

1995



Department of the Treasury  
Internal Revenue Service

# Instructions for Form 945

## Annual Return of Withheld Federal Income Tax

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

**Paperwork Reduction Act Notice.**—We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping** 3 hr., 50 min., and **Preparing and sending the form to the IRS** 4 min. If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the **Internal Revenue Service**, Attention: Tax Forms Committee, T:FP, Washington, DC 20224. **DO NOT** send the tax form to this address. Instead, see **Where To File** below.

**Change to note.**—Under new rules effective for the 1995 form, you are required to file Form 945 only if you have a nonpayroll tax liability for the year.

### General Instructions

**Purpose of form.**—Use Form 945 to report income tax withheld from nonpayroll payments. Nonpayroll payments include the following:

- Pensions, annuities, and IRAs
- Military retirement
- Gambling winnings
- Indian gaming profits
- Backup withholding

You may no longer report nonpayroll income tax withholding on **Form 941**, Employer's Quarterly Federal Tax Return, or **Form 941E**, Quarterly Return of Withheld Federal Income Tax and Medicare Tax. (Form 941E is obsolete.)

As a general rule, all income tax withholding reported on Forms 1099 (e.g., Form 1099-R or Form 1099-MISC) or Form W-2G must be reported on Form 945. All employment taxes and income tax withholding reported on Form W-2 must be reported on Form 941 (or 943). For example, because distributions from nonqualified pension plans and some other deferred compensation arrangements are treated as wages and are reported on Form W-2, they must be reported on Form 941, not Form 945.

Information Return	Tax Return
Forms 1099 and W-2G . . . . .	Form 945
Form W-2 . . . . .	Form 941

**Circular E**, Employer's Tax Guide (Pub. 15), explains the rules for withholding, depositing, and reporting Federal income tax. The new **Pub. 15-A**, Employer's Supplemental Tax Guide, includes information on income tax withholding from pensions and annuities and Indian gaming profits. These publications are available free at IRS offices or by calling 1-800-TAX-FORM (1-800-829-3676).

**Who must file.**—Taxpayers who withhold income tax (including backup withholding) from nonpayroll payments must file Form 945. You are not required to file Form 945 for

those years in which you do not have a nonpayroll tax liability.

**When to file.**—For 1995, file Form 945 by January 31, 1996. However, if you made deposits on time in full payment of the taxes for the year, you may file the return by February 10.

**Final return.**—If you go out of business, you should file a final return. Be sure to mark the final return checkbox and enter the date final payments were made above line 1.

**Where to file.**—In the list below, find the state where your legal residence, principal place of business, office, or agency is located. Send your return to the **Internal Revenue Service** at the address listed for your location. No street address is needed.

**Note:** *Where you file depends on whether or not you are including a payment.*

Alabama, Louisiana, Mississippi	
<b>Return without payment:</b>	<b>Return with payment:</b>
Austin, TX 73301-0042	P.O. Box 1213 Charlotte, NC 28272-1213

Arizona	
<b>Return without payment:</b>	<b>Return with payment:</b>
Austin, TX 73301-0042	P.O. Box 7749 San Francisco, CA 94120-7749

Florida, Georgia	
<b>Return without payment:</b>	<b>Return with payment:</b>
Austin, TX 73301-0042	P.O. Box 105092 Atlanta, GA 30348-5092

New Mexico, Texas	
<b>Return without payment:</b>	<b>Return with payment:</b>
Austin, TX 73301-0042	P.O. Box 970018 St. Louis, MO 63197-0018

Arkansas	
<b>Return without payment:</b>	<b>Return with payment:</b>
Cincinnati, OH 45999-0042	P.O. Box 1213 Charlotte, NC 28272-1213

Kentucky, Ohio, West Virginia	
<b>Return without payment:</b>	<b>Return with payment:</b>
Cincinnati, OH 45999-0042	P.O. Box 5783 Chicago, IL 60680-5783

New York (ZIP Codes: 11202 and 10008)	
<b>Return without payment:</b>	<b>Return with payment:</b>
Cincinnati, OH 45999-0042	P.O. Box 1389 Newark, NJ 07101-1389

New York (all other ZIP Codes), Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	
<b>Return without payment:</b>	<b>Return with payment:</b>
Cincinnati, OH 45999-0042	P.O. Box 371441 Pittsburgh, PA 15250-7441

Illinois, Iowa, Kansas, Minnesota, Missouri, Oklahoma, Wisconsin

<b>Return without payment:</b>	<b>Return with payment:</b>
Kansas City, MO 64999-0042	P.O. Box 970019 St. Louis, MO 63197-0019

Indiana, Michigan

<b>Return without payment:</b>	<b>Return with payment:</b>
Kansas City, MO 64999-0042	P.O. Box 5783 Chicago, IL 60680-5783

Nebraska, North Dakota, South Dakota

<b>Return without payment:</b>	<b>Return with payment:</b>
Kansas City, MO 64999-0042	P.O. Box 7749 San Francisco, CA 94120-7749

Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Virginia

<b>Return without payment:</b>	<b>Return with payment:</b>
Memphis, TN 37501-0042	P.O. Box 1389 Newark, NJ 07101-1389

North Carolina, Tennessee

<b>Return without payment:</b>	<b>Return with payment:</b>
Memphis, TN 37501-0042	P.O. Box 1213 Charlotte, NC 28272-1213

South Carolina

<b>Return without payment:</b>	<b>Return with payment:</b>
Memphis, TN 37501-0042	P.O. Box 105092 Atlanta, GA 30348-5092

Alaska, Colorado, Idaho, Montana, Nevada, Oregon, Wyoming, Utah, Washington, California (ZIP Codes: 90053 and 95660)

<b>Return without payment:</b>	<b>Return with payment:</b>
Ogden, UT 84201-0042	P.O. Box 7749 San Francisco, CA 94120-7749

California (all other ZIP Codes), Hawaii

<b>Return without payment:</b>	<b>Return with payment:</b>
Ogden, UT 84201-0042	P.O. Box 60000 Los Angeles, CA 90060-6000

If you have no legal residence or principal place of business in any state

**All returns:**  
Philadelphia, PA 19255-0005

**Employer identification number (EIN).**—If you do not have an EIN, apply for one on **Form SS-4**, Application for Employer Identification Number. Get this form from the IRS or the Social Security Administration (SSA). If you do not have an EIN by the time the return is due, write "Applied for" and the date you applied in the space shown for the number.

**Note:** *If you are reporting withholding on pension plan distributions, be sure to be consistent in using the same EIN for all reporting and depositing of a liability (e.g., on Forms 945, 1099-R, and 8109). Filing Form 945 with an incorrect EIN or failure to use the same EIN in all reporting and depositing of a liability may result in penalties and delays in processing your return.*

**Penalties and interest.**—There are penalties for filing Form 945 late and paying or depositing taxes late, unless there is reasonable cause. There are also penalties for willful failure to (1) file returns and pay taxes when due, (2) furnish information returns (e.g., Form 1099-MISC, 1099-R, or W-2G) to payees and file copies with the IRS, (3) keep records, and

(4) deposit when required. Penalties also apply if you file a false return or submit a bad check. Interest is charged on taxes paid late at the rate set by law. See Circular E for additional information on penalties.

**Caution:** *A trust fund recovery penalty may apply when income taxes that should be withheld are not withheld or are not paid to the IRS. Under this penalty, certain officers or employees of a corporation, employees of a sole proprietorship, or partners or employees of a partnership, become personally liable for payment of the taxes and are penalized an amount equal to the unpaid taxes. This penalty may be applicable when these unpaid taxes cannot 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, and paying over these taxes, and who acted willfully in not doing so. Willfully in this case means voluntarily, consciously, and intentionally.*

**Depositing withheld taxes.**—Separate deposits are required for nonpayroll (Form 945) income tax withholding. **Do not** combine deposits for Form 941 and Form 945 tax liabilities. Be sure to mark the checkbox for Form 945 on **Form 8109**, Federal Tax Deposit Coupon.

Do not use the deposit coupons to pay delinquent taxes for which you have received a notice from the IRS. Send those payments directly to your Internal Revenue Service Center with a copy of any related IRS notice.

Although payroll and nonpayroll tax liabilities must be reported and deposited separately, the rules on how and when to deposit are the same, except for the rules for determining your deposit schedule (discussed below). See section 11 of Circular E for a detailed discussion of the deposit rules.

**Deposit schedules for 1995 and 1996.**—Your Form 945 deposit schedules for 1995 and 1996 are determined as follows:

- For 1995, use the same deposit schedule (monthly or semiweekly) you used for 1994.
- If you are a new business and did not file Form 945 for 1994 or Forms 941 or 941E for 1993, you are a monthly schedule depositor for 1995.

For 1996, you are a monthly schedule depositor if the total tax reported on the 1994 Form 945 was \$50,000 or less. If the total tax reported for 1994 exceeded \$50,000, you must deposit using the semiweekly schedule.

**Caution:** *If you have a monthly deposit schedule and accumulate a \$100,000 liability or more on any day during a month, your deposit schedule changes to semiweekly for the remainder of the year and the following year. See section 11 of Circular E for more information on the deposit rules.*

**State code.**—If you made all your deposits with a Federal Reserve bank or authorized financial institution located in the same state shown in your address on Form 945, **do not** make an entry in the state code box. If you made all these deposits in one state other than the state shown in your address on Form 945, enter the Postal Service two-letter state abbreviation for that state in the state code box. If you made deposits with depositaries in more than one state, enter "MU" in the state code box.

## Specific Instructions

**Line 1.**—Enter the income tax you withheld on pensions, annuities, IRAs, military retirement, Indian gaming profits, and gambling winnings (regular gambling withholding only). If you are required to report income tax withholding on Forms 1099 (e.g., Form 1099-R) or Form W-2G, you must report the liability on Form 945. Withholding reported on Form W-2 must be reported on Form 941.

**Line 2.**—Enter income tax withheld as backup withholding. Include backup withholding on gambling winnings.

**Line 3—Adjustments to correct administrative errors.—**

You cannot make an adjustment on Form 945 to correct income tax withholding or backup withholding reported in a prior calendar year unless it is to correct an **administrative error**. An administrative error occurs if the amount you entered on Form 945 is not the amount you actually withheld. For example, if the total income tax actually withheld was incorrectly reported on Form 945 due to a mathematical or transposition error, this would be an administrative error. The administrative error adjustment corrects the amount reported on Form 945 to agree with the amount actually withheld from nonpayroll payments. You must report an adjustment to correct an administrative error on Form 945 in the year in which the error was discovered. If the net adjustment is negative (reducing your tax liability), enclose the amount reported on line 3 in parentheses.

You will not be allowed a refund or credit for any prior year overpayment of income tax that you withheld from a payee. This is because the payees use the amount of withholding shown on the information return (e.g., Form 1099-R) as a credit when filing their income tax return.

If you are making an adjustment(s) to correct a prior year administrative error, report the net adjustment (including adjustments to income tax withholding **and** backup withholding) on line 3. Complete **Form 941c**, Supporting Statement To Correct Information, or an equivalent statement, and file it with Form 945 to provide the required background information on the adjustment(s). Be sure to identify the adjustment(s) in the supporting statement (Part V of Form 941c) as correcting an administrative error and provide a description of the error(s). **Do not** file Form 941c separately from Form 945.

The amount of the adjustment(s) must also be taken into account in the record of Federal tax liability (line 8 of Form 945 or **Form 945-A**, Annual Record of Federal Tax Liability). If the administrative error adjustment increases your tax liability, include the adjustment with any other amount on the entry space corresponding to the date the error was discovered. If the adjustment decreases your tax liability, use the adjustment amount as a credit to offset subsequent liabilities until it is used up. (See section 13 of Circular E for

more information. The Circular E instructions for making adjustments refer to Form 941, but also apply to Form 945 adjustments.)

**Line 4—Total taxes.—**Add lines 1 and 2 and add or subtract the net adjustment on line 3. This amount must equal the total liability for the year reported on line 8M of the Monthly Summary of Federal Tax Liability, or line M of Form 945-A.

**Line 5—Total deposits.—**Enter the total deposits for the year, including any overpayment applied from the prior year.

**Line 6—Balance due.—**You should have a balance due only if your total tax liability for the year (line 4) is less than \$500. (However, see section 11 of Circular E regarding payments made under the Accuracy of Deposits rule.) Enter your EIN, "Form 945," and the tax year to which the payment applies on your check or money order. If line 4 is \$500 or more and you have deposited all taxes when due, the amount shown on line 6 should be zero.

**Caution:** *If you fail to make required deposits at an authorized financial institution and instead pay these amounts with your return, you may be subject to a penalty.*

**Line 7—Overpayment.—**If you deposited more than the correct amount for the year, you can have the overpayment refunded or applied to your next return by checking the appropriate box. The IRS may apply your overpayment to any past due tax account under your EIN.

**Line 8—Monthly summary of Federal tax liability.—**

**Note:** *This is a summary of your monthly tax liability, NOT a summary of deposits made. If line 4 is less than \$500, do not complete line 8 or Form 945-A.*

Complete line 8 if you have a monthly deposit schedule. (See **Depositing withheld taxes** on page 2.)

However, if you were a monthly schedule depositor for 1995 and during any month you accumulated a nonpayroll liability of \$100,000 or more, you immediately became a semiweekly schedule depositor for the remainder of 1995 and for 1996. (See section 11 of Circular E for more details.)

If you are a semiweekly schedule depositor for 1995 or accumulated a \$100,000 liability or more during a deposit period, do not complete entries A through M of line 8. Instead, complete and file Form 945-A with Form 945.

