

2004



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.

General Instructions

Purpose of form. Use Form 945 to report withheld federal income tax from nonpayroll payments.

Nonpayroll payments include the following:

- Pensions (including **governmental** section 457(b) plan distributions), annuities, and IRA distributions
- Military retirement
- Gambling winnings
- Indian gaming profits
- Voluntary withholding on certain government payments
- Backup withholding

Report all federal income tax withholding from nonpayroll payments or distributions annually on one Form 945. **Do not** file more than one Form 945 for any calendar year.

All federal income tax withholding reported on Forms 1099 (for example, Form 1099-R or 1099-MISC) or Form W-2G must be reported on Form 945. **Do not** report federal income tax withholding from wages on Form 945.

All employment taxes and federal income tax withholding reported on Form W-2, Wage and Tax Statement, must be reported on Form 941 (or Form 943 for agricultural employees), Schedule H (Form 1040) for household employees, or Form CT-1 for railroad employees.

Do not report on Form 945 federal income tax withheld on distributions to participants from nonqualified pension plans (including **nongovernmental** section 457(b) plans) and some other deferred compensation arrangements that are treated as wages and are reported on Form W-2. Report such withholding on Form 941. See Publication 15 (Circular E), Employer's Tax Guide, for more information.

Additional information. Publication 15 (Circular E) explains the rules for withholding, depositing, and reporting federal income tax. Publication 15-A, Employer's Supplemental Tax Guide, includes information on federal income tax withholding from pensions, annuities, and Indian gaming profits. For information on withholding from gambling winnings, see the Instructions for Forms W-2G and 5754.

Telephone Help. You can call the IRS toll free at 1-800-829-4933 to order FTD coupons (Form 8109) and for answers to your questions about completing Form 945, tax deposit rules, or obtaining an employer identification number (EIN).

How to get forms and publications. You can get most IRS forms and publications by accessing the IRS website at www.irs.gov or by calling the IRS at 1-800-TAX-FORM (1-800-829-3676). See Publication 15 (Circular E) for details and other options.

Who must file. If you withhold federal income tax (including backup withholding) from nonpayroll payments, you must file Form 945. See *Purpose of form* above. You are not required to file Form 945 for those years in which you do not have a nonpayroll tax liability. **Do not** report on Form 945 withholding that is required to be reported on Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons.

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



Where you file depends on whether or not you are including a payment with the return.

Connecticut, Delaware, District of Columbia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, Wisconsin

Return without payment:

Cincinnati, OH 45999-0042

Return with payment:

P.O. Box 105092
Atlanta, GA 30348-5092

Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Georgia, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, Wyoming

Return without payment:

Ogden, UT 84201-0042

Return with payment:

P.O. Box 660443
Dallas, TX 75266-0443

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

Return without payment:

Philadelphia, PA 19255-0042

Return with payment:

P.O. Box 80108
Cincinnati, OH 45280-0008

Exception for exempt organizations and government entities. If you are filing Form 945 for an exempt organization or government entity (federal, state, local, or Indian tribal government), use the following addresses, regardless of your location:

Return without payment: Ogden, UT 84201-0042.

Return with payment: P.O. Box 660443, Dallas, TX 75266-0443.

When to file. For 2004, file Form 945 by January 31, 2005. However, if you made deposits on time in full payment of the taxes for the year, you may file the return by February 10, 2005. Your return will be considered timely filed if it is properly addressed and mailed First-Class or sent by an IRS-designated private delivery service on or before the due date. See Publication 15 (Circular E) for more information on IRS-designated private delivery services.

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 by calling 1-800-TAX-FORM (1-800-829-3676) or from the IRS website at www.irs.gov/smallbiz. If you do not have an EIN by the time your 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 distributions, be sure to be consistent in using the same name and EIN for all reporting and depositing of taxes (for example, on Forms 945, 1099-R, and 8109/EFTPS). Filing Form 945 with an incorrect name and EIN or failure to use the same name and EIN in all reporting and depositing of taxes may result in penalties and delays in processing your return.

Penalties and interest. There are penalties for filing Form 945 late and for paying or depositing taxes late, unless there is reasonable cause. See section 11 of Publication 15 (Circular E) for more information on deposit penalties. There are also penalties for failure to furnish information returns (for example, Forms 1099-MISC, 1099-R, or W-2G) to payees and failure to file copies with the IRS.



If amounts that must be withheld are not withheld or are not deposited or paid to the United States Treasury, the trust fund recovery penalty may apply. The penalty is the full amount of any unpaid trust fund tax. This penalty may apply 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 have been 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. A responsible person acts willfully if the person knows that the required actions are not taking place.

Voluntary income tax withholding. States must allow **unemployment compensation** recipients to elect to have federal income tax withheld at a 10% rate in 2005. Recipients paid under the Railroad Unemployment Insurance Act may also elect withholding at a 10% rate in 2005.

Recipients of any of the following federal payments may request federal income tax withholding in 2005 at a rate of 7%, 10%, 15%, or 25% on:

- Social security and Tier 1 railroad retirement benefits,
- Certain crop disaster payments, and
- Commodity Credit Corporation loans.

The payee may request withholding on Form W-4V, Voluntary Withholding Request, or you may develop your own substitute form. Any voluntary withholding on these payments must be reported on Form 945 (and on Form 1099-G) and is subject to the deposit rules.

Depositing Withheld Taxes

Deposit all nonpayroll (Form 945) withheld federal income tax, including backup withholding, using Form 8109, Federal Tax Deposit Coupon, at an authorized financial institution, unless you are required to use the EFTPS electronic deposit system (see below). Combine all Form 945 taxes for deposit purposes. **Do not** combine deposits for Forms 941, 943, or CT-1 with deposits for Form 945. If you deposit using Form 8109, be sure to darken the space for Form "945" on Form 8109.

Generally, the deposit rules that apply to Form 941 also apply to Form 945. However, because Form 945 is an annual return, the rules for determining your deposit schedule (discussed below) are different from those for Form 941. See section 11 of Publication 15 (Circular E) for a detailed discussion of the deposit rules.

Determining your deposit schedule. There are two deposit schedules—**monthly** or **semiweekly**—for determining when you must deposit withheld federal income tax. These schedules tell you when a deposit is due after a tax liability arises (that is, you make a payment subject to federal income tax withholding, including backup withholding). Before the beginning of each calendar year, you must determine which of the two deposit schedules you must use.

For 2005, you are a monthly schedule depositor for Form 945 if the total tax reported on your 2003 Form 945 (line 4) was \$50,000 or less. If the total tax reported for 2003 exceeded \$50,000, you are a semiweekly schedule depositor.



If you are a monthly schedule depositor and accumulate a \$100,000 liability or more on any day during a calendar month, your deposit schedule changes to semiweekly for the remainder of the year and for the following year. For more information, see the \$100,000 next-day deposit rule in section 11 of Publication 15 (Circular E).

Electronic deposit requirement. You must make electronic deposits of all depository taxes (such as employment tax, withheld income tax, excise tax, and corporate income tax) using the Electronic Federal Tax Payment System (EFTPS) in 2005 if:

- The total deposits of such taxes in 2003 were more than \$200,000 or
 - You were required to use EFTPS in 2004.
- If you are required to use EFTPS and use Form 8109 instead, you may be subject to a 10% penalty. If you are not required to use EFTPS, you may participate voluntarily. To enroll in or get more information about EFTPS, call 1-800-555-4477 or 1-800-945-8400. To enroll online, visit www.eftps.gov.

Specific Instructions

State code. If you made your deposits using Form 8109 or by using an EFTPS bank account in a state other than that shown in your address on Form 945, enter the state code for the state where you made deposits or initiated EFTPS transfers in the box provided in the upper left corner of Form 945. Use the Postal Service two-letter state abbreviation as the state code. Enter the code "MU" in the state code box if you deposit in more than one

state. If you deposit in the **same state** as shown in your address, **do not** make an entry in this box.

Line A—Final return. If you go out of business or end operations and you will not be required to file Form 945 in the future, file a final return. Be sure to check the final return box and enter the date that final nonpayroll payments were made.

Line 1—Federal income tax withheld. Enter the federal income tax that you withheld from pensions (including distributions from **governmental** section 457(b) plans), annuities, IRA distributions, military retirement, Indian gaming profits, and gambling winnings (regular gambling withholding only). Also enter any voluntary amount that you withheld on certain government payments. If you are required to report federal income tax withholding on Forms 1099 (for example, Form 1099-R or Form W-2G), you must report the federal income tax withheld on Form 945.

Note. Federal income tax withholding reported on Form W-2 **must** be reported on Form 941, Form 943, or Schedule H (Form 1040), as appropriate.

Line 2—Backup withholding. Enter any backup withholding, including backup withholding on gambling winnings.

Regulated investment companies (RICs) and real estate investment trusts (REITs) must report any backup withholding on Form 945 in the year that the dividends are actually paid. This includes January payments of dividends declared during October, November, and December of the prior year. See the Instructions for Form 1099-DIV for special reporting requirements.

Line 3—Adjustment to correct administrative errors. You cannot make an adjustment on Form 945 to correct federal 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 that you actually withheld. For example, if the total federal income tax actually withheld was incorrectly reported on Form 945 due to a math or transposition error, this is 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 you discover the error. If the net adjustment is negative (reducing your tax liability), enclose the amount reported on line 3 in parentheses (if possible).

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

If you are making an adjustment(s) to correct a prior year administrative error, report the net adjustment (including adjustments to federal 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 information on the adjustment(s). Be sure to identify the adjustment(s) in the *Explanation of Adjustments* (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.

Reporting adjustments on line 8 or on Form 945-A. The amount of the adjustment(s) also must be taken into account in the Monthly Summary of Federal Tax Liability (line 8) or on Form 945-A, Annual Record of Federal Tax Liability. If the adjustment increases your tax liability, include the adjustment with any other amount on the entry space for the date that you discovered the error and increase any required deposit by the adjustment amount. If the adjustment decreases your tax liability, use the adjustment amount as a credit to offset subsequent liabilities on line 8 or Form 945-A until it is used up. For more information, see section 13 of Publication 15 (Circular E). The Publication 15 instructions for making adjustments refer to Form 941 but also apply to Form 945 adjustments.



If you are not required to complete line 8 or Form 945-A because your total taxes are less than \$2,500, do not show adjustments on line 8 or on Form 945-A.

Line 4—Total taxes. Add lines 1 and 2 and add or subtract any net adjustment on line 3. If total taxes are \$2,500 or more, the amount reported on line 4 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 your total Form 945 deposits for the year, including any overpayment applied from your 2003 return.

Line 6—Balance due. You do not have to pay if line 6 is under \$1. You should have a balance due only if your total taxes for the year (line 4) are less than \$2,500. If you made payments made under the accuracy of deposits rule, see section 11 of Publication 15 (Circular E). Enter your EIN, "Form 945," and "2004" on your check or money order and make it payable to the "United States Treasury." If line 4 is \$2,500 or more and you deposited all taxes when due, the amount on line 6 should be zero.



If you fail to make required deposits (using EFTPS or Form 8109, as required) 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. If line 7 is under \$1, we will send a refund or apply it to your next return only on written request.

Line 8—Monthly Summary of Federal Tax Liability.



This is a summary of your monthly tax liability, not a summary of deposits made. If line 4 is less than \$2,500, do not complete line 8 or Form 945-A.

Complete line 8 **only** if you were a **monthly schedule depositor** for the entire year and line 4 is \$2,500 or more. See *Determining your deposit schedule* on page 2.



The amount entered on line 8M must equal the amount reported on line 4.

Report your liabilities on Form 945-A instead of on line 8 if:

- You were a **semiweekly schedule depositor** during 2004. **Do not** complete entries A through M of line 8. Instead, complete and file Form 945-A with Form 945.
- You were a **monthly schedule depositor** for 2004 and during any month you accumulated nonpayroll taxes of \$100,000 or more. Because this converted you to a semiweekly schedule depositor for the remainder of 2004 (and for 2005), you must report your liabilities on Form 945-A for the entire year. **Do not** complete entries A through M of line 8. For more information, see the *\$100,000 Next-Day Deposit Rule* in section 11 of Publication 15 (Circular E).

Third-Party Designee. If you want to allow any individual, corporation, firm, organization, or partnership to discuss your 2004 Form 945 with the IRS, check the "Yes" box in the Third-Party Designee section of the return. Also, enter the name, phone number, and any five numbers that the designee chooses as his or her personal identification number (PIN). The authorization applies only to the tax form upon which it appears.

By checking the "Yes" box, you are **authorizing** the IRS to call the designee to answer any questions relating to the information reported on your tax return. You are also authorizing the designee to:

- Exchange information concerning your tax return with the IRS and
- Request and receive written tax return information relating to your tax return including copies of specific notices, correspondence, and account transcripts.

You are **not authorizing** the designee to receive any refund check, bind you to anything (including additional tax liability), or otherwise represent you before the IRS. If you want to expand the designee's authorization or desire automatic issuances of copies of notices, see Publication 947, Practice Before the IRS and Power of Attorney.

The Third-Party Designee authorization is substantially equivalent to Form 8821, Tax Information Authorization, but automatically **expires** one year from the due date (without regard to extensions) for filing your 2004 Form 945. If you or your designee desire to terminate the authorization, a written statement conveying your wish to revoke the authorization should be submitted to the IRS service center where the return was processed.

Who must sign. Form 945 must be signed as follows:

- **Sole proprietorship** — The individual owning the business.
- **Corporation** (including an LLC treated as a corporation) — The president, vice president, or other principal officer.
- **Partnership** (including an LLC treated as a partnership) **or unincorporated organization** — A responsible and duly authorized member or officer having knowledge of its affairs.

- **Single member limited liability company (LLC) treated as a disregarded entity** — The owner of the limited liability company (LLC).
- **Trust or estate** — The fiduciary.

The return may also be signed by a duly authorized agent of the taxpayer if a valid power of attorney has been filed.

Privacy Act and Paperwork Reduction Act Notice.

We ask for the information on Form 945 to carry out the Internal Revenue laws of the United States. We need it to figure and collect the right amount of tax. Sections 3402, 3405, and 3406 of the Internal Revenue Code require taxpayers to pay over to the IRS federal income tax withheld from certain nonpayroll payments and distributions, including backup withholding. Form 945 is used to determine the amount of the taxes that you owe. Section 6011 requires you to provide the requested information if the tax applies to you. Section 6109 requires you to provide your employer identification number (EIN). If you fail to provide this information in a timely manner, you may be subject to penalties and interest.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law.

Generally, tax returns and return information are confidential, as required by section 6103. However, section 6103 allows or requires the Internal Revenue Service to disclose or give the information shown on your tax return to others described in the Code. For example, we may disclose your tax information to the Department of Justice for civil and criminal litigation, and to cities, states, and the District of Columbia for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, or to federal and state agencies to enforce federal nontax criminal laws and to combat terrorism.

The time needed to complete and file Form 945 will vary depending on individual circumstances. The estimated average time is: **Recordkeeping**, 7 hr., 9 min.; **Learning about the law or the form**, 47 min.; and **Preparing and sending the form to the IRS**, 56 min. If you have comments concerning the accuracy of these time estimates or suggestions for making Form 945 simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, Washington, DC 20224. **Do not** send Form 945 to this address. Instead, see *Where to file* on page 1.
