) and include all of your employees' wages on that form. For more information, see Pub. 80, Federal Tax Guide for Employers in U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, or Pub. 179, Guía Contributiva Federal para Patronos Puertorriqueños.
- **Agricultural employers reporting social security, Medicare, and withheld income taxes.** Report these taxes on Form 943. For more information, see Pub. 51.

E-file. The IRS *e-file* program allows a taxpayer to electronically file Form 941 or Form 944 using a computer with an Internet connection and commercial tax preparation software. For more information, go to *IRS.gov/EmploymentEfile*, or call 866-255-0654.

Electronic filing by reporting agents. Reporting agents filing Form 940, 941, or 944 for groups of taxpayers can file them electronically. For details, see Pub. 3112, IRS *e-file* Application and Participation. For information on electronic filing of Forms 940, 941, and 944, see Revenue Procedure 2007-40, 2007-26 I.R.B. 1488, available at *IRS.gov/irb/2007-26_IRB#RP-2007-40*. For information on the different types of third-party payer arrangements, see section 16.

Electronic filing by CPEOs. With the exception of the first quarter for which a CPEO is certified, CPEOs are required to electronically file Form 941. Under certain circumstances, the IRS may waive the electronic filing requirement. To request a waiver, the CPEO must file a written request using the IRS Online Registration System for Professional Employer Organizations at least 45 days before the due date of the return for which the CPEO is unable to electronically file. For more information on filing a waiver request electronically, go to *IRS.gov/CPEO*.

Penalties. For each whole or part month a return isn't filed when required, there is a failure-to-file (FTF) penalty of 5% of the unpaid tax due with that return. The maximum penalty is generally 25% of the tax due. Also, for each whole or part month the tax is paid late, there is a failure-to-pay (FTP) penalty of 0.5% per month of the amount of tax. For individual filers only, the FTP penalty is reduced from 0.5% per month to 0.25% per month if an installment agreement is in effect. You must have filed your return on or before the due date of the return to qualify for the reduced penalty. The maximum amount of the FTP penalty is also 25% of the tax due. If both penalties apply in any month, the FTF penalty is reduced by the amount of the FTP penalty. The penalties won't be charged if you have a reasonable cause for failing to file or pay. If you receive a penalty notice, you can provide an explanation of why you believe reasonable cause exists.

Note. In addition to any penalties, interest accrues from the due date of the tax on any unpaid balance.

If income, social security, or Medicare taxes that must be withheld aren't withheld or aren't paid, you may be personally liable for the trust fund recovery penalty. See *Trust fund recovery penalty* in section 11.

Generally, the use of a third-party payer, such as a PSP or reporting agent, doesn't relieve an employer of the responsibility to ensure tax returns are filed and all taxes are paid or deposited correctly and on time. However, see *Certified professional employer organization (CPEO)*, later, for an exception.

Don't file more than one Form 941 per quarter or more than one Form 944 per year. Employers with multiple locations or divisions must file only one Form 941 per quarter or one Form 944 per year. Filing more than one return may result in processing delays and may require correspondence between you and the IRS. For information on making adjustments to previously filed returns, see section 13.

Reminders about filing.

- Don't report more than 1 calendar quarter on a Form 941.
- If you need Form 941 or Form 944, go to *IRS.gov/Forms*. Also see *Ordering Employer Tax Forms, Instructions, and Publications*, earlier.
- Enter your name and EIN on Form 941 or Form 944. Be sure they're exactly as they appeared on earlier returns.
- See the Instructions for Form 941 or the Instructions for Form 944 for information on preparing the form.

Final return. If you go out of business, you must file a final return for the last quarter (last year for Form 944) in which wages are paid. If you continue to pay wages or other compensation for periods following termination of your business, you must file returns for those periods. See the Instructions for Form 941 or the Instructions for Form 944 for details on how to file a final return.

If you're required to file a final return, you're also required to furnish Forms W-2 to your employees and file Forms W-2 and W-3 with the SSA by the due date of your final return. Don't send an original or copy of your Form 941 or Form 944 to the SSA. See the General Instructions for Forms W-2 and W-3 for more information.

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Filing late returns for previous years. If possible, get a copy of Form 941 or Form 944 (and separate instructions) with a revision date showing the year for which your delinquent return is being filed. See *Ordering Employer Tax Forms, Instructions, and Publications*, earlier. Contact the IRS at 800-829-4933 if you have any questions about filing late returns.

Table 3. **Social Security and Medicare Tax Rates *(for 3 Prior Years)***

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Calendar Year	Wage Base Limit (each employee)	Tax Rate on Taxable Wages and Tips
2019—Social Security	$132,900	12.4%
2019—Medicare	All Wages	2.9%
2018—Social Security	$128,400	12.4%
2018—Medicare	All Wages	2.9%
2017—Social Security	$127,200	12.4%
2017—Medicare	All Wages	2.9%

Reconciling Forms W-2, W-3, and 941 or 944. When there are discrepancies between Forms 941 or Form 944 filed with the IRS and Forms W-2 and W-3 filed with the SSA, the IRS or the SSA may contact you to resolve the discrepancies.

Take the following steps to help reduce discrepancies.

1. Report bonuses as wages and as social security and Medicare wages on Forms W-2 and on Form 941 or Form 944.
2. Report both social security and Medicare wages and taxes separately on Forms W-2 and W-3, and on Form 941 or Form 944.
3. Report the employee share of social security taxes on Form W-2 in the box for social security tax withheld (box 4), not as social security wages.
4. Report the employee share of Medicare taxes on Form W-2 in the box for Medicare tax withheld (box 6), not as Medicare wages.
5. Make sure the social security wage amount for each employee doesn't exceed the annual social security wage base limit ($137,700 for 2020).
6. Don't report noncash wages that aren't subject to social security or Medicare taxes, as discussed earlier in *Wages not paid in money* in section 5, as social security or Medicare wages.
7. If you used an EIN on any Form 941 or Form 944 for the year that is different from the EIN reported on Form W-3, enter the other EIN on Form W-3 in the box for "Other EIN used this year" (box h).
8. Be sure the amounts on Form W-3 are the total of amounts from Forms W-2.
9. Reconcile Form W-3 with your four quarterly Forms 941 or annual Form 944 by comparing amounts reported for the following items.
   a. Federal income tax withheld.
   b. Social security and Medicare wages.
   c. Social security and Medicare taxes. Generally, the amounts shown on Forms 941 or annual Form 944, including current year adjustments, should be approximately twice the amounts shown on Form W-3 because Form 941 and Form 944 report both the employer and employee social security and Medicare taxes while Form W-3 reports only the employee taxes.

Don't report backup withholding or withholding on nonpayroll payments, such as pensions, annuities, and gambling winnings, on Form 941 or Form 944. Withholding on nonpayroll payments is reported on Forms 1099 or W-2G and must be reported on Form 945. Only taxes and withholding reported on Form W-2 should be reported on Form 941 or Form 944.

Amounts reported on Forms W-2, W-3, and Forms 941 or Form 944 may not match for valid reasons. For example, if you withheld any Additional Medicare Tax from your employee's wages, the amount of Medicare tax that is reported on Forms 941, line 5c, column 2, or Form 944, line 4c, column 2, won't be twice the amount of the Medicare tax withheld that is reported in box 6 of Form W-3 because the Additional Medicare Tax is only imposed on the employee; there is no employer share of Additional Medicare Tax. Make sure there are valid reasons for any mismatch. Keep your reconciliation so you'll have a record of why amounts didn't match in case there are inquiries from the IRS or the SSA. See the Instructions for Schedule D (Form 941) if you need to explain any discrepancies that were caused by an acquisition, statutory merger, or consolidation.

13. Reporting Adjustments to Form 941 or Form 944

Current Period Adjustments

In certain cases, amounts reported as social security and Medicare taxes on Form 941, lines 5a–5d, column 2 (Form 944, lines 4a–4d, column 2), must be adjusted to arrive at your correct tax liability (for example, excluding amounts withheld by a third-party payer or amounts you weren't required to withhold). Current period adjustments are reported on Form 941, lines 7–9, or Form 944, line 6, and include the following types of adjustments.

Fractions-of-cents adjustment. If there is a small difference between total taxes after adjustments and credits (Form 941, line 12; Form 944, line 9) and total deposits (Form 941, line 13; Form 944, line 10), it may have been caused, all or in part, by rounding to the nearest cent each time you figured payroll. This rounding occurs when you figure the amount of social security and Medicare tax to be withheld and deposited from each employee's wages. The IRS refers to rounding differences relating to

employee withholding of social security and Medicare taxes as "fractions-of-cents" adjustments. If you pay your taxes with Form 941 (or Form 944) instead of making deposits because your total taxes for the quarter (year for Form 944) are less than $2,500, you may also report a fractions-of-cents adjustment.

To determine if you have a fractions-of-cents adjustment for 2020, multiply the total wages and tips for the quarter subject to:

- Social security tax reported on Form 941 or Form 944 by 6.2% (0.062),
- Medicare tax reported on Form 941 or Form 944 by 1.45% (0.0145), and
- Additional Medicare Tax reported on Form 941 or Form 944 by 0.9% (0.009).

Compare these amounts (the employee share of social security and Medicare taxes) with the total social security and Medicare taxes actually withheld from employees and shown in your payroll records for the quarter (Form 941) or the year (Form 944). If there is a small difference, the amount, positive or negative, may be a fractions-of-cents adjustment. Fractions-of-cents adjustments are reported on Form 941, line 7, or Form 944, line 6. If the actual amount withheld is less, report a negative adjustment using a minus sign (if possible; otherwise, use parentheses) in the entry space. If the actual amount is more, report a positive adjustment.

TIP *For the above adjustments, prepare and retain a brief supporting statement explaining the nature and amount of each. Don't attach the statement to Form 941 or Form 944.*

Adjustment of tax on third-party sick pay. Report both the employer and employee share of social security and Medicare taxes for sick pay on Form 941, lines 5a and 5c (Form 944, lines 4a and 4c). If the aggregate wages paid for an employee by the employer and third-party payer exceed $200,000 for the calendar year, report the Additional Medicare Tax on Form 941, line 5d (Form 944, line 4d). Show as a negative adjustment on Form 941, line 8 (Form 944, line 6), the social security and Medicare taxes withheld on sick pay by a third-party payer. See section 6 of Pub. 15-A for more information.

Adjustment of tax on tips. If, by the 10th of the month after the month you received an employee's report on tips, you don't have enough employee funds available to withhold the employee's share of social security and Medicare taxes, you no longer have to collect it. However, report the entire amount of these tips on Form 941, lines 5b and 5c (Form 944, lines 4b and 4c). If the aggregate wages and tips paid for an employee exceed $200,000 for the calendar year, report the Additional Medicare Tax on Form 941, line 5d (Form 944, line 4d). Include as a negative adjustment on Form 941, line 9 (Form 944, line 6), the total uncollected employee share of the social security and Medicare taxes.

Adjustment of tax on group-term life insurance premiums paid for former employees. The employee share of social security and Medicare taxes for premiums on group-term life insurance over $50,000 for a former employee is paid by the former employee with his or her tax return and isn't collected by the employer. However, include all social security and Medicare taxes for such coverage on Form 941, lines 5a and 5c (Form 944, lines 4a and 4c). If the amount paid for an employee for premiums on group-term life insurance combined with other wages exceeds $200,000 for the calendar year, report the Additional Medicare Tax on Form 941, line 5d (Form 944, line 4d). Back out the amount of the employee share of these taxes as a negative adjustment on Form 941, line 9 (Form 944, line 6). See Pub. 15-B for more information on group-term life insurance.

Example. Cedar, Inc., filed Form 941 and was entitled to the following current period adjustments.

- **Fractions of cents.** Cedar, Inc., determined the amounts withheld and deposited for social security and Medicare taxes during the quarter were a net $1.44 more than the employee share of the amount figured on Form 941, lines 5a–5d, column 2 (social security and Medicare taxes). This difference was caused by adding or dropping fractions of cents when figuring social security and Medicare taxes for each wage payment. Cedar, Inc., must report a positive $1.44 fractions-of-cents adjustment on Form 941, line 7.
- **Third-party sick pay.** Cedar, Inc., included taxes of $2,000 for sick pay on Form 941, lines 5a and 5c, column 2, for social security and Medicare taxes. However, the third-party payer of the sick pay withheld and paid the employee share ($1,000) of these taxes. Cedar, Inc., is entitled to a $1,000 sick pay adjustment (negative) on Form 941, line 8.
- **Life insurance premiums.** Cedar, Inc., paid group-term life insurance premiums for policies in excess of $50,000 for former employees. The former employees must pay the employee share of the social security and Medicare taxes ($200) on the policies. However, Cedar, Inc., must include the employee share of these taxes with the social security and Medicare taxes reported on Form 941, lines 5a and 5c, column 2. Therefore, Cedar, Inc., is entitled to a negative $200 adjustment on Form 941, line 9.

No change to record of federal tax liability. Don't make any changes to your record of federal tax liability reported on Form 941, line 16, or Schedule B (Form 941) (for Form 944 filers, Form 944, line 13, or Form 945-A) for current period adjustments. The amounts reported on the record reflect the actual amounts you withheld from employees' wages for social security and Medicare taxes. Because the current period adjustments make the amounts reported on Form 941, lines 5a–5d, column 2 (Form 944, lines 4a–4d, column 2), equal the actual

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amounts you withheld (the amounts reported on the record), no additional changes to the record of federal tax liability are necessary for these adjustments.

Prior Period Adjustments

Forms for prior period adjustments. Use Form 941-X or Form 944-X to make a correction after you discover an error on a previously filed Form 941 or Form 944. There are also Forms 943-X, 945-X, and CT-1 X to report corrections on the corresponding returns. Use Form 843 when requesting a refund or abatement of assessed interest or penalties.

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TIP *See Revenue Ruling 2009-39, 2009-52 I.R.B. 951, for examples of how the interest-free adjustment and claim for refund rules apply in 10 different situations. You can find Revenue Ruling 2009-39 at IRS.gov/irb/2009-52_IRB#RR-2009-39.*

Background. Treasury Decision 9405 changed the process for making interest-free adjustments to employment taxes reported on Form 941 and Form 944 and for filing a claim for refund of employment taxes. Treasury Decision 9405, 2008-32 I.R.B. 293, is available at IRS.gov/irb/2008-32_IRB#TD-9405. You'll use the adjustment process if you underreported employment taxes and are making a payment, or if you overreported employment taxes and will be applying the credit to the Form 941 or Form 944 period during which you file Form 941-X or Form 944-X. You'll use the claim process if you overreported employment taxes and are requesting a refund or abatement of the overreported amount. We use the terms "correct" and "corrections" to include interest-free adjustments under sections 6205 and 6413, and claims for refund and abatement under sections 6402, 6414, and 6404.

Correcting employment taxes. When you discover an error on a previously filed Form 941 or Form 944, you must:

- Correct that error using Form 941-X or Form 944-X,
- File a separate Form 941-X or Form 944-X for each Form 941 or Form 944 you're correcting, and
- File Form 941-X or Form 944-X separately. Don't file with Form 941 or Form 944.

Report current quarter adjustments for fractions of cents, third-party sick pay, tips, and group-term life insurance on Form 941 using lines 7–9, and on Form 944 using line 6. See *Current Period Adjustments*, earlier

Report the correction of underreported and overreported amounts for the same tax period on a single Form 941-X or Form 944-X unless you're requesting a refund. If you're requesting a refund and are correcting both underreported and overreported amounts, file one Form 941-X or Form 944-X correcting the underreported amounts only and a second Form 941-X or Form 944-X correcting the overreported amounts.

See the chart on the back of Form 941-X or Form 944-X for help in choosing whether to use the adjustment process or the claim process. See the Instructions for Form 941-X or the Instructions for Form 944-X for details on how to make the adjustment or claim for refund or abatement.

Income tax withholding adjustments. In a current calendar year, correct prior quarter income tax withholding errors by making the correction on Form 941-X when you discover the error.

You may make an adjustment only to correct income tax withholding errors discovered during the same calendar year in which you paid the wages. This is because the employee uses the amount shown on Form W-2 or, if applicable, Form W-2c, as a credit when filing his or her income tax return (Form 1040, etc.).

You can't adjust amounts reported as income tax withheld in a prior calendar year unless it is to correct an administrative error or section 3509 applies. An administrative error occurs if the amount you entered on Form 941 or Form 944 isn't the amount you actually withheld. For example, if the total income tax actually withheld was incorrectly reported on Form 941 or Form 944 due to a mathematical or transposition error, this would be an administrative error. The administrative error adjustment corrects the amount reported on Form 941 or Form 944 to agree with the amount actually withheld from employees and reported on their Forms W-2.

Additional Medicare Tax withholding adjustments. Generally, the rules discussed above under *Income tax withholding adjustments* apply to Additional Medicare Tax withholding adjustments. That is, you may make an adjustment to correct Additional Medicare Tax withholding errors discovered during the same calendar year in which you paid wages. You can't adjust amounts reported in a prior calendar year unless it is to correct an administrative error or section 3509 applies. If you have overpaid Additional Medicare Tax, you can't file a claim for refund for the amount of the overpayment unless the amount wasn't actually withheld from the employee's wages (which would be an administrative error).

If a prior year error was a nonadministrative error, you may correct only the **wages and tips** subject to Additional Medicare Tax withholding.

Collecting underwithheld taxes from employees. If you withheld no income, social security, or Medicare taxes or less than the correct amount from an employee's wages, you can make it up from later pay to that employee. But you're the one who owes the underpayment. Reimbursement is a matter for settlement between you and the employee. Underwithheld income tax and Additional Medicare Tax must be recovered from the employee on or before the last day of the calendar year. There are special rules for tax on tips (see section 6) and fringe benefits (see section 5).

Refunding amounts incorrectly withheld from employees. If you withheld more than the correct amount of income, social security, or Medicare taxes from wages paid, repay or reimburse the employee the excess. Any excess income tax or Additional Medicare Tax withholding

must be repaid or reimbursed to the employee before the end of the calendar year in which it was withheld. Keep in your records the employee's written receipt showing the date and amount of the repayment or record of reimbursement. If you didn't repay or reimburse the employee, you must report and pay each excess amount when you file Form 941 for the quarter (or Form 944 for the year) in which you withheld too much tax.

Correcting filed Forms W-2 and W-3. When adjustments are made to correct wages and social security and Medicare taxes because of a change in the wage totals reported for a previous year, you also need to file Form W-2c and Form W-3c with the SSA. Up to 25 Forms W-2c per Form W-3c may be filed per session over the Internet, with no limit on the number of sessions. For more information, visit the SSA's Employer W-2 Filing Instructions & Information webpage at *SSA.gov/employer*.

Exceptions to interest-free corrections of employment taxes. A correction won't be eligible for interest-free treatment if:

- The failure to report relates to an issue raised in an IRS examination of a prior return, or
- The employer knowingly underreported its employment tax liability.

A correction won't be eligible for interest-free treatment after the earlier of the following.

- Receipt of an IRS notice and demand for payment after assessment.
- Receipt of an IRS notice of determination under section 7436.

Wage Repayments

If an employee repays you for wages received in error, don't offset the repayments against current year wages unless the repayments are for amounts received in error in the current year.

Repayment of current year wages. If you receive repayments for wages paid during a prior quarter in the current year, report adjustments on Form 941-X to recover income tax withholding and social security and Medicare taxes for the repaid wages.

Repayment of prior year wages. If you receive repayments for wages paid during a prior year, report an adjustment on Form 941-X or Form 944-X to recover the social security and Medicare taxes. You can't make an adjustment for income tax withholding because the wages were income to the employee for the prior year. You can't make an adjustment for Additional Medicare Tax withholding because the employee determines liability for Additional Medicare Tax on the employee's income tax return for the prior year.

You must also file Forms W-2c and W-3c with the SSA to correct social security and Medicare wages and taxes. Don't correct wages (box 1) on Form W-2c for the amount paid in error. Give a copy of Form W-2c to the employee.

Employee reporting of repayment. The wages paid in error in the prior year remain taxable to the employee for that year. This is because the employee received and had use of those funds during that year. The employee isn't entitled to file an amended return (Form 1040-X) to recover the income tax on these wages. Instead, the employee may be entitled to a deduction or credit for the repaid wages on his or her income tax return for the year of repayment. However, the employee should file an amended return (Form 1040-X) to recover any Additional Medicare Tax paid on the wages paid in error in the prior year. If an employee asks about reporting their wage repayment, you may tell the employee to see *Repayments* in Pub. 525 for more information.

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14. Federal Unemployment (FUTA) Tax

The Federal Unemployment Tax Act (FUTA), with state unemployment systems, provides for payments of unemployment compensation to workers who have lost their jobs. Most employers pay both a federal and a state unemployment tax. For a list of state unemployment agencies, visit the U.S. Department of Labor's website at *oui.doleta.gov/unemploy/agencies.asp*. Only the employer pays FUTA tax; it isn't withheld from the employee's wages. For more information, see the Instructions for Form 940.

TIP *Services rendered to a federally recognized Indian tribal government (or any subdivision, subsidiary, or business wholly owned by such an Indian tribe) are exempt from FUTA tax, subject to the tribe's compliance with state law. For more information, see section 3309(d) and Pub. 4268.*

Who must pay? Use the following three tests to determine whether you must pay FUTA tax. Each test applies to a different category of employee, and each is independent of the others. If a test describes your situation, you're subject to FUTA tax on the wages you pay to employees in that category during the current calendar year.

1. **General test.**
   You're subject to FUTA tax in 2020 on the wages you pay employees who aren't farmworkers or household workers if:
   a. You paid wages of $1,500 or more in any calendar quarter in 2019 or 2020, or
   b. You had one or more employees for at least some part of a day in any 20 or more different weeks in 2019 or 20 or more different weeks in 2020.
2. **Household employees test.**
   You're subject to FUTA tax if you paid total cash wages of $1,000 or more to household employees in any calendar quarter in 2019 or 2020. A household employee is an employee who performs household

work in a private home, local college club, or local fraternity or sorority chapter.

3. **Farmworkers test.**
   You're subject to FUTA tax on the wages you pay to farmworkers if:

   a. You paid cash wages of $20,000 or more to farmworkers during any calendar quarter in 2019 or 2020, or

   b. You employed 10 or more farmworkers during at least some part of a day (whether or not at the same time) during any 20 or more different weeks in 2019 or 20 or more different weeks in 2020.

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Figuring FUTA tax. For 2020, the FUTA tax rate is 6.0%. The tax applies to the first $7,000 you pay to each employee as wages during the year. The $7,000 is the federal wage base. Your state wage base may be different.

Generally, you can take a credit against your FUTA tax for amounts you paid into state unemployment funds. The credit may be as much as 5.4% of FUTA taxable wages. If you're entitled to the maximum 5.4% credit, the FUTA tax rate after credit is 0.6%. You're entitled to the maximum credit if you paid your state unemployment taxes in full, on time, and on all the same wages as are subject to FUTA tax, and as long as the state isn't determined to be a credit reduction state. See the Instructions for Form 940 to determine the credit.

In some states, the wages subject to state unemployment tax are the same as the wages subject to FUTA tax. However, certain states exclude some types of wages from state unemployment tax, even though they're subject to FUTA tax (for example, wages paid to corporate officers, certain payments of sick pay by unions, and certain fringe benefits). In such a case, you may be required to deposit more than 0.6% FUTA tax on those wages. See the Instructions for Form 940 for further guidance.

TIP *In years when there are credit reduction states, you must include liabilities owed for credit reduction with your fourth quarter deposit. You may deposit the anticipated extra liability throughout the year, but it isn't due until the due date for the deposit for the fourth quarter, and the associated liability should be recorded as being incurred in the fourth quarter. See the Instructions for Form 940 for more information.*

Successor employer. If you acquired a business from an employer who was liable for FUTA tax, you may be able to count the wages that employer paid to the employees who continue to work for you when you figure the $7,000 FUTA tax wage base. See the Instructions for Form 940.

Depositing FUTA tax. For deposit purposes, figure FUTA tax quarterly. Determine your FUTA tax liability by multiplying the amount of taxable wages paid during the quarter by 0.6%. Stop depositing FUTA tax on an employee's wages when he or she reaches $7,000 in taxable wages for the calendar year.

If your FUTA tax liability for any calendar quarter is $500 or less, you don't have to deposit the tax. Instead, you may carry it forward and add it to the liability figured in the next quarter to see if you must make a deposit. If your FUTA tax liability for any calendar quarter is over $500 (including any FUTA tax carried forward from an earlier quarter), you must deposit the tax by EFT. See section 11 for more information on EFT.

Household employees. You're not required to deposit FUTA taxes for household employees unless you report their wages on Form 941, 943, or 944. See Pub. 926 for more information.

When to deposit. Deposit the FUTA tax by the last day of the first month that follows the end of the quarter. If the due date for making your deposit falls on a Saturday, Sunday, or legal holiday, you may make your deposit on the next business day. See *Legal holiday*, earlier, for a list of the legal holidays for 2020.

If your liability for the fourth quarter (plus any undeposited amount from any earlier quarter) is over $500, deposit the entire amount by the due date of Form 940 (January 31). If it is $500 or less, you can make a deposit, pay the tax with a credit or debit card, or pay the tax with your 2019 Form 940 by January 31, 2020. If you file Form 940 electronically, you can *e-file* and use EFW to pay the balance due. For more information on paying your taxes with a credit or debit card or using EFW, go to *IRS.gov/Payments*.

Table 4. **When To Deposit FUTA Taxes**

Quarter	Ending	Due Date
Jan.–Feb.–Mar.	Mar. 31	Apr. 30
Apr.–May–June	June 30	July 31
July–Aug.–Sept.	Sept. 30	Oct. 31
Oct.–Nov.–Dec.	Dec. 31	Jan. 31

Reporting FUTA tax. Use Form 940 to report FUTA tax. File your 2019 Form 940 by January 31, 2020. However, if you deposited all FUTA tax when due, you may file on or before February 10, 2020.

Form 940 e-file. The Form 940 *e-file* program allows a taxpayer to electronically file Form 940 using a computer with an Internet connection and commercial tax preparation software. For more information, visit the IRS website at *IRS.gov/EmploymentEfile*, or call 866-255-0654.

Household employees. If you didn't report employment taxes for household employees on Form 941, 943, or 944, report FUTA tax for these employees on Schedule H (Form 1040 or 1040-SR). See Pub. 926 for more information. You must have an EIN to file Schedule H (Form 1040 or 1040-SR).

Electronic filing by reporting agents. Reporting agents filing Forms 940 for groups of taxpayers can file them electronically. See the *Electronic filing by reporting agents* discussion in section 12.

Electronic filing by CPEOs. CPEOs are required to electronically file Form 940. Under certain circumstances, the IRS may waive the electronic filing requirement. To request a waiver, the CPEO must file a written request using the IRS Online Registration System for Professional Employer Organizations at least 45 days before the due date of the return for which the CPEO is unable to electronically file. For more information on filing a waiver request electronically, go to *IRS.gov/CPEO*.

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15. Special Rules for Various Types of Services and Payments

Section references are to the Internal Revenue Code unless otherwise noted.

Special Classes of Employment and Special Types of Payments	Treatment Under Employment Taxes		
	Income Tax Withholding	**Social Security and Medicare (including Additional Medicare Tax when wages are paid in excess of $200,000)**	**FUTA**
Aliens, nonresident.	See Pub. 515 and Pub. 519.		
Aliens, resident:			
1. Service performed in the U.S.	Same as U.S. citizen.	Same as U.S. citizen. (Exempt if any part of service as crew member of foreign vessel or aircraft is performed outside U.S.)	Same as U.S. citizen.
2. Service performed outside the U.S.	Withhold	Taxable if (1) working for an American employer, or (2) an American employer by agreement covers U.S. citizens and residents employed by its foreign affiliates.	Exempt unless on or in connection with an American vessel or aircraft and either performed under contract made in U.S., or alien is employed on such vessel or aircraft when it touches U.S. port.
Cafeteria plan benefits under section 125.	If employee chooses cash, subject to all employment taxes. If employee chooses another benefit, the treatment is the same as if the benefit was provided outside the plan. See Pub. 15-B for more information.		
Deceased worker:			
1. Wages paid to beneficiary or estate in same calendar year as worker's death. See the Instructions for Forms W-2 and W-3 for details.	Exempt	Taxable	Taxable
2. Wages paid to beneficiary or estate after calendar year of worker's death.	Exempt	Exempt	Exempt
Dependent care assistance programs.	Exempt to the extent it is reasonable to believe amounts are excludable from gross income under section 129.		
Disabled worker's wages paid after year in which worker became entitled to disability insurance benefits under the Social Security Act.	Withhold	Exempt if worker didn't perform any service for employer during the period for which payment is made.	Taxable
Employee business expense reimbursement:			
1. Accountable plan.			
a. Amounts not exceeding specified government rate for per diem or standard mileage.	Exempt	Exempt	Exempt
b. Amounts in excess of specified government rate for per diem or standard mileage.	Withhold	Taxable	Taxable
2. Nonaccountable plan. See section 5 for details.	Withhold	Taxable	Taxable
Family employees:			
1. Child employed by parent (or partnership in which each partner is a parent of the child).	Withhold	Exempt until age 18; age 21 for domestic service.	Exempt until age 21
2. Parent employed by child.	Withhold	Taxable if in course of the son's or daughter's business. For domestic services, see section 3.	Exempt
3. Spouse employed by spouse. See section 3 for more information.	Withhold	Taxable if in course of spouse's business.	Exempt
Fishing and related activities.	See Pub. 334.		
Foreign governments and international organizations.	Exempt	Exempt	Exempt

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Special Classes of Employment and Special Types of Payments	Treatment Under Employment Taxes		
	Income Tax Withholding	**Social Security and Medicare (including Additional Medicare Tax when wages are paid in excess of $200,000)**	**FUTA**
Foreign service by U.S. citizens:			
1. As U.S. government employees.	Withhold	Same as within U.S.	Exempt
2. For foreign affiliates of American employers and other private employers.	Exempt if at time of payment (1) it is reasonable to believe employee is entitled to exclusion from income under section 911, or (2) the employer is required by law of the foreign country to withhold income tax on such payment.	Exempt unless (1) an American employer by agreement covers U.S. citizens employed by its foreign affiliates, or (2) U.S. citizen works for American employer.	Exempt unless (1) on American vessel or aircraft and work is performed under contract made in U.S. or worker is employed on vessel when it touches U.S. port, or (2) U.S. citizen works for American employer (except in a contiguous country with which the U.S. has an agreement for unemployment compensation) or in the U.S. Virgin Islands.
Fringe benefits.	Taxable on excess of fair market value of the benefit over the sum of an amount paid for it by the employee and any amount excludable by law. However, special valuation rules may apply. Benefits provided under cafeteria plans may qualify for exclusion from wages for social security, Medicare, and FUTA taxes. See Pub. 15-B for details.		
Government employment:			
State/local governments and political subdivisions, employees of:			
1. Salaries and wages (includes payments to most elected and appointed officials). See chapter 3 of Pub. 963.	Withhold	Generally, taxable for (1) services performed by employees who are either (a) covered under a section 218 agreement, or (b) not covered under a section 218 agreement and not a member of a public retirement system (mandatory social security and Medicare coverage); and (2) (for Medicare tax only) for services performed by employees hired or rehired after March 31, 1986, who aren't covered under a section 218 agreement or the mandatory social security provisions, unless specifically excluded by law. See Pub. 963.	Exempt
2. Election workers. Election individuals are workers who are employed to perform services for state or local governments at election booths in connection with national, state, or local elections. **Note.** File Form W-2 for payments of $600 or more even if no social security or Medicare taxes were withheld.	Exempt	Taxable if paid $1,900 or more in 2020 (lesser amount if specified by a section 218 social security agreement). See Revenue Ruling 2000-6.	Exempt
3. Emergency workers. Emergency workers who were hired on a temporary basis in response to a specific unforeseen emergency and aren't intended to become permanent employees.	Withhold	Exempt if serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency.	Exempt
U.S. federal government employees.	Withhold	Taxable for Medicare. Taxable for social security unless hired before 1984. See section 3121(b)(5).	Exempt

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Special Classes of Employment and Special Types of Payments	Treatment Under Employment Taxes		
	Income Tax Withholding	Social Security and Medicare (including Additional Medicare Tax when wages are paid in excess of $200,000)	FUTA
Homeworkers (industrial, cottage industry):			
1. Common law employees.	Withhold	Taxable	Taxable
2. Statutory employees. See section 2 for details.	Exempt	Taxable if paid $100 or more in cash in a year.	Exempt
Hospital employees:			
1. Interns.	Withhold	Taxable	Exempt
2. Patients.	Withhold	Taxable (Exempt for state or local government hospitals.)	Exempt
Household employees:			
1. Domestic service in private homes.	Exempt (withhold if both employer and employee agree).	Taxable if paid $2,200 or more in cash in 2020. Exempt if performed by an individual under age 18 during any portion of the calendar year and isn't the principal occupation of the employee.	Taxable if employer paid total cash wages of $1,000 or more in any quarter in the current or preceding calendar year.
2. Domestic service in college clubs, fraternities, and sororities.	Exempt (withhold if both employer and employee agree).	Exempt if paid to regular student; also exempt if employee is paid less than $100 in a year by an income-tax-exempt employer.	Taxable if employer paid total cash wages of $1,000 or more in any quarter in the current or preceding calendar year.
Insurance for employees:			
1. Accident and health insurance premiums under a plan or system for employees and their dependents generally or for a class or classes of employees and their dependents.	Exempt (except 2% shareholder-employees of S corporations).	Exempt	Exempt
2. Group-term life insurance costs. See Pub. 15-B for details.	Exempt	Exempt, except for the cost of group-term life insurance includible in the employee's gross income. Special rules apply for former employees.	Exempt
Insurance agents or solicitors:			
1. Full-time life insurance salesperson.	Withhold only if employee under common law. See section 2.	Taxable	Taxable if (1) employee under common law, and (2) not paid solely by commissions.
2. Other salesperson of life, casualty, etc., insurance.	Withhold only if employee under common law.	Taxable only if employee under common law.	Taxable if (1) employee under common law, and (2) not paid solely by commissions.
Interest on loans with below-market interest rates (foregone interest and deemed original issue discount).	See Pub. 15-A.		
Leave-sharing plans: Amounts paid to an employee under a leave-sharing plan.	Withhold	Taxable	Taxable
Newspaper carriers and vendors: Newspaper carriers under age 18; newspaper and magazine vendors buying at fixed prices and retaining receipts from sales to customers. See Pub. 15-A for information on statutory nonemployee status.	Exempt (withhold if both employer and employee voluntarily agree).	Exempt	Exempt

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Special Classes of Employment and Special Types of Payments	Treatment Under Employment Taxes		
	Income Tax Withholding	Social Security and Medicare (including Additional Medicare Tax when wages are paid in excess of $200,000)	FUTA
Noncash payments:			
1. For household work, agricultural labor, and service not in the course of the employer's trade or business.	Exempt (withhold if both employer and employee voluntarily agree).	Exempt	Exempt
2. To certain retail commission salespersons ordinarily paid solely on a cash commission basis.	Optional with employer, except to the extent employee's supplemental wages during the year exceed $1 million.	Taxable	Taxable
Nonprofit organizations.	See Pub. 15-A.		
Officers or shareholders of an S corporation: Distributions and other payments by an S corporation to a corporate officer or shareholder must be treated as wages to the extent the amounts are reasonable compensation for services to the corporation by an employee. See the Instructions for Form 1120-S.	Withhold	Taxable	Taxable
Partners: Payments to general or limited partners of a partnership. See Pub. 541 for partner reporting rules.	Exempt	Exempt	Exempt
Railroads: Payments subject to the Railroad Retirement Act. See Pub. 915 for more details.	Withhold	Exempt	Exempt
Religious exemptions.	See Pub. 15-A and Pub. 517.		
Retirement and pension plans:			
1. Employer contributions to a qualified plan.	Exempt	Exempt	Exempt
2. Elective employee contributions and deferrals to a plan containing a qualified cash or deferred compensation arrangement (401(k)).	Generally exempt, but see section 402(g) for limitation.	Taxable	Taxable
3. Employer contributions to individual retirement accounts under simplified employee pension (SEP) plan.	Generally exempt, but see section 402(g) for salary reduction SEP limitation.	Exempt, except for amounts contributed under a salary reduction SEP agreement.	
4. Employer contributions to section 403(b) annuities including salary reduction contributions.	Generally exempt, but see section 402(g) for limitation.	Taxable if paid through a salary reduction agreement (written or otherwise).	
5. Employee salary reduction contributions to a SIMPLE retirement account.	Exempt	Taxable	Taxable
6. Distributions from qualified retirement and pension plans and section 403(b) annuities. See Pub. 15-A for information on pensions, annuities, and employer contributions to nonqualified deferred compensation arrangements.	Withhold, but recipient may elect exemption on Form W-4P in certain cases; mandatory 20% withholding applies to an eligible rollover distribution that isn't a direct rollover; exempt for direct rollover. See Pub. 15-A.	Exempt	Exempt
7. Employer contributions to a section 457(b) plan.	Generally exempt, but see section 402(g) limitation.	Taxable	Taxable
8. Employee salary reduction contributions to a section 457(b) plan.	Generally exempt, but see section 402(g) salary reduction limitation.	Taxable	Taxable
Salespersons:			
1. Common law employees.	Withhold	Taxable	Taxable
2. Statutory employees.	Exempt	Taxable	Taxable, except for full-time life insurance sales agents.
3. Statutory nonemployees (qualified real estate agents, direct sellers, and certain companion sitters). See Pub. 15-A for details.	Exempt	Exempt	Exempt

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Special Classes of Employment and Special Types of Payments	Treatment Under Employment Taxes		
	Income Tax Withholding	**Social Security and Medicare (including Additional Medicare Tax when wages are paid in excess of $200,000)**	**FUTA**
Scholarships and fellowship grants (includible in income under section 117(c)).	Withhold	Taxability depends on the nature of the employment and the status of the organization. See *Students, scholars, trainees, teachers, etc.* below.	
Severance or dismissal pay.	Withhold	Taxable	Taxable
Service not in the course of the employer's trade or business (other than on a farm operated for profit or for household employment in private homes).	Withhold only if employee earns $50 or more in cash in a quarter and works on 24 or more different days in that quarter or in the preceding quarter.	Taxable if employee receives $100 or more in cash in a calendar year.	Taxable only if employee earns $50 or more in cash in a quarter and works on 24 or more different days in that quarter or in the preceding quarter.
Sick pay. See Pub. 15-A for more information.	Withhold	Exempt after end of 6 calendar months after the calendar month employee last worked for employer.	
Students, scholars, trainees, teachers, etc.:			
1. Student enrolled and regularly attending classes, performing services for the following.			
a. Private school, college, or university.	Withhold	Exempt	Exempt
b. Auxiliary nonprofit organization operated for and controlled by school, college, or university.	Withhold	Exempt unless services are covered by a section 218 (Social Security Act) agreement.	Exempt
c. Public school, college, or university.	Withhold	Exempt unless services are covered by a section 218 (Social Security Act) agreement.	Exempt
2. Full-time student performing service for academic credit, combining instruction with work experience as an integral part of the program.	Withhold	Taxable	Exempt unless program was established for or on behalf of an employer or group of employers.
3. Student nurse performing part-time services for nominal earnings at hospital as incidental part of training.	Withhold	Exempt	Exempt
4. Student employed by organized camps.	Withhold	Taxable	Exempt
5. Student, scholar, trainee, teacher, etc., as nonimmigrant alien under section 101(a)(15)(F), (J), (M), or (Q) of Immigration and Nationality Act (that is, aliens holding F-1, J-1, M-1, or Q-1 visas).	Withhold unless excepted by regulations.	Exempt if service is performed for purpose specified in section 101(a)(15)(F), (J), (M), or (Q) of Immigration and Nationality Act. However, these taxes may apply if the employee becomes a resident alien. See the special residency tests for exempt individuals in chapter 1 of Pub. 519.	
Supplemental unemployment compensation plan benefits.	Withhold	Exempt under certain conditions. See Pub. 15-A.	
Tips:			
1. If $20 or more in a month.	Withhold	Taxable	Taxable for all tips reported in writing to employer.
2. If less than $20 in a month. See section 6 for more information.	Exempt	Exempt	Exempt
Worker's compensation.	Exempt	Exempt	Exempt

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16. Third-Party Payer Arrangements

An employer may outsource some or all of its federal employment tax withholding, reporting, and payment obligations. An employer who outsources payroll and related tax duties (that is, withholding, reporting, and paying over social security, Medicare, FUTA, and income taxes) to a third-party payer, generally will remain responsible for those duties, including liability for the taxes. However, see *Certified professional employer organization (CPEO)*, later, for an exception.

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If an employer outsources some or all of its payroll responsibilities, the employer should consider the following information.

- The employer remains responsible for federal tax deposits and other federal tax payments even though the employer may forward the tax amounts to the third-party payer to make the deposits and payments. If the third party fails to make the deposits and payments, the IRS may assess penalties and interest on the employer's account. As the employer, you may be liable for all taxes, penalties, and interest due. The employer may also be held personally liable for certain unpaid federal taxes.
- If the employer's account has any issues, the IRS will send correspondence to the employer at the address of record. We strongly recommend that the employer maintain its address as the address of record with the IRS. Having correspondence sent to the address of the third-party payer may significantly limit the employer's ability to be informed about tax matters involving the employer's business. Use Form 8822-B to update your business address.
- When a third party enrolls an employer in EFTPS for federal tax deposits, the employer will receive an Inquiry PIN. Employers should activate and use this Inquiry PIN to monitor their account and ensure the third party is making the required tax deposits.

The following are common third-party payers who an employer may contract with to perform payroll and related tax duties.

- Payroll service provider (PSP).
- Reporting agent.
- Agent with approved Form 2678.
- Payer designated under section 3504.
- Certified professional employer organization (CPEO).

Payroll service provider (PSP). A PSP helps administer payroll and payroll-related tax duties on behalf of the employer. A PSP may prepare paychecks for employees, prepare and file employment tax returns, prepare Form W-2, and make federal tax deposits and other federal tax payments. A PSP performs these functions using the EIN of the employer. A PSP isn't liable as either an employer or an agent of the employer for the employer's employment taxes. If an employer is using a PSP to perform its tax duties, the employer remains liable for its employment tax obligations, including liability for employment taxes.

An employer who uses a PSP should ensure the PSP is using EFTPS to make federal tax deposits on behalf of the employer so the employer can confirm that the payments are being made on its behalf.

Reporting agent. A reporting agent is a type of PSP. A reporting agent helps administer payroll and payroll-related tax duties on behalf of the employer, including authorization to electronically sign and file forms set forth on Form 8655. An employer uses Form 8655 to authorize a reporting agent to perform functions on behalf of the employer. A reporting agent performs these functions using the EIN of the employer. A reporting agent isn't liable as either an employer or an agent of the employer for the employer's employment taxes. If an employer is using a reporting agent to perform its tax duties, the employer remains liable for its employment obligations, including liability for employment taxes.

A reporting agent must use EFTPS to make federal tax deposits on behalf of an employer. The employer has access to EFTPS to confirm federal tax deposits were made on its behalf.

For more information on reporting agents, see Revenue Procedure 2012-32, 2012-34 I.R.B. 267, at *IRS.gov/irb/2012-34_IRB#RP-2012-32*, and Pub. 1474, Technical Specifications Guide for Reporting Agent Authorization and Federal Tax Depositors.

Agent with an approved Form 2678. An agent with an approved Form 2678 helps administer payroll and related tax duties on behalf of the employer. An agent authorized under section 3504 may pay wages or compensation to some or all of the employees of an employer, prepare and file employment tax returns as set forth on Form 2678, prepare Form W-2, and make federal tax deposits and other federal tax payments. An employer uses Form 2678 to request authorization to appoint an agent to perform functions on behalf of the employer. An agent with an approved Form 2678 is authorized to perform these functions using its own EIN. The agent files a Schedule R (Form 941) or, if applicable, Schedule R (Form 943) to allocate wages and taxes to the employers it represents as an agent.

If an employer is using an agent with an approved Form 2678 to perform its tax duties, the agent and the employer are jointly liable for the employment taxes and related tax duties for which the agent is authorized to perform.

Form 2678 doesn't apply to FUTA taxes reportable on Form 940 unless the employer is a home care service recipient receiving home care services through a program administered by a federal, state, or local government agency.

For more information on an agent with an approved Form 2678, see Revenue Procedure 2013-39, 2013-52 I.R.B. 830, at *IRS.gov/irb/2013-52_IRB#RP-2013-39*.

Payer designated under section 3504. In certain circumstances, the IRS may designate a third-party payer to

perform the acts of an employer. The IRS will designate a third-party payer on behalf of an employer if the third party has a service agreement with the employer. A service agreement is an agreement between the third-party payer and an employer in which the third-party payer (1) asserts it is the employer of individuals performing services for the employer; (2) pays wages to the individuals that perform services for the employer; and (3) assumes responsibility to withhold, report, and pay federal employment taxes for the wages it pays to the individuals that perform services for the employer.

A payer designated under section 3504 performs tax duties under the service agreement using its own EIN. If the IRS designates a third-party payer under section 3504, the designated payer and the employer are jointly liable for the employment taxes and related tax duties for which the third-party payer is designated.

For more information on a payer designated under section 3504, see Regulations section 31.3504-2.

Certified professional employer organization (CPEO). The Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014 required the IRS to establish a voluntary certification program for professional employer organizations (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. However, with respect to certain employees covered by a CPEO contract, you may also be treated as an employer of the employees and, consequently, may also be liable for federal employment taxes imposed on wages and other compensation paid by the CPEO to such employees.

CPEOs must complete Schedule R (Form 940), Schedule R (Form 941), or Schedule R (Form 943) when filing an aggregate Form 940, 941, or 943. CPEOs file Form 8973 to notify the IRS that they started or ended a service contract with a customer. 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*. Also see Revenue Procedure 2017-14, 2017-3 I.R.B. 426, available at *IRS.gov/irb/2017-03_IRB#RP-2017-14*.

TIP *If both an employer and a section 3504 authorized agent paid wages to an employee during a quarter, or if both an employer and a CPEO paid wages to an employee during a quarter, both the employer and the section 3504 authorized agent (or the CPEO, if applicable) should file Form 941 reporting the wages each entity paid to the employee during the applicable quarter and issue Forms W-2 reporting the wages each entity paid to the employee during the year.*

How To Get Tax Help

If you have questions about a tax issue, need help preparing your tax return, or want to download free publications, forms, or instructions, go to IRS.gov and find resources that can help you right away.

Preparing and filing your tax return. Go to *IRS.gov/EmploymentEfile* for more information on filing your employment tax returns electronically.

Employers can register to use Business Services Online. The SSA offers online service for fast, free, and secure online Form W-2 filing options to CPAs, accountants, enrolled agents, and individuals who process Forms W-2, Wage and Tax Statement, and Forms W-2c, Corrected Wage and Tax Statement. Employers can go to *SSA.gov/employer* for more information.

Getting answers to your tax questions. On IRS.gov, get answers to your tax questions anytime, anywhere.

- Go to *IRS.gov/Help* for a variety of tools that will help you get answers to some of the most common tax questions.
- Go to *IRS.gov/Forms* to search for our forms, instructions, and publications. You will find details on 2019 tax changes and hundreds of interactive links to help you find answers to your questions.
- You may also be able to access tax law information in your electronic filing software.

Tax reform. Tax reform legislation affects individuals, businesses, and tax-exempt and government entities. Go to *IRS.gov/TaxReform* for information and updates on how this legislation affects your taxes.

IRS social media. Go to *IRS.gov/SocialMedia* to see the various social media tools the IRS uses to share the latest information on tax changes, scam alerts, initiatives, products, and services. At the IRS, privacy and security are paramount. We use these tools to share public information with you. **Don't** post your social security number or other confidential information on social media sites. Always protect your identity when using any social networking site.

The following IRS YouTube channels provide short, informative videos on various tax-related topics in English, Spanish, and ASL.

- *Youtube.com/irsvideos*.
- *Youtube.com/irsvideosmultilingual*.
- *Youtube.com/irsvideosASL*.

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Watching IRS videos. The IRS Video portal (*IRSVideos.gov*) contains video and audio presentations for individuals, small businesses, and tax professionals.

Getting tax information in other languages. For taxpayers whose native language isn't English, we have the following resources available. Taxpayers can find information on IRS.gov in the following languages.

- *Spanish* (*IRS.gov/Spanish*).
- *Chinese* (*IRS.gov/Chinese*).
- *Korean* (*IRS.gov/Korean*).
- *Russian* (*IRS.gov/Russian*).
- *Vietnamese* (*IRS.gov/Vietnamese*).

The IRS Taxpayer Assistance Centers (TACs) provide over-the-phone interpreter service in over 170 languages, and the service is available free to taxpayers.

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Getting tax forms and publications. Go to *IRS.gov/Forms* to view, download, or print most of the forms, instructions, and publications you may need. You can also download and view popular tax publications and instructions (including Pub. 15) on mobile devices as an eBook at no charge at *IRS.gov/eBooks*. Or you can go to *IRS.gov/OrderForms* to place an order and have them mailed to you within 10 business days.

Getting a transcript or copy of a return. You can get a copy of your tax transcript or a copy of your return by calling 800-829-4933 or by mailing Form 4506-T (transcript request) or Form 4506 (copy of return) to the IRS.

Resolving tax-related identity theft issues.

- The IRS doesn't initiate contact with taxpayers by email or telephone to request personal or financial information. This includes any type of electronic communication, such as text messages and social media channels.
- Go to *IRS.gov/IDProtection* for information.
- If your EIN has been lost or stolen or you suspect you're a victim of tax-related identity theft, visit *IRS.gov/IdentityTheft* to learn what steps you should take.

Making a tax payment. The IRS uses the latest encryption technology to ensure your electronic payments are safe and secure. You can make electronic payments online, by phone, and from a mobile device using the IRS2Go app. Paying electronically is quick, easy, and faster than mailing in a check or money order. Go to *IRS.gov/Payments* to make a payment using any of the following options.

- *Debit or Credit Card*: Choose an approved payment processor to pay online, by phone, and by mobile device.
- *Electronic Funds Withdrawal*: Offered only when filing your federal taxes using tax return preparation software or through a tax professional.
- *Electronic Federal Tax Payment System*: Best option for businesses. Enrollment is required.
- *Check or Money Order*: Mail your payment to the address listed on the notice or instructions.
- *Cash*: You may be able to pay your taxes with cash at a participating retail store.
- *Same-Day Wire*: You may be able to do same-day wire from your financial institution. Contact your financial institution for availability, cost, and cut-off times.

What if I can't pay now? Go to *IRS.gov/Payments* for more information about your options.

- Apply for an *online payment agreement* (*IRS.gov/OPA*) to meet your tax obligation in monthly installments if you can't pay your taxes in full today. Once you complete the online process, you will receive immediate notification of whether your agreement has been approved.
- Use the *Offer in Compromise Pre-Qualifier* to see if you can settle your tax debt for less than the full amount you owe. For more information on the Offer in Compromise program, go to *IRS.gov/OIC*.

Understanding an IRS notice or letter. Go to *IRS.gov/Notices* to find additional information about responding to an IRS notice or letter.

Contacting your local IRS office. Keep in mind, many questions can be answered on IRS.gov without visiting an IRS Tax Assistance Center (TAC). Go to *IRS.gov/LetUsHelp* for the topics people ask about most. If you still need help, IRS TACs provide tax help when a tax issue can't be handled online or by phone. All TACs now provide service by appointment so you'll know in advance that you can get the service you need without long wait times. Before you visit, go to *IRS.gov/TACLocator* to find the nearest TAC, check hours, available services, and appointment options. Or, on the IRS2Go app, under the Stay Connected tab, choose the Contact Us option and click on "Local Offices."

The Taxpayer Advocate Service (TAS) Is Here To Help You

What Is TAS?

TAS is an ***independent*** organization within the IRS that helps taxpayers and protects taxpayer rights. Their job is to ensure that every taxpayer is treated fairly and that you know and understand your rights under the *Taxpayer Bill of Rights*.

How Can You Learn About Your Taxpayer Rights?

The Taxpayer Bill of Rights describes 10 basic rights that all taxpayers have when dealing with the IRS. Go to *TaxpayerAdvocate.IRS.gov* to help you understand *what*

these rights mean to you and how they apply. These are ***your*** rights. Know them. Use them.

What Can TAS Do For You?

TAS can help you resolve problems that you can't resolve with the IRS. And their service is free. If you qualify for their assistance, you will be assigned to one advocate who will work with you throughout the process and will do everything possible to resolve your issue. TAS can help you if:

- Your problem is causing financial difficulty for you, your family, or your business;
- You face (or your business is facing) an immediate threat of adverse action; or
- You've tried repeatedly to contact the IRS but no one has responded, or the IRS hasn't responded by the date promised.

How Can You Reach TAS?

TAS has offices *in every state, the District of Columbia, and Puerto Rico*. Your local advocate's number is in your local directory and at *TaxpayerAdvocate.IRS.gov/Contact-Us*. You can also call them at 877-777-4778.

How Else Does TAS Help Taxpayers?

TAS works to resolve large-scale problems that affect many taxpayers. If you know of one of these broad issues, please report it to them at *IRS.gov/SAMS*.

TAS also has a website, *Tax Reform Changes*, which shows you how the new tax law may change your future tax filings and helps you plan for these changes. The information is categorized by tax topic in the order of the IRS Form 1040 or 1040-SR. Go to *TaxChanges.us* for more information.

TAS for Tax Professionals

TAS can provide a variety of information for tax professionals, including tax law updates and guidance, TAS programs, and ways to let TAS know about systemic problems you've seen in your practice.

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To help us develop a more useful index, please let us know if you have ideas for index entries. See "Comments and Suggestions" in the "Introduction" for the ways you can reach us.

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