



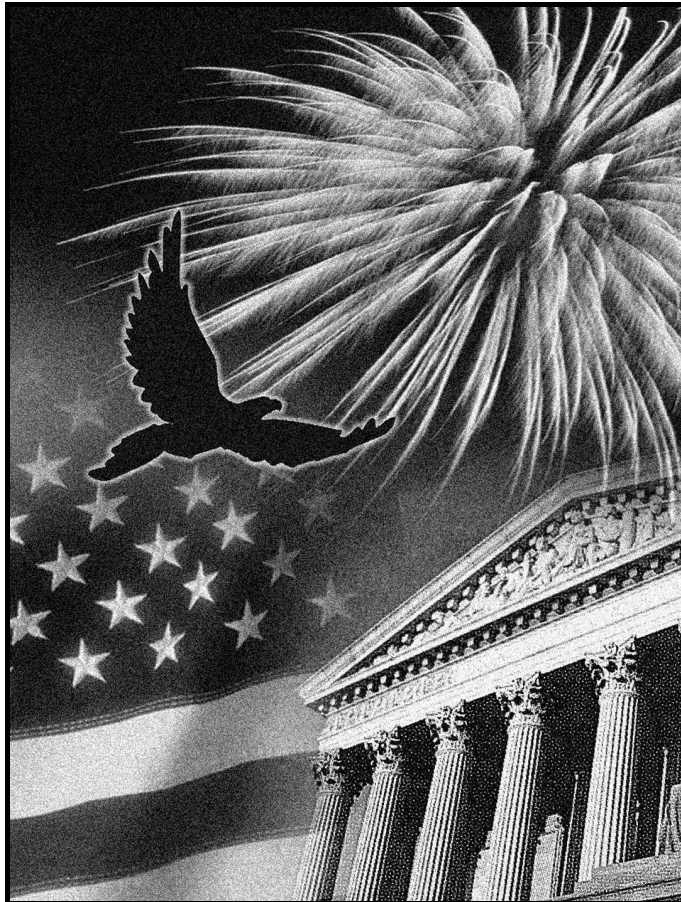
Department of the Treasury  
Internal Revenue Service

**Publication 51**

Cat. No. 10320R

**(Circular A),  
Agricultural  
Employer's  
Tax Guide**

For use in **2009**



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**What's New**

This publication reflects changes included in the recently enacted American Recovery and Reinvestment Act of 2009 (ARRA).

**New tables for wage withholding and advance earned income credit (EIC) payments.** New tables for wage withholding and advance earned income credit (EIC) payments have been developed due to changes made to the tax law by ARRA.

The federal income tax withholding percentage tables, federal income tax withholding wage bracket tables, and advance EIC tables have been removed from this revision and can now be found on pages 3–35 in [Publication 15-T, New Wage Withholding and Advance Earned Income Credit Payment Tables \(For Wages Paid Through December 2009\)](#). Publication 15 (Circular E), Employer's Tax Guide, will use the new tables found in Publication 15-T also.

The Publication 15-T also includes the new tables for alternative methods for figuring withholding from Publication 15-A, Employer's Supplemental Tax Guide.

The new withholding tables in Publication 15-T also apply for figuring income tax withholding on pension payments.

Employers should begin using these tables as soon as possible after February 17, 2009, but no later than April 1, 2009.

**Withholding income taxes on the wages of nonresident alien employees.** Due to changes enacted by ARRA, new higher amounts in the chart titled [Amount to Add to Nonresident Alien Employee's Wages for Calculating Income Tax Withholding Only](#) on page 11 in section 5 must be used with new withholding tables to figure income tax withholding on the wages of nonresident alien employees.

**COBRA premium assistance credit.** ARRA allows a credit against employment taxes for providing COBRA premium assistance for certain involuntarily terminated employees once the employees' reduced share of the premiums has been paid. See [COBRA premium assistance credit](#) in the *Introduction*.

**Social security and Medicare tax for 2009.** Do not withhold social security tax after an employee reaches \$106,800 in social security wages. There is no limit on the amount of wages subject to Medicare tax. Social security and Medicare taxes apply to the wages of household workers you pay \$1,700 or more in cash.

**Credit card payments.** You can pay the balance due on Form 943 by using your credit card. However, you cannot deposit taxes through your credit card. See [Credit card payments](#) in the *Reminders* section.

**New employment tax adjustment and claim process in 2009.** If you discover an error on a previously filed Form 943, Employer's Annual Federal Tax Return for Agricultural Employees, after December 31, 2008, make the correction using Form 943-X, Adjusted Employer's Annual Federal Tax Return for Agricultural Employees or Claim for Refund. Form 943-X is a stand-alone form that allows employers to correct errors immediately after an error is discovered. Employers no longer have to wait until the end of a year to make adjustments by filing Form 941c, Supporting Statement To Correct Information, with Form 943. Claim for refund or abatement of employment taxes previously made on Form 843, Claim for Refund and Request for Abatement, are now made on Form 943-X. See [section 9](#) and get the Instructions for Form 943-X for additional information. For more information, visit the IRS website at [www.irs.gov](http://www.irs.gov) and enter the keywords *Correcting Employment Taxes*.

**Disregarded entities and qualified subchapter S subsidiaries (QSubs).** The IRS has published final regulations (Treasury Decision 9356) under which QSubs and eligible single-owner disregarded entities are treated as separate entities for employment tax purposes. For more information, see Publication 15 (Circular E).

**Differential wage payments.** Qualified differential wage payments made to former employees serving in the Armed Forces after 2008 are subject to income tax withholding but not social security, Medicare, or FUTA taxes. For more information, see Publication 15 (Circular E).

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## Reminders

**Additional employment tax information.** Visit the IRS website at [www.irs.gov/businesses](http://www.irs.gov/businesses) and select the "Employment Taxes for Businesses" link for a list of employment tax topics. For employment tax information by telephone, call 1-800-829-4933; or call IRS TeleTax at 1-800-829-4477 for recorded information by topic.

**Change of address.** If you changed your business mailing address or business location, notify the IRS by filing Form 8822, Change of Address. For information on how to change your address for deposit coupons, see [Making deposits with FTD coupons](#) in section 7.

**Electronic payment.** Now, more than ever before, businesses can enjoy the benefits of paying their taxes electronically. Whether you rely on a tax professional or handle your own taxes, the IRS offers you convenient programs to make it easier.

Spend less time and worry on taxes and more time running your business. Use Electronic Federal Tax Payment System (EFTPS) to your benefit.

For EFTPS, visit [www.eftps.gov](http://www.eftps.gov) or call EFTPS Customer Service at 1-800-555-4477 (Business) or 1-800-316-6541 (Individual).

Use the electronic options available from IRS and make filing and paying taxes easier. For more information, see Publication 966, The Secure Way to Pay Your Federal Taxes.

**Credit card payments.** You can use your American Express Card®, Discover® Card, MasterCard® card, or Visa® card to pay the balance due shown on Form 943. To pay by credit card, call the toll-free number or visit the website of either service provider listed below. You will be charged a convenience fee for this service. You can find out the amount of the fee by calling below or visiting the website.

You cannot use your credit card to deposit taxes. More information about credit card payments is available on the IRS website. Go to [www.irs.gov](http://www.irs.gov) and click on the electronic IRS link.

- Official Payments Corporation  
1-800-2PAY-TAX (1-800-272-9829)  
1-877-754-4413 (Customer Service)  
[www.officialpayments.com](http://www.officialpayments.com)
- Link2Gov Corporation  
1-888-PAY-1040 (1-888-729-1040)  
1-888-658-5465 (Customer Service)  
[www.PAY1040.com](http://www.PAY1040.com)

**When you hire a new employee.** Ask each new employee to complete the 2009 Form W-4, Employee's Withholding Allowance Certificate, or its Spanish version, Formulario W-4(SP). Also, ask the employee to show you his or her social security card so that you can record the employee's name and social security number accurately. If the employee has lost the card or recently changed names, have the employee apply for a duplicate or corrected card. If the employee does not have a card, have the employee apply for one on Form SS-5, Application for a Social Security Card. See section 1.

**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 the form from USCIS offices or by calling 1-800-870-3676. Contact the USCIS at 1-800-375-5283, or visit the USCIS website at [www.uscis.gov](http://www.uscis.gov) for further information.

**New hire reporting.** You are required to report any new employee to a designated state new-hire registry. Many states accept a copy of Form W-4 with employer information added. Call the Office of Child Support Enforcement at 202-401-9267 (not toll free), or visit its website at [www.acf.hhs.gov/programs/cse/newhire](http://www.acf.hhs.gov/programs/cse/newhire) for more information.

**Forms in Spanish.** You can provide Formulario W-4(SP), Certificado de Exención de Retenciones del Empleado, in place of Form W-4, Employee's Withholding Allowance Certificate, to your Spanish-speaking employees. For more information, see Publicación 17(SP), El Impuesto Federal sobre los Ingresos (Para Personas Físicas). You may also provide Formulario W-5(SP), Certificado del Pago por Adelantado del Crédito por Ingreso del Trabajo, in place of Form W-5, Earned Income Credit Advance Payment Certificate.

For nonemployees, 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.

References in this publication to Form W-4, Form W-5, or Form W-9 also apply to their equivalent Spanish translations—Formulario W-4(SP), Formulario W-5(SP), or Formulario W-9(SP).

**Information returns.** You may 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 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 2009 General Instructions for Forms 1099, 1098, 5498, and W-2G for general information and the separate, specific instructions for each information return that you file (for example, 2009 Instructions for Form 1099-MISC). Do

not use Forms 1099 to report wages or other compensation that you paid to employees; report these amounts on Form W-2.

See the separate Instructions for Forms W-2 and W-3 for details about filing Forms W-2 and for information about required electronic filing. If you file 250 or more Forms W-2, you must file them electronically. SSA will not accept Forms W-2 and W-3 filed on any magnetic media.



*After December 1, 2008, you cannot file Forms 1099 using magnetic media.*

**Information reporting call site.** The IRS operates a centralized call 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, you may call 1-866-455-7438 (toll free) or 304-263-8700 (not toll free). Hearing-impaired individuals may use the TTY/TTD service at 304-267-3367 (not toll free). The call site can also be reached by email at [mccirp@irs.gov](mailto:mccirp@irs.gov).

**Private delivery services.** You can use certain private delivery services designated by the IRS to send tax returns and payments. The list includes only the following.

- DHL Express (DHL): DHL Same Day Service; DHL Next Day 10:30 am; DHL Next Day 12:00 pm; DHL Next Day 3:00 pm; and DHL 2nd Day Service.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day, FedEx International Priority, and FedEx International First.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

Your private delivery service can tell you how to get written proof of the mailing date.



*Private delivery services cannot 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.*

**Web-based application for an employer identification number (EIN).** You can apply for an employer identification number (EIN) online by visiting the IRS website at [www.irs.gov/smallbiz](http://www.irs.gov/smallbiz) and selecting "Employer ID Numbers (EINs)."

**When a crew leader furnishes workers to you.** Record the crew leader's name, address, and EIN. See sections 2, 10, and 11.

**Contacting your Taxpayer Advocate.** If you have attempted to deal with an IRS problem unsuccessfully, you should contact your Taxpayer Advocate.

The Taxpayer Advocate independently represents your interests and concerns within the IRS by protecting your



rights and resolving problems that have not been fixed through normal channels. While Taxpayer Advocates cannot change the tax law or make a technical tax decision, they can clear up problems that resulted from previous contacts and ensure that your case is given a complete and impartial review.

To contact your Taxpayer Advocate:

- Call the Taxpayer Advocate toll free at 1-877-777-4778;
- Call, write, or fax the Taxpayer Advocate office in your area;
- Call 1-800-829-4059 if you are a TTY/TDD user; or
- Visit [www.irs.gov/advocate](http://www.irs.gov/advocate).


For more information, see Publication 1546, Taxpayer Advocate Service: Your Voice at the IRS (now available in Chinese, Korean, Russian, and Vietnamese, in addition to English and Spanish).

**Photographs of missing children.** The Internal Revenue Service is a proud partner with the National Center for Missing and Exploited Children. 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.

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## Calendar

The following are important dates and responsibilities. See [section 7](#) for information about depositing taxes reported on Forms 941, 943, 944, and 945. Also see Publication 509, Tax Calendars for 2009.

 *If any date shown below falls on a Saturday, Sunday, or legal holiday, the due date is the next business day. A statewide legal holiday delays a filing due date only if the IRS office where you are required to file is located in that state. For any due date, you will meet the “file” or “furnish” requirement if the form is properly addressed and mailed First-Class or sent by an IRS-designated delivery service by the due date. See [Private delivery services](#) earlier.*

### By January 31

- File Form 943, Employer’s Annual Federal Tax Return for Agricultural Employees, with the Internal Revenue Service. See [section 8](#). If you deposited all Form 943 taxes when due, you have 10 additional calendar days to file.
- Furnish each employee with a completed Form W-2, Wage and Tax Statement.

- Furnish each recipient to whom you paid \$600 or more in nonemployee compensation with a completed Form 1099 (for example, Form 1099-MISC, Miscellaneous Income).
- File Form 940, Employer’s Annual Federal Unemployment (FUTA) Tax Return. See [section 10](#). But if you deposited all the FUTA tax when due, you have 10 additional calendar days to file.
- File Form 945, Annual Return of Withheld Federal Income Tax, to report any nonpayroll federal income tax withheld.

### By February 15

Ask for a new Form W-4 or Formulario W-4(SP) from each employee who claimed exemption from federal income tax withholding last year.

### On February 16

Begin withholding federal income tax for any employee who previously claimed exemption from federal income tax withholding but has not given you a new Form W-4 for the current year. If the employee does not give you a new Form W-4, withhold as if he or she is single, with zero withholding allowances. The Form W-4 previously given to you claiming exemption is now expired. See [section 5](#) for more information. However, if you have an earlier Form W-4 for this employee that is valid, withhold based on the earlier Form W-4.

### By February 28

**File paper Forms 1099 and 1096.** File Copy A of all paper Forms 1099 with Form 1096, Annual Summary and Transmittal of U.S. Information Returns, with the IRS. For electronically filed returns, see [By March 31](#) below.

### By February 28

**File paper Forms W-2 and W-3.** File Copy A of all paper Forms W-2 with Form W-3, Transmittal of Wage and Tax Statements, with the Social Security Administration (SSA). For electronically filed returns, see [By March 31](#) next.

### By March 31

**File electronic Forms W-2 and 1099.** File electronic Forms W-2 with the SSA and Forms 1099 with the IRS. See Social Security’s Employer Reporting Instructions and Information webpage at [www.socialsecurity.gov/employer](http://www.socialsecurity.gov/employer) for more information about filing Forms W-2 and W-2c electronically.

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

**Deposit FUTA taxes.** Deposit FUTA tax if the undeposited amount is over \$500.

### Before December 1

Remind employees to submit a new Form W-4 if their withholding allowances have changed or will change for the next year.

## On December 31

Form W-5, Earned Income Credit Advance Payment Certificate, expires. Eligible employees who want to receive advance payments of the earned income credit for the next year must give you a new Form W-5.

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## Introduction

This publication is for employers of agricultural workers (farmworkers). It contains information that you may need to comply with the laws for agricultural labor (farmwork) relating to social security and Medicare taxes, FUTA tax, and withheld federal income tax.

If you have nonfarm employees, see Publication 15 (Circular E), Employer's Tax Guide. If you have employees in the U.S. Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands, see Publication 80 (Circular SS). Publication 15-A, Employer's Supplemental Tax Guide, contains more employment-related information, including information about sick pay and pension income. Publication 15-B, Employer's Tax Guide to Fringe Benefits, contains information about the employment tax treatment and valuation of various types of noncash compensation.

**Ordering publications and forms.** See *Quick and Easy Access to IRS Tax Help and Tax Products* at the end of this publication. You can order your 2008 and 2009 employment tax and information return forms, instructions, and publications online at [www.irs.gov/businesses](http://www.irs.gov/businesses). Select "Online Ordering for Information Returns and Employer Returns."

Instead of ordering paper Forms W-2 and W-3, consider filing them electronically using the Social Security Administration's (SSA) free e-file service. Visit SSA's Employer Reporting Instructions and Information website at [www.socialsecurity.gov/employer](http://www.socialsecurity.gov/employer), select "Electronically File Your W-2s," and provide registration information. You will be able to create and file "fill-in" versions of Forms W-2 with SSA and can print out completed copies of Forms W-2 for filing with state and local governments, distribution to your employees, and for your records. Form W-3 will be created for you based on your Forms W-2.

**Telephone help.** You can call the IRS toll free with your employment tax questions at 1-800-829-4933.

**Help for people with disabilities.** Telephone help is available using TTY/TDD equipment. You can call 1-800-829-4059 (toll free) with any question or to order forms and publications. See your tax package for the hours of operation.

**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 apply also 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.

The American Recovery and Reinvestment Act of 2009 (ARRA) allows 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 December 31, 2009, due to the involuntarily termination from employment of a covered employee during the period and elects continuation COBRA coverage. The assistance for the coverage can last up to 9 months.

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. The employer takes the credit on the 2009 Form 943 once the 35% of the premium is paid by or on behalf of the assistance eligible individual. 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 assistance payments must maintain the following information to support their claim, including the following.

- Information on the receipt, including dates and amounts, of the assistance eligible individuals' 35% share of the premium.
- In the case of an insurance plan, a copy of 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.

For more information, visit the IRS website at [www.irs.gov](http://www.irs.gov) and enter keywords *COBRA Health Insurance Continuation Premium Subsidy*.

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

You can write to us at the following address:

Internal Revenue Service  
Business Forms and Publications Branch  
SE:W:CAR:MP:T:B  
1111 Constitution Ave. NW, IR-6526  
Washington, DC 20224

We respond to many letters by telephone. Therefore, it would be helpful if you would include your daytime phone number, including the area code, in your correspondence.

You can email us at [\\*taxforms@irs.gov](mailto:*taxforms@irs.gov). (The asterisk must be included in the address.) Please put "Publications Comment" on the subject line. Although we cannot respond individually to each email, we do appreciate your feedback and will consider your comments as we revise our tax products.

**Ordering forms and publications.** Visit [www.irs.gov/formspubs](http://www.irs.gov/formspubs) to download forms and publications, call 1-800-829-3676, or write to the address below and receive a response within 10 days after your request is received.

Internal Revenue Service  
National Distribution Center  
1201 N. Mitsubishi Motorway  
Bloomington, IL 61705-6613

**Tax questions.** If you have a tax question, check the information available on [www.irs.gov](http://www.irs.gov) or call 1-800-829-1040. We cannot answer tax questions sent to either of the above addresses.

## Useful Items

You may want to see:

### Publication

- 15** (Circular E), Employer's Tax Guide
- 15-A** Employer's Supplemental Tax Guide
- 15-B** Employer's Tax Guide to Fringe Benefits
- 225** Farmer's Tax Guide

- 535** Business Expenses
- 583** Starting a Business and Keeping Records
- 1635** Understanding Your EIN

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# 1. Taxpayer Identification Numbers

If you are required to withhold any federal income, social security, or Medicare taxes, you will need an employer identification number (EIN) for yourself. Also, you will need the social security number (SSN) of each employee and the name of each employee as shown on the employee's social security card.

**Employer identification number (EIN).** An employer identification number (EIN) is a nine-digit number that 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 that you send to the IRS and SSA.

If you do not have an EIN, you may apply for one online. Go to the IRS website at [www.irs.gov](http://www.irs.gov). Click on the tab for businesses and go to "Employer ID Numbers". Click on "Apply for an EIN online" and then "apply online now." You may also apply for an EIN by calling 1-800-829-4933, or you can fax or mail Form SS-4 to the IRS. Do not use a social security number (SSN) in place of an EIN.

If you do not have an EIN by the time a return is due, write "Applied For" and the date you applied for it in the space shown for the number. If you took over another employer's business, do not use that employer's EIN.

See [Depositing without an EIN](#) in section 7 if you must make a tax deposit and you do not have an EIN.

You should have only one EIN. If you have more than one, and are not sure which one to use, call the toll-free Business and Specialty Tax Line at 1-800-829-4933 (TTY/TDD users can call 1-800-829-4059). Provide the EINs that you have, the name and address to which each number was assigned, and the address of your principal place of business. The IRS will tell you which EIN to use.

For more information, see Publication 1635, *Understanding Your EIN*, or Publication 583, *Starting a Business and Keeping Records*.

**When you receive your EIN.** If you are a new employer that indicated a federal tax obligation when requesting an EIN, you will be pre-enrolled in the Electronic Federal Tax Payment System (EFTPS). You will receive information in your Employer Identification Number (EIN) Package about Express Enrollment 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. Be sure to tell your payroll provider about your EFTPS enrollment. Consider using EFTPS to make your other federal tax payments electronically as well. You should activate your EFTPS enrollment now even if you



plan to deposit using FTD coupons (Form 8109) because it may take 5 to 6 weeks to receive the coupons and you may be required to make a deposit while waiting for them.

**Social security number (SSN).** An employee's social security number (SSN) consists of nine digits arranged as follows: 000-00-0000. You must obtain each employee's name and SSN as shown on the employee's social security card because you must enter them on Form W-2. You may, but are not required to, photocopy the social security card if the employee provides it. If you do not show the employee's correct name and SSN on Form W-2, you may owe a penalty unless you have reasonable cause. See Publication 1586, Reasonable Cause Regulations and Requirements for Missing and Incorrect Name/TINs.

**Applying for a social security card.** Any employee without a social security card can get one by completing Form SS-5, Application for a Social Security Card, and submitting the necessary documentation to SSA. You can get Form SS-5 at SSA offices, by calling 1-800-772-1213, or from the SSA website at [www.socialsecurity.gov/online/ss-5.html](http://www.socialsecurity.gov/online/ss-5.html). The employee must complete and sign Form SS-5; it cannot 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 a social security number.** If you file Form W-2 on paper and your employee has applied for an SSN but does not have one when you must file Form W-2, enter "Applied For" on the form. If you are filing electronically, enter all zeros (000-00-0000) in the social security number 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 five Forms W-2c per Form W-3c (up to 50 W-3c reports) may be created and submitted to the SSA over the Internet. For more information, visit Social Security's Employer Reporting Instructions and Information webpage at [www.socialsecurity.gov/employer](http://www.socialsecurity.gov/employer). Advise your employee to correct the SSN on his or her original Form W-2.

**Correctly record the employee's name.** Record the name and number of each employee as they are shown on the employee's social security card. If the employee's name is not correct as shown on the card (for example, because of marriage or divorce), the employee should request a corrected card from the SSA. Continue to report the employee's wages under the old name until he or she shows you an updated social security card with the new name.

If SSA issues the employee a replacement card after a name change, or a new card with a different social security number after a change in alien work status, file a Form W-2c to correct the name/SSN reported on the most recently filed Form W-2. It is not necessary to correct other years if the previous name and SSN was used for years before the most recent Form W-2.

**IRS individual taxpayer identification numbers (ITINs) for aliens.** Do not accept an individual taxpayer identification number (ITIN) in place of an SSN for either employee identification or for work. An ITIN is issued for use by resident and nonresident aliens who need identification for tax purposes, but who are not eligible for U.S. employment. The ITIN is a nine-digit number formatted like an SSN (for example, NNN-NN-NNNN). However, it begins with the number "9" and has either a "7" or "8" as the fourth digit (for example, 9NN-7N-NNNN or 9NN-8N-NNNN).



*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 a social security number](#) earlier. Do not use an ITIN in place of an SSN on Form W-2.*

**Verification of social security numbers.** The SSA offers employers and authorized reporting agents three methods for verifying employee SSNs.

- **Internet.** Verify up to 10 names and numbers (per screen) online and receive immediate results, or upload batch files of up to 250,000 names and numbers and usually receive results the next government business day. Visit [www.socialsecurity.gov/employer](http://www.socialsecurity.gov/employer) and click on the *Verify Social Security Numbers Online* link.
- **Telephone.** Verify up to five names and numbers by calling 1-800-772-6270 or 1-800-772-1213.
- **Paper.** Verify up to 300 names and numbers by submitting a paper request. For information, see Appendix A in the Social Security Number Verification System (SSNVS) Handbook at [www.socialsecurity.gov/employer/ssnvs\\_handbk.htm#appendix](http://www.socialsecurity.gov/employer/ssnvs_handbk.htm#appendix).

Some verification methods require registration. For more information, call 1-800-772-6270.

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## 2. Who Are Employees?

Generally, employees are defined either under common law or under statutes for certain situations.

**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. Get Publication 15-A, Employer's Supplemental Tax Guide, for more information on how to determine whether an individual providing services is an independent contractor or an employee.

You are responsible for withholding and paying employment taxes for your employees. You are also required to file employment tax returns. These requirements do not apply to amounts that you pay to independent contractors.

The rules discussed in this publication apply only to workers who are your employees.

In general, you are an employer of farmworkers if your employees:

- Raise or harvest agricultural or horticultural products on your farm (including the raising and feeding of livestock);
- Work in connection with the operation, management, conservation, improvement, or maintenance of your farm and its tools and equipment;
- Provide services relating to salvaging timber, or clearing land of brush and other debris, left by a hurricane (also known as hurricane labor);
- Handle, process, or package any agricultural or horticultural commodity if you produced over half of the commodity (for a group of up to 20 unincorporated operators, all of the commodity); or
- Do work for you related to cotton ginning, turpentine, gum resin products, or the operation and maintenance of irrigation facilities.

For this purpose, the term “farm” includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, as well as plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

Farmwork does not include reselling activities that do not involve any substantial activity of raising agricultural or horticultural commodities, such as a retail store or a greenhouse used primarily for display or storage.

The table on page 24, [How Do Employment Taxes Apply to Farmwork](#), distinguishes between farm and non-farm activities, and also addresses rules that apply in special situations.

## Crew Leaders

If you are a crew leader, you are an employer of farmworkers. A crew leader is a person who furnishes and pays (either on his or her own behalf or on behalf of the farm operator) workers to do farmwork for the farm operator. If there is no written agreement between you and the farm operator stating that you are his or her employee and if you pay the workers (either for yourself or for the farm operator), then you are a crew leader. For FUTA tax rules, see [section 10](#).

## Husband-Wife Business

If you and your spouse jointly own and operate a farm or nonfarm business and share in the profits and losses, you are partners in a partnership, whether or not you have a formal partnership agreement. See Publication 541, Partnerships, 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.** If you and your spouse materially participate (see *Material participation* on page F-2 of the Instructions for Schedule F) as the only members of a jointly owned and operated business, and you file a joint Form 1040, you can make a joint election to be taxed as a qualified joint venture instead of a partnership. Spouses electing qualified joint venture status are treated as sole proprietors for federal tax purposes. Either of the sole proprietor spouses may report and pay the employment taxes due on wages paid to the employees, using the EIN of that spouse’s sole proprietorship.

**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](#) above.

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## 3. Taxable Wages

Cash wages that you pay to employees for farmwork are subject to social security and Medicare taxes. If the wages are subject to social security and Medicare taxes, they are also subject to federal income tax withholding. You may also be liable for FUTA tax, which is not withheld by you or paid by the employee. FUTA tax is discussed in section 10. Cash wages include checks, money orders, etc. Do not count as cash wages the value of food, lodging, and other noncash items.

For more information on what payments are considered taxable wages, see Publication 15 (Circular E).

**Commodity wages.** Commodity wages are not cash and are not subject to social security and Medicare taxes or federal income tax withholding. However, noncash payments, including commodity wages, are treated as cash wages (see above) if the substance of the transaction is a cash payment. These noncash payments are subject to social security and Medicare taxes and federal income tax withholding.

**Family members.** Generally, the wages that you pay to family members who are your employees are subject to social security and Medicare taxes, federal income tax withholding, and FUTA tax. However, certain exemptions may apply for your child, spouse, or parent. See the table, [How Do Employment Taxes Apply to Farmwork](#), on page 24.

**Household employees.** The wages of an employee who performs household services, such as a maid, babysitter, gardener, or cook, in your home are not subject to social security and Medicare taxes if you pay that employee cash wages of less than \$1,700 in 2009.

Social security and Medicare taxes do not apply to cash wages for housework in your private home if it was done by



your spouse or your child under age 21. Nor do the taxes apply to housework done by your parent unless:

- You have a child living in your home who is under age 18 or has a physical or mental condition that requires care by an adult for at least 4 continuous weeks in a calendar quarter, and
- You are a widow or widower, or divorced and not remarried, or have a spouse in the home who, because of a physical or mental condition, cannot care for your child for at least 4 continuous weeks in the quarter.

For more information, see Publication 926, Household Employer's Tax Guide.



*Wages for household work may not be a deductible farm expense. See Publication 225, Farmer's Tax Guide.*

**Share farmers and alien workers.** You do not have to withhold or pay social security and Medicare taxes on amounts paid to share farmers under share-farming arrangements or on wages paid to alien workers admitted under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act on a temporary basis to perform agricultural labor (that is, "H-2(A)" visa workers).

## 4. Social Security and Medicare Taxes

Generally, you must withhold social security and Medicare taxes on all cash wage payments that you make to your employees.

### The \$150 Test or the \$2,500 Test

All cash wages that you pay to an employee during the year for farmwork are subject to social security and Medicare taxes and federal income tax withholding if either of the two tests below is met.

- You pay cash wages to an employee of \$150 or more in a year for farmwork (count all cash wages paid on a time, piecework, or other basis). The \$150 test applies separately to each farmworker that you employ. If you employ a family of workers, each member is treated separately. Do not count wages paid by other employers.
- The total that you pay for farmwork (cash and non-cash) to all your employees is \$2,500 or more during the year.

**Exceptions.** The \$150 and \$2,500 tests do not apply to wages that you pay to a farmworker who receives less than \$150 in annual cash wages and the wages are not subject to social security and Medicare taxes, or federal income

tax withholding, even if you pay \$2,500 or more in that year to all of your farmworkers if the farmworker:

- Is employed in agriculture as a hand-harvest laborer,
- Is paid piece rates in an operation that is usually paid on a piece-rate basis in the region of employment,
- Commutes daily from his or her permanent home to the farm, and
- Had been employed in agriculture less than 13 weeks in the preceding calendar year.

Amounts that you pay to these seasonal farmworkers, however, count toward the \$2,500-or-more test to determine whether wages that you pay to other farmworkers are subject to social security and Medicare taxes.

## Social Security and Medicare Tax Withholding

For wages paid in 2009 the social security tax rate is 6.2%, for both the employee and employer, on the first \$106,800 paid to each employee. You must withhold at this rate from each employee and pay a matching amount.

The Medicare tax rate is 1.45% each for the employer and the employee on all wages. You must withhold at this rate from each employee and pay a matching amount.

**Employee share paid by employer.** If you would rather pay a household or agricultural employee's share of the social security and Medicare taxes without withholding them from his or her wages, you may do so. If you do not withhold the taxes, however, you must still pay them. Any **employee** social security and Medicare taxes that you pay is additional income to the employee. Include it in the employee's Form W-2, box 1, but do not count it as social security and Medicare wages, boxes 3 and 5. Also, do not count the additional income as wages for FUTA tax purposes. Different rules apply to employer payments of social security and Medicare taxes for non-household and non-agricultural employees. See section 7 of Publication 15-A.

Social security and Medicare taxes apply to most payments of sick pay, including payments made by third parties such as insurance companies. For details, see Publication 15-A.

**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 Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities, for exceptions to this general rule.

**Religious exemption.** An exemption from social security and Medicare taxes is available to members of a recognized religious sect opposed to public insurance. This exemption is available only if both the employee and the employer are members of the sect.

For more information, see Publication 517, Social Security and Other Information for Members of the Clergy and Religious Workers.

## 5. Federal Income Tax Withholding

Farmers and crew leaders must withhold federal income tax from the wages of farmworkers if the wages are subject to social security and Medicare taxes. The amount to withhold is figured on gross wages before taking out social security and Medicare taxes, union dues, insurance, etc. You may use one of several methods to determine the amount of federal income tax withholding. They are discussed in Publication 15-T.

**Form W-4.** To know how much federal income tax to withhold from employees' wages, you should have a Form W-4, Employee's Withholding Allowance Certificate, on file for each employee. Encourage your employees to file an updated Form W-4 for 2009, especially if they owed taxes or received a large refund when filing their 2008 tax return. Advise your employees to visit the IRS website at [www.irs.gov/individuals](http://www.irs.gov/individuals) and select the "IRS Withholding Calculator" link for help in determining how many withholding allowances to claim on their Form W-4. Ask each new employee to give you a signed Form W-4 when starting work. Make the form effective with the first wage payment. If a new employee does not give you a completed Form W-4, withhold tax as if he or she is single, with no withholding allowances.

**Forms in Spanish.** You can provide Formulario W-4(SP), Certificado de Exención de Retenciones del Empleado, in place of Form W-4, Employee's Withholding Allowance Certificate, to your Spanish-speaking employees. For more information, see Publicación 17(SP), El Impuesto Federal sobre los Ingresos (Para Personas Físicas).

**Effective date of Form W-4.** A Form W-4 remains in effect until the employee gives you a new one. When you receive a new Form W-4, do not adjust withholding for pay periods before the effective date of the new form. Do not adjust withholding retroactively. For exceptions, see [Exemption from federal income tax withholding, IRS review of requested Forms W-4](#), and [Invalid Forms W-4](#) later. If an employee gives you a replacement 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.



*A Form W-4 that makes a change for the next calendar year will not take effect in the current calendar year.*

**Completing Form W-4.** The amount of federal income tax withholding is based on marital status and withholding

allowances. Your employees may not base their withholding amounts on a fixed dollar amount or percentage. However, the employee may specify a dollar amount to be withheld in addition to the amount of withholding based on filing status and withholding allowances claimed on Form W-4.

Employees may claim fewer withholding allowances than they are entitled to claim. They may do this to ensure that they have enough withholding or to offset other sources of taxable income that are not subject to withholding.

Publication 505, Tax Withholding and Estimated Tax, contains detailed instructions for completing Form W-4. Along with Form W-4, you may wish to order Publication 505 and Publication 919, How Do I Adjust My Tax Withholding, for your employees.

Do not accept any withholding or estimated tax payments from your employees in addition to withholding based on their Form W-4. If an employee wants additional withholding, he or she should submit a new Form W-4 and, if necessary, pay estimated tax by filing Form 1040-ES, Estimated Tax for Individuals.

**Exemption from federal income tax withholding.** Generally, an employee may claim exemption from federal income tax withholding because he or she had no federal 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.

A Form W-4 claiming exemption from withholding is valid for only one calendar year. To continue to be exempt from withholding in the next year, an employee must give you a new Form W-4 by February 15 of that year. If the employee does not give you a new Form W-4, withhold tax as if the employee is single with zero withholding allowances or withhold based on the last valid Form W-4 you have for the employee.

**Procedure for 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 Publication 515 for exceptions to this general rule.

Under this procedure, you add an amount, as set forth in the chart below, to the nonresident alien employee's wages solely for purposes of calculating the federal income tax withholding for each payroll period. You determine the amount to be withheld by applying the federal income tax withholding tables to the amount of wages paid plus the additional chart amount.



*Nonresident alien students from India and business apprentices from India are not subject to this procedure.*

The amount to be added to the nonresident alien employee's wages to calculate federal income tax withholding is set forth in the following chart:

**Amount to Add to Nonresident Alien Employee's Wages for Calculating Income Tax Withholding Only**

<b>Payroll Period</b>	<b>Add Additional</b>
Weekly	\$ 138.00
Biweekly	276.00
Semimonthly	299.00
Monthly	598.00
Quarterly	1,795.00
Semiannually	3,590.00
Annually	7,180.00
Daily or Miscellaneous (each day of the payroll period)	27.60

The amounts added under this chart for purposes of this procedure are added to wages solely for the purpose of calculating the amount of federal income tax withholding on the wages of the nonresident alien employee. These chart amounts should not be included in any box on the employee's Form W-2 and do not increase the federal income tax liability of the employee. Also, these chart amounts do not increase the social security, Medicare, or FUTA tax liability of the employer or the employee.

This procedure only applies to nonresident alien employees who have wages subject to federal income tax withholding.

**Example.** An employer using the percentage method of withholding pays wages of \$500 for a biweekly payroll period to a married nonresident alien employee. The nonresident alien has properly completed Form W-4, entering marital status as "single" with one withholding allowance and indicating status as a nonresident alien on line 6 of Form W-4 (see [Nonresident alien employee's Form W-4](#) later). The employer determines the wages to be used in the withholding tables by adding to the \$500 amount of wages paid the amount of \$276 from the chart earlier (\$776 total). The employer then applies the applicable table (Table 2(a), the table for biweekly payroll period, single persons) by subtracting the applicable percentage method amount for one withholding allowance for a biweekly payroll period from \$776 and making the calculations under the table.

The \$276 added to wages for calculating income tax withholding is not reported on Form W-2, and does not affect the social security tax, Medicare tax, or FUTA tax liability of the employer or the employee.

**Supplemental wage payment.** This procedure for determining the amount of federal income tax withholding does not apply to a supplemental wage payment (see [Supplemental wages](#) on page 13) if the 35% mandatory flat rate withholding applies or if the 25% 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 are single, regardless of their actual marital status;
- Claim only one allowance (if the nonresident alien is a resident of Canada, Mexico, or Korea, he or she may claim more than one allowance); and
- Write "Nonresident Alien" or "NRA" above the dotted line on line 6 of Form W-4.

If you maintain an electronic Form W-4 system, you should provide a field for nonresident alien employees to enter nonresident alien status in lieu of writing "Nonresident Alien" or "NRA" above the dotted line on line 6.



*Nonresident alien employees are no longer required to request additional withholding in the box for line 6 on Form W-4. However, a nonresident alien employee may request additional withholding at his or her option.*

**Form 8233.** If a nonresident alien employee claims a tax treaty exemption from withholding, the employee must submit Form 8233, Exemption from Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual, with respect to the income exempt under the treaty, instead of Form W-4. See Publication 515 for details.

**IRS review of requested Forms W-4.** In the past, you had to routinely send the IRS any Form W-4 claiming complete exemption from withholding if \$200 or more in weekly wages was expected or claiming more than 10 allowances. Employers no longer have to submit these Forms W-4 to the IRS. However, Forms W-4 are still subject to review. When we refer to Form W-4, the same rules apply to Formulario W-4(SP), its Spanish translation.

You may receive a notice from the IRS requiring you to submit copies of Forms W-4. 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. You may also be directed to make available for inspection by an IRS employee certain Forms W-4. The notice you receive from the IRS may relate to one or more of your named employees. 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.

After submitting a copy of the 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). However, the IRS may later notify you in writing that the employee is not entitled to claim a complete exemption from withholding or more than the maximum number of withholding allowances specified by the IRS in the written notice. The notice will also specify the applicable marital status for purposes of calculating the required amount of withholding. You are to withhold federal income tax based on the effective date shown on the notice using the maximum number of withholding allowances and marital status



specified in the notice (commonly referred to as a “lock-in letter”).

**Initial lock-in letter.** The IRS uses information reported on Form W-2, Wage and Tax Statement, to identify employees with withholding compliance problems. In some cases, where a serious under-withholding problem is found to exist for a particular employee, the IRS may issue a lock-in letter to the employer specifying the maximum number of withholding allowances and marital status permitted for a specific employee. If the employee is employed by you as of the date of the notice, you must furnish the notice to the employee within 10 business days of receipt. You may follow any reasonable business practice to furnish the copy of the notice to the employee.

**Implementation of lock-in letter.** When you receive the notice specifying the maximum number of withholding allowances and marital status permitted, 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 to contact the IRS.

**Seasonal employees and employees not currently performing services.** If you receive a notice for an employee who is not currently performing services for you, you are still required to furnish the notice to the employee and withhold based on the notice if:

- You are 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 bona fide leave of absence that does not exceed 12 months or the employee has a right to reemployment after the leave of absence.

**Termination and re-hire of employees.** If you are required to 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 (see [Modification notice](#) 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 maximum number of withholding allowances and marital status permitted, the IRS may issue a subsequent notice (modification notice) that modifies the original notice. The modification notice may change the marital status and/or the number of withholding allowances permitted. You must withhold federal income tax based on effective date specified in the modification notice.

**Employee provides you a 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 claims a marital status, a number of withholding allowances, and any additional withholding that results in less withholding than would result under the IRS notice or modification notice, you must disregard the new Form W-4. You are required to withhold on the basis of the notice or modification notice unless the IRS subsequently 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 provides you with a new Form W-4 that does not claim exemption from federal income tax withholding and claims a marital status, a number of withholding allowances, and any additional withholding that results in more withholding than would result under the notice or modification notice, you must withhold tax on the basis of that 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.

**Substitute Forms W-4.** You are encouraged to have your employees use the official version of Form W-4 to claim withholding allowances or exemption from withholding. Call the IRS at 1-800-829-3676 or visit the IRS website at [www.irs.gov](http://www.irs.gov) to obtain copies 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 that 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 are **prohibited** from accepting a substitute Form W-4 developed by an employee, and the employee submitting such form will be treated as failing to furnish a Form W-4. However, continue to use any valid Forms W-4 developed by your employees that you accepted before October 11, 2007.

**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 that the form is correct. A Form W-4 is also invalid if, by the date an employee gives it to you, he or she indicates in any way that 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” on line 7 and also entered a number on line 5 or an amount on line 6.

When you get an invalid Form W-4, do not use it to figure federal income tax withholding. Tell the employee that it is invalid and ask for another one. If the employee does not give you a valid one, withhold taxes as if the employee was single and claiming no withholding allowances. However, if you have an earlier Form W-4 for this worker that is valid, withhold as you did before.

For additional information about these rules, see Treasury Decision 9337, 2007-35 I.R.B. 455, available at [www.irs.gov/irb/2007-35\\_IRB/ar10.html](http://www.irs.gov/irb/2007-35_IRB/ar10.html).

**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(c), 668-W(c)(DO), or 668-W(ICS)), you must withhold amounts as described in the instructions for these forms. Publication 1494 (2009), Table for Figuring Amount Exempt From Levy on Wages, Salary, and Other Income—Forms 668-W(c), 668-W(c)(DO), and 668-W(ICS), shows the exempt amount. 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 Publication 1494 to compute the exempt amount.

## How To Figure Federal Income Tax Withholding

There are several ways to figure federal income tax withholding.

- Wage bracket tables. See page 3 of Publication 15-T for directions on how to use the tables.
- Percentage method. See page 3 of Publication 15-T for directions on how to use the percentage method.
- Formula tables for percentage method withholding. See Publication 15-T.
- Wage bracket percentage method withholding tables. See Publication 15-T.
- Other alternative methods. See Publication 15-T.

Employers with automated payroll systems will find the two alternative formula tables and the two alternative wage bracket percentage method tables in Publication 15-T useful.

If an employee wants additional federal tax withheld, have the employee show the extra amount on Form W-4.

**Supplemental wages.** Supplemental wages are compensation paid to an employee in addition to the employee's regular wages. They include, but are not limited to, bonuses, commissions, overtime pay, accumulated sick leave, severance pay, awards, prizes, back pay and retroactive pay increases for current employees, and payments for nondeductible moving expenses. Other payments subject to the supplemental wage rules include taxable fringe benefits and expense allowances paid under a nonaccountable plan.

If you pay supplemental wages with regular wages but do not specify the amount of each, withhold federal income tax as if the total was a single payment for a regular payroll period.

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 federal income tax from your employee's regular wages.

1. If you withheld federal 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 25% (no other percentage allowed).
  - b. Add the supplemental wages to the concurrently paid regular wages, or, if there are no concurrently paid wages, to the most recent payment of regular wages this year. Then figure the federal income tax withholding as if the total was a single payment. Subtract the tax already withheld from the regular wages. Withhold the remaining tax from the supplemental wages. If there are no concurrently paid regular wages but there were other payments of supplemental wages (after the last payment of regular wages but before the current payment of supplemental wages), aggregate all the payments, calculate the tax on the total, subtract the tax already withheld from the regular wages and the previous supplemental wages, and withhold the remaining tax.
2. If you did not withhold federal income tax from the employee's regular wages in the current or immediately preceding calendar year, use method 1-b above. This would occur, for example, when the value of the employee's withholding allowances claimed on Form W-4 is more than the wages.



*Separate rules apply to any supplemental wages exceeding \$1,000,000 that you pay to an individual during the year. See section 7 in*

*Publication 15 (Circular E) for details.*

Regardless of the method that you use to withhold federal income tax on supplemental wages, they are generally subject to social security, Medicare, and FUTA taxes.

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## 6. Advance Earned Income Credit (EIC) Payment

An employee who expects to be eligible for the earned income credit (EIC) and who expects to have a qualifying child is entitled to receive EIC payments with his or her pay during the year. To get these payments, the employee must give you a properly completed Form W-5 (or Formulario W-5(SP), its Spanish translation), Earned Income Credit Advance Payment Certificate, using either the paper form or the approved electronic format. You are required to make advance EIC payments to employees who give you a properly completed Form W-5; except that you are not required to make these payments to farmworkers paid on a daily basis.

Certain employees who do not have a qualifying child may be able to claim the EIC on their tax return. However, they cannot get advance EIC payments.

For 2009, the advance payment can be as much as \$1,826. The tables that begin on page 27 of Publication 15-T reflect that limit.

**Form W-5.** Form W-5 explains the eligibility requirements for receiving advance EIC payments. On Form W-5, an employee states that he or she expects to be eligible to claim the EIC and shows whether he or she has another Form W-5 in effect with any other current employer.

You must include advance EIC payments with the wages that you pay to eligible employees who give you a signed and completed Form W-5. Form W-5 is effective for the first payroll period ending (or the first wage payment made without regard to a payroll period) on or after the date the employee gives you the form. It remains in effect until the end of the year or until the employee revokes it or gives you a new one. Employees must give you a new Form W-5 each year.

An employee may have only one Form W-5 in effect with a current employer at one time. If an employee is married and his or her spouse also works, each spouse should file a separate Form W-5.

For more information, see Form W-5 or Publication 15 (Circular E).

**How to figure the advance EIC payment.** Figure the amount of advance EIC to include in the employee's pay by using either the wage bracket or percentage method tables that begin on page 28 of Publication 15-T. There are separate tables for employees whose spouses have a Form W-5 in effect.



*During 2009, if you pay an employee total wages of at least \$35,463 (\$40,463 if married filing jointly) you must stop making advance EIC payments to that employee for the rest of the year.*

**Paying the advance EIC to employees.** Advance EIC payments are not subject to withholding of income, social security, or Medicare taxes. An advance EIC payment does not change the amount of income, social security, or Medicare taxes that you withhold from the employee's wages. You add the advance EIC payment to the employee's net pay for the pay period. At the end of the year, you show the total advance EIC payments in box 9 on Form W-2. Do not include this amount as wages in box 1.

**Employer's returns.** Show the total payments that you made to employees on the advance EIC line (line 10) of your Form 943. Subtract this amount from your total taxes on line 9. See the Instructions for Form 943. Reduce the amounts reported on line 15 of Form 943 or on Form 943-A, Agricultural Employer's Record of Federal Tax Liability, by any advance EIC paid to your employees.

Generally, you will make the advance EIC payment from withheld federal income tax and employee and employer social security and Medicare taxes. Advance EIC payments are treated as deposits of these taxes on the day that you pay wages (including the advance EIC payment) to your employees. The payments are treated as deposits of these taxes in the following order: first to the amount of federal income tax withholding, then to withheld employee

social security and Medicare taxes, and last, to the employer's share of social security and Medicare taxes. For more information, see Publication 15 (Circular E).

## Required Notice to Employees

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 do not have to notify employees who claim exemption from withholding on Form W-4, Employee's Withholding Allowance Certificate, about the EIC, you are encouraged to notify any employees whose wages for 2008 were less than \$38,646 (\$41,646 if married filing jointly) that they may be eligible to claim the credit for 2008. This is because eligible employees may get a refund of the amount of EIC that is more than the tax that they owe.

You will meet the notification requirement if you issue to 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 may 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 Form W-2 is given to the employee on time but does not have the required statement, you must notify the employee within 1 week of the date that the substitute Form W-2 is given. If Form W-2 is required but is not given on time, you must give the employee Notice 797 or your written statement by the date that Form W-2 is required to be given. If Form W-2 is not required, you must notify the employee by February 7, 2009.

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## 7. Depositing Taxes

Generally, you must deposit both the employer and employee shares of social security and Medicare taxes and federal income tax withheld (minus any advance earned income credit payments). You must deposit by using the Electronic Federal Tax Payment System (EFTPS) or by mailing or delivering a check, money order, or cash with Form 8109, Federal Tax Deposit Coupon, to an authorized financial institution that is an authorized depository for federal taxes. However, some employers must only deposit using EFTPS. See [How To Deposit](#) on page 17.



*The credit against employment taxes for COBRA assistance payments you take on the 2009 Form 943 is treated as a deposit of taxes on the first day of your return period. See [COBRA premium assistance credit](#) on page 5 for more information.*

**Payment with return.** You may make payments with Forms 943 or 945 instead of depositing if one of the following applies.

- You report less than a \$2,500 tax liability for the year (line 11 of Form 943 or line 4 of Form 945) and you pay in full with a return that is filed on time. However, if you are unsure that you will report less than



\$2,500, deposit under the rules explained in this section so that you will not be subject to failure-to-deposit penalties.

- You are a monthly schedule depositor and make a payment in accordance with the [Accuracy of Deposits Rule](#) discussed later. This payment may be \$2,500 or more.



*Only monthly schedule depositors, defined later, are allowed to make an Accuracy of Deposits Rule payment with the return. Semiweekly schedule depositors must timely deposit the amount. See [Accuracy of Deposits Rule](#) and [How To Deposit](#) later in this section.*

## When To Deposit



*If you employ both farm and nonfarm workers, do not combine the taxes reportable on Forms 941 or 944 with Form 943 to decide whether to make a deposit. See [Employers of Both Farm and Nonfarm Workers](#) on page 19.*

The rules for determining when to deposit Form 943 taxes are discussed below. (Separate rules apply to federal unemployment (FUTA) tax. See [section 10](#).) Under these rules, you are classified as either a monthly schedule depositor or a semiweekly schedule depositor.

The terms “monthly schedule depositor” and “semiweekly schedule depositor” do not refer to how often your business pays its employees or how often you are required to make deposits. The terms identify which set of rules you must follow when you incur a tax liability.

The deposit schedule that you must use for a calendar year is determined from the total taxes (not reduced by any advance EIC payments) reported on your Form 943 (line 9) for the lookback period, discussed next.

- If you reported \$50,000 or less of Form 943 taxes for the lookback period, you are a monthly schedule depositor.
- If you reported more than \$50,000 of Form 943 taxes for the lookback period, you are a semiweekly schedule depositor.

**Lookback period.** The lookback period is the second calendar year preceding the current calendar year. For example, the lookback period for 2009 is 2007.

**Example of deposit schedule based on lookback period.** Rose Co. reported taxes on Form 943 as follows.

2007 — \$48,000

2008 — \$60,000

Rose Co. is a monthly schedule depositor for 2009 because its taxes for the lookback period (\$48,000 for

calendar year 2007) were not more than \$50,000. However, for 2010, Rose Co. is a semiweekly schedule depositor because the total taxes for its lookback period (\$60,000 for calendar year 2008) exceeded \$50,000.

**Adjustments to lookback period taxes.** To determine your taxes for the lookback period, use only the tax that you reported on the original return (Form 943, line 9). Do not include adjustments shown on Form 943-X.

**Example of adjustments.** An employer originally reported total tax of \$45,000 for the lookback period in 2007. The employer discovered during March 2009 that the tax during the lookback period was understated by \$10,000 and corrected this error by filing Form 943-X. The total tax reported in the lookback period is still \$45,000. The \$10,000 adjustment is also not treated as part of the 2009 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 Wednesday through Friday and Saturday through Tuesday.

## Monthly Deposit Schedule

If the total tax reported on line 9 of Form 943 for the lookback period is \$50,000 or less, you are a monthly schedule depositor for the current year. You must deposit Form 943 taxes on payments made during a calendar month by the 15th day of the following month.

**Monthly schedule example.** Red Co. is a seasonal employer and a monthly schedule depositor. It pays wages each Friday. It paid wages during August 2009, but did not pay any wages during September. Red Co. must deposit the combined tax liabilities for the August paydays by September 15. Red Co. does not have a deposit requirement for September (that is, due by October 15) because no wages were paid in September; therefore, it did not have a tax liability for September.

**New employers.** For agricultural employers, your tax liability for any year in the lookback period before the date you started or acquired your business is considered to be zero. Therefore, you are a monthly schedule depositor for the first and second calendar years of your agricultural business (but see the [\\$100,000 Next-Day Deposit Rule](#) on page 16).

## Semiweekly Deposit Schedule

You are a semiweekly schedule depositor for a calendar year if the total taxes on line 9 of Form 943 during your lookback period were more than \$50,000. Under the semiweekly deposit schedule, deposit Form 943 taxes for payments made on Wednesday, Thursday, and/or Friday by the following Wednesday. Deposit amounts accumulated for payments made on Saturday, Sunday, Monday, and/or Tuesday by the following Friday.

Semiweekly depositors are not required to deposit twice a week if their payments were in same semiweekly period unless the [\\$100,000 Next-Day Deposit Rule](#) (discussed later) applies. For example, if you made a payment on both Wednesday and Friday and incurred taxes of \$10,000 for each pay date, deposit the \$20,000 by the following Wednesday. If you made no additional payments on Saturday through Tuesday, no deposit is due on Friday.



*Semiweekly schedule depositors must complete Form 943-A and submit it with Form 943.*

## 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 schedule example.** Green, Inc., a semiweekly schedule depositor, pays wages on the last day of each month. Green, Inc., will deposit only once a month, but the deposit will be made under the semiweekly deposit schedule as follows. Green, Inc.'s tax liability for the May 30, 2009 (Saturday), wage payment must be deposited by June 5, 2009 (Friday).

**Semiweekly deposit period spanning two quarters.** If you have more than one pay date during a semiweekly period and the pay dates fall in different calendar quarters, you will need to make separate deposits for the separate liabilities. For example, if you have a pay date on Wednesday, September 30, 2009 (third quarter), and another pay date on Friday, October 2, 2009 (fourth quarter), two separate deposits will be required even though the pay dates fall within the same semiweekly period. Both deposits will be due Wednesday, October 7, 2009 (three banking days from the end of the semiweekly deposit period).

## Deposits on Banking Days Only

If a deposit is required to be made on a day that is not a banking day, the deposit is considered on time if it is made by the next banking day. In addition to federal and state bank holidays, Saturdays and Sundays are treated as nonbanking days. For example, if a deposit is required to be made on Friday, but Friday is not a banking day, the deposit is considered timely if it is made by the following Monday (if Monday is a banking day).

**Semiweekly schedule depositors** will always have 3 banking days to make a deposit. That is, if any of the 3 weekdays after the end of a semiweekly period is a banking holiday, you will have 1 additional banking day to deposit. For example, if a semiweekly schedule depositor

accumulated taxes on Friday and the following Monday is not a banking day, the deposit normally due on Wednesday may be made on Thursday (allowing 3 banking days to make the deposit).

## \$100,000 Next-Day Deposit Rule

If you accumulate \$100,000 or more of Form 943 taxes (that is, taxes reported on line 11) on any day during a deposit period, you must deposit the tax by the close of the next banking day, whether you are a monthly or a semiweekly schedule depositor.

For purposes of the \$100,000 rule, do not 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 does not apply because the \$10,000 is accumulated in the next deposit period. Thus, \$95,000 must be deposited on Friday and \$10,000 must be deposited on the following Wednesday.

In addition, 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 banking day. On Tuesday, Fir Co. accumulates additional taxes of \$30,000. Because the \$30,000 is not added to the previous \$110,000 and is less than \$100,000, Fir Co. does not have to deposit the \$30,000 until Friday (following the semiweekly deposit schedule).



*If you are a monthly schedule depositor and you accumulate a \$100,000 tax liability on any day, you become a semiweekly schedule depositor on the next day and remain so for the remainder of the calendar year and for the following calendar year.*

**Example of the \$100,000 next-day deposit rule.** Elm, Inc., started business on April 3, 2009. Because Elm, Inc., is a new employer, the taxes for its lookback period are considered to be zero; therefore, Elm, Inc., is a monthly schedule depositor. On April 10, Elm, Inc., paid wages for the first time and accumulated taxes of \$50,000. On April 17 (Friday), Elm, Inc., paid wages and accumulated taxes of \$60,000, for a total of \$110,000. Because Elm, Inc., accumulated \$110,000 on April 17, it must deposit \$110,000 by April 20 (Monday), the next banking day.

## Accuracy of Deposits Rule

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

1. Any deposit shortfall does not exceed the greater of \$100 or 2% of the amount of taxes otherwise required to be deposited.

2. The deposit shortfall is paid or deposited by the shortfall makeup date as described below.

### Makeup Date for Deposit Shortfall:

- **Monthly Schedule Depositor**—Deposit the shortfall or pay it with your return by the due date of your Form 943. You may pay the shortfall with your Form 943 even if the amount is \$2,500 or more.
- **Semiweekly Schedule Depositor**—Deposit by the earlier of (a) the first Wednesday or Friday (whichever comes first) that falls on or after the 15th of the month following the month in which the shortfall occurred, or (b) the due date for Form 943. For example, if a semiweekly schedule depositor has a deposit shortfall during February 2009, the shortfall makeup date is March 18, 2009 (Wednesday).

## How To Deposit

The two methods of depositing employment taxes are discussed below. See [Payment with return](#) on page 14 for exceptions explaining when taxes may be paid with the tax return instead of being deposited.

**Electronic deposit requirement (EFTPS).** You must make electronic deposits of all depository taxes (such as employment tax, excise tax, and corporate income tax) using the Electronic Federal Tax Payment System (EFTPS) in 2009 if:

- Your total deposits of such taxes in 2007 were more than \$200,000, or
- You were required to use EFTPS in 2008.

If you are required to use EFTPS and use Form 8109 instead, you may be subject to a 10% failure-to-deposit penalty. EFTPS is a free service provided by the Department of Treasury. If you are not required to use EFTPS, you may participate voluntarily. To get more information or to enroll in EFTPS, call 1-800-555-4477 (Business) or 1-800-316-6541 (Individual). You can also visit the EFTPS website at [www.eftps.gov](http://www.eftps.gov).

New employers that have a federal tax obligation will be pre-enrolled in EFTPS. Call the toll-free number located in your Employer Identification Number (EIN) Package to activate your enrollment and begin making your tax deposit payments. See [When you receive your EIN](#) on page 6 for more information.

**Depositing on time.** For deposits made by EFTPS to be on time, you must initiate the transaction at least one business day before the date that the deposit is due.

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

**Making deposits with FTD coupons.** If you are not making deposits by EFTPS, use Form 8109 to make the deposits at an authorized financial institution.

For new employers, if you would like to receive a Federal Tax Deposit (FTD) coupon booklet, call 1-800-829-4933. Allow 5 to 6 weeks for delivery. Consider activating your enrollment in EFTPS **now** so that you can make timely deposits of payroll taxes while waiting for requested FTD coupons.

The IRS will keep track of the number of FTD coupons that you use and will automatically send you additional coupons when you need them. If you do not receive your resupply of FTD coupons, call 1-800-829-4933. You can have the FTD coupon books sent to a branch office, tax preparer, or service bureau that is making your deposits by showing that address on Form 8109-C, FTD Address Change, which is in the FTD coupon book. (Filing Form 8109-C will not change your address of record; it will change only the address where the FTD coupons are mailed.) The FTD coupons will be preprinted with your name, address, and EIN. They have entry spaces for indicating the type of tax and the tax period for which the deposit is made.

It is very important to clearly mark the correct type of tax and tax period on each FTD coupon. This information is used by the IRS to credit your account.

If you have branch offices depositing taxes, give them FTD coupons and complete instructions so that they can deposit the taxes when due.

Please use only your FTD coupons. If you use anyone else's FTD coupon, you may be subject to a failure-to-deposit penalty. This is because your account will be underpaid by the amount of the deposit credited to the other person's account. See [Deposit Penalties](#) later for penalty amounts.

**How to deposit with a FTD coupon.** Mail or deliver each FTD coupon and a single payment covering the taxes to be deposited to an authorized depository. An authorized depository is a financial institution (for example, a commercial bank) that is authorized to accept federal tax deposits. Follow the instructions in the FTD coupon book. Make your check or money order payable to the depository. To help ensure proper crediting of your account, include your EIN, the type of tax (for example, Form 943), and the tax period to which the payment applies on your check or money order.

Authorized depositories must accept cash, a postal money order drawn to the order of the depository, or a check or draft drawn on and to the order of the depository. You may deposit taxes with a check drawn on another financial institution only if the depository is willing to accept that form of payment. Be sure that the financial institution where you make deposits is an authorized depository. Deposits made at an unauthorized institution may be subject to the failure-to-deposit penalty.

If you prefer, you may mail your coupon and payment to:

Financial Agent  
Federal Tax Deposit Processing  
P.O. Box 970030  
St. Louis, MO 63197.

Make your check or money order payable to "Financial Agent."



The Financial Agent cannot process foreign checks. If you send a check written on a foreign bank to pay a federal tax deposit, you generally will be charged a deposit penalty and will receive a bill in the mail. A foreign bank is a financial institution that is not incorporated under the laws of the United States, any U.S. state, any U.S. possession, or the District of Columbia.

You may enroll in the Electronic Federal Tax Payment System (EFTPS), which will allow you to make electronic payments at no charge to you. Instructions for enrollment are available at [www.eftps.gov](http://www.eftps.gov).

You may also make the payments by wire transfer, through EFTPS, without being enrolled. A same day payment is initiated by your financial institution and can be used by businesses for making EFTPS tax payments. Please check with your financial institution regarding availability, deadlines, and costs. Generally, your bank will charge you a fee for payments made this way.

**Depositing on time.** The IRS determines if deposits are on time by the date that they are received by an authorized depository. To be considered timely, the funds must be available to the depository on the deposit due date before the institution's daily cutoff deadline. Contact your local depository for information concerning check clearance and cutoff schedules. However, a deposit received by the authorized depository after the due date will be considered timely if the taxpayer establishes that it was mailed in the United States in a properly addressed, postage prepaid envelope at least 2 days before the due date.



*If you are required to deposit any taxes more than once a month, any deposit of \$20,000 or more must be received by the authorized depository by its due date to be timely. See section 7502(e)(3) for more information.*

**Depositing without an EIN.** If you have applied for an EIN but have not received it and you must make a deposit, make the deposit with the IRS. Do not make the deposit at an authorized depository. Make your check or money order payable to the "United States Treasury" and show on it your name (as shown on Form SS-4), address, kind of tax, period covered, and date you applied for an EIN. Send your deposit with an explanation to your local IRS office or the office where you file Form 943 or Form 945. The addresses are provided in the separate instructions for Forms 943 and 945 and are also available on the IRS website at [www.irs.gov](http://www.irs.gov). Do not use Form 8109-B, Federal Tax Deposit Coupon, in this situation.

**Depositing without Form 8109.** If you do not have a preprinted Form 8109, you may use Form 8109-B to make deposits. Form 8109-B is an over-the-counter FTD coupon that is not preprinted with your identifying information. You may get this form by calling 1-800-829-4933. Be sure to have your EIN ready when you call. You will not be able to obtain Form 8109-B by calling 1-800-TAX-FORM.

Use Form 8109-B to make deposits only if:

- You are a new employer and you have been assigned an EIN, but you have not received your initial supply of Forms 8109; or

- You have not received your resupply of preprinted Forms 8109.

**Deposit record.** For your records, a stub is provided with each FTD coupon in the coupon book. The FTD coupon itself will not be returned. It is used to credit your account. Your cancelled check, bank receipt, or money order receipt is your deposit record.

## Deposit Penalties

Penalties may apply if you do not make required deposits on time, if you make deposits for less than the required amount, or if you do not use EFTPS when required. The penalties do not apply if any failure to make a proper and timely deposit was due to reasonable cause and not to willful neglect. IRS may also waive deposit penalties if you inadvertently fail to deposit in the first quarter that a deposit is due, or the first quarter during which your frequency of deposits changed, if you timely filed your employment tax return.

For amounts not properly deposited or not deposited on time, the penalty rates are shown next.

Penalty	Charged for...
2%	Deposits made 1 to 5 days late.
5%	Deposits made 6 to 15 days late.
10%	Deposits made 16 or more days late. Also applies to amounts paid within 10 days of the date of the first notice the IRS sent asking for the tax due.
10%	Deposits made at an unauthorized financial institution, paid directly to the IRS, or paid with your tax return. But see <a href="#">Depositing without an EIN</a> earlier and <a href="#">Payment with return</a> on page 14 for exceptions.
10%	Amounts subject to electronic deposit requirements but not deposited using EFTPS.
15%	Amounts still unpaid more than 10 days after the date of the first notice that 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.

**Order in which deposits are applied.** Deposits generally are applied to the most recent tax liability within the year. If you receive a failure-to-deposit 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 that you received. For examples on how the IRS will apply deposits and 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 [www.irs.gov/pub/irs-irbs/irb01-50.pdf](http://www.irs.gov/pub/irs-irbs/irb01-50.pdf).

**Example.** Cedar, Inc., is required to make a deposit of \$1,000 on June 15 and \$1,500 on July 15. It does not make the deposit on June 15. On July 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 July 15 deposit and the remaining \$500 is applied to the June deposit. Accordingly, \$500 of the June 15 liability remains undeposited. The penalty on this underdeposit will apply as explained above.

**Trust fund recovery penalty.** If federal income, social security, and Medicare taxes 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 the unpaid trust fund tax. This penalty may apply to you if 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.

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. 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 that the required actions are not taking place.

**“Averaged” failure-to-deposit penalty.** IRS may assess an “averaged” failure-to-deposit penalty of 2% to 10% if you are a monthly schedule depositor and did not properly complete line 15 of Form 943 when your tax liability (line 11) shown on Form 943 was \$2,500 or more. IRS may also assess this penalty of 2% to 10% if you are a semiweekly schedule depositor and your tax liability (line 11) shown on Form 943 was \$2,500 or more and you did any of the following.

- Completed line 15 of Form 943 instead of Form 943-A.
- Failed to attach a properly completed Form 943-A.
- Completed Form 943-A incorrectly, for example, by entering tax deposits instead of tax liabilities in the numbered spaces.

IRS figures the penalty by allocating your total tax liability on line 11 of Form 943 equally throughout the tax period. Your deposits and payments may not be counted as timely because IRS does not know the actual dates of your tax liabilities.

You can avoid the penalty by reviewing your return before filing it. Follow these steps before filing your Form 943.

- If you are a monthly schedule depositor, report your tax liabilities (not your deposits) in the monthly entry spaces on line 15 of Form 943.

- If you are a semiweekly schedule depositor, report your tax liabilities (not your deposits) on Form 943-A in the lines that represent the dates you paid your employees.
- Verify that your total liability shown on line 15 of Form 943 or on line M of Form 943-A equals your tax liability shown on line 11 of Form 943.
- Do not show negative amounts on line 15 of Form 943 or Form 943-A. If a prior period adjustment results in a decrease in your tax liability, reduce your liability for the day you discovered the error by the tax decrease resulting from the error, but not below zero. Apply any remaining decrease to subsequent liabilities.
- For prior period errors discovered after December 31, 2008, **do not** adjust your tax liabilities reported on line 15 of Form 943 or on Form 943-A.

## Employers of Both Farm and Nonfarm Workers

If you employ both farm and nonfarm workers, you must treat employment taxes for the farmworkers (Form 943 taxes) separately from employment taxes for the nonfarm workers (Form 941 and 944 taxes). Form 943 taxes and Form 941/944 taxes are not combined for purposes of applying any of the deposit schedule rules.

If a deposit is due, deposit the Form 941/944 taxes and the Form 943 taxes with separate FTD coupons, or by making separate EFTPS deposits. For example, if you are a monthly schedule depositor for both Forms 941/944 and 943 taxes and your tax liability at the end of June is \$1,500 reportable on Form 941/944 and \$1,200 reportable on Form 943, deposit both amounts by July 15. Use one FTD coupon to deposit the \$1,500 of Form 941/944 taxes and another FTD coupon to deposit the \$1,200 of Form 943 taxes.

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## 8. Form 943

You must file Form 943 for each calendar year beginning with the first year that you pay \$2,500 or more for farmwork or you employ a farmworker who meets the \$150 test explained in section 4. Do not report these wages on Form 941 or Form 944.

After you file your first return, each year the IRS will send you a Form 943 preaddressed with your name, address, and EIN. If you do not receive the preaddressed form, request a blank form from the IRS. If you use a blank form, show your name and EIN exactly as they appeared on previous returns.

**Household employees.** If you file Form 943 and pay wages to household workers, you may include the wages and taxes of these workers on Form 943. If you choose not to report these wages and taxes on Form 943, report the wages of these workers separately on Schedule H (Form

1040), Household Employment Taxes. You must have an EIN to file Schedule H (Form 1040). See [section 1](#) for details. If you report the wages on Form 943, include the taxes when you figure deposit requirements or make deposits. If you include household employee wages and taxes on Schedule H (Form 1040), do not include the household employee taxes when you figure deposit requirements or make Form 943 deposits. See Publication 926, Household Employer's Tax Guide, for more information about household workers.

If household employee wages and taxes are included on Form 943, you must also include Federal Unemployment (FUTA) Tax for the employees on Form 940. See [section 10](#) for more information.

**Penalties.** For each month or part of a month that a return is not filed when required (disregarding any extensions of the filing deadline), there is a failure-to-file penalty of 5% of the unpaid tax due with that return. The maximum penalty is 25% of the tax due. Also, for each month or part of a month that the tax is paid late (disregarding any extensions of the payment deadline), there is a failure-to-pay penalty of 0.5% per month of the amount of tax. For individual filers only, the failure-to-pay 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 failure-to-pay penalty is also 25% of the tax due. If both penalties apply in any month, the failure-to-file penalty is reduced by the amount of the failure-to-pay penalty. The penalties will not be charged if you have 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 federal income, social security, or Medicare taxes that must be withheld are not withheld or are not paid, you may be personally liable for the trust fund recovery penalty. See [Trust fund recovery penalty](#) in section 7.

Use of a reporting agent or other third-party payroll service provider does not relieve an employer of the responsibility to ensure that tax returns are filed and all taxes are paid or deposited correctly and on time.

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## 9. Reporting Adjustments on Form 943

There are two types of adjustments: current year adjustments and prior year adjustments to correct errors. See the Instructions for Form 943 and the Instructions for Form 943-X for more information on how to report these adjustments.

### Current Year Adjustments

In certain cases, amounts reported as social security and Medicare taxes on lines 3 and 5 of Form 943 must be adjusted to arrive at your correct tax liability. The most

common situation involves differences in cents totals due to rounding. Other situations when current year adjustments may be necessary include third-party sick pay, group-term life insurance for former employees, and the uncollected employee share of social security and Medicare taxes on tips. See Publication 15 (Circular E) for more information on these adjustments.

If you withhold an incorrect amount of federal income tax from an employee, you may adjust the amount withheld in later pay periods during the **same year** to compensate for the error.

### Prior Year Adjustments (Errors Discovered Before January 1, 2009)

Generally, you can correct social security and Medicare errors on prior year Forms 943 by making an adjustment on your Form 943 for the year during which the error was discovered. The adjustment increases or decreases your tax liability for the year in which it is reported (the year the error was discovered) and is interest free. The net adjustments reported on Form 943 may include any number of corrections for one or more previous years, including both overpayments and underpayments.

You are **required** to provide background information and certifications supporting prior year adjustments. File with Form 943 a Form 941c, Supporting Statement To Correct Information, or attach a statement that shows the following:

- What the error was,
- The year in which each error was made and the amount of each error,
- The date on which you found each error,
- That you repaid or reimbursed the employee tax if the entry corrects an overcollection, and
- If the entry corrects social security and Medicare taxes overcollected in an earlier year, that you received from the employee a written statement that he or she will not claim a refund or credit for the amount.

**Do not file Form 941c separately.** The IRS will not be able to process your adjustments on Form 943 without this supporting information. See the Instructions for Form 941c for more information.

**Federal income tax withholding adjustments.** You cannot adjust the amount reported as federal income tax withheld for a prior year return, even if you withheld the wrong amount. However, you may adjust prior year federal income tax withholding to correct an **administrative error**. An administrative error occurs if the amount you entered on Form 943 is not the amount that you actually withheld. Examples include mathematical or transposition errors. In these cases, you should adjust the return to show the amount actually withheld.



The administrative error adjustment corrects only the amount reported on Form 943 to agree with the actual amount withheld from wages in that year.

You may also need to correct Forms W-2 for the prior year (if they do not show the actual withholding) by filing Form W-2c, Corrected Wage and Tax Statement, and Form W-3c, Transmittal of Corrected Wage and Tax Statements. Forms W-2c may be created and submitted to SSA over the Internet. For more information, visit Social Security's Employer Reporting Instructions and Information webpage at [www.socialsecurity.gov/employer](http://www.socialsecurity.gov/employer).

**Social security and Medicare tax adjustments.** Correct prior year social security and Medicare tax errors by making an adjustment on line 8 of Form 943 for the year during which the error was discovered.

If you withheld no tax or less than the correct amount, you may correct the mistake by withholding the tax from a later payment to the same employee.

If you withheld employee tax when no tax is due or if you withheld more than the correct amount, you must repay or reimburse the employee.

**Filing a claim for overreported prior year liabilities.** If you discover an error on a prior year return resulting in a tax overpayment, you may file Form 843, Claim for Refund and Request for Abatement, for a refund. This form also can be used to request an abatement of an overassessment of employment taxes, interest, and/or penalties. You must file Form 941c, or an equivalent statement, with Form 843. See the separate Instructions for Form 843.



*For purposes of filing Form 843, a Form 943 filed on time is considered to be filed on April 15 of the year after the end of the tax year. Generally, a claim may be filed within 3 years after that date.*

**Collecting underwithheld taxes from employees.** If you withheld no federal income, social security, or Medicare taxes or less than the correct amount from an employee's wages, you can make it up from future pay to that employee. But you are the one who owes the underpayment. Reimbursement is a matter for settlement between you and the employee. Underwithheld federal income tax must be recovered from the employee on or before the last day of the calendar year.

**Refunding amounts incorrectly withheld from employees.** If you withheld more than the correct amount of federal income, social security, or Medicare taxes from wages paid, give the employee any excess. The excess federal income tax withholding must be reimbursed to the employee before the end of the calendar year. Keep in your records the employee's written receipt showing the date and amount of the repayment. If you do not have a receipt, you must report and pay each excess amount when you file Form 943 for the year in which you withheld too much tax.

**Filing corrections to Forms W-2 and W-3.** When adjustments are made to correct social security and Medicare taxes because of a change in the wage totals reported for a previous year, you also may need to file Forms W-2c and

Form W-3c. Forms W-2c may be created and submitted to SSA over the Internet. For more information, visit Social Security's Employer Reporting Instructions and Information webpage at [www.socialsecurity.gov/employer](http://www.socialsecurity.gov/employer).

## Prior Year Adjustments (Errors Discovered After December 31, 2008)

Under the new procedure for making adjustments, if you discover an error on a previously filed Form 943 **after December 31, 2008**, make the correction using Form 943-X. (Do not use Form 941c.) File a separate Form 943-X for each prior year you are correcting. File Form 943-X separately. **Do not** attach Form 943-X to your current period Form 943.

When you discover that you underreported tax on a previously filed return, you must file Form 943-X no later than the due date of the return for the period during which you discovered the error. Pay the amount you owe when you file. For example, you discover on June 15, 2009, that you underreported \$10,000 of social security and Medicare wages on your 2008 Form 943. You owe \$1,530 on the 2008 Form 943. To qualify for an interest-free adjustment, you must file Form 943-X by January 31, 2009, and pay \$1,530 when you file.

Do not use Form 843, Claim for Refund or Request for Abatement, to request a refund or abatement of overreported social security or Medicare taxes. Instead, request your refund or abatement of taxes on Form 943-X. However, use Form 843 when requesting a refund or abatement of assessed interest or penalties.

For additional information about the new procedure for adjusting employment taxes, get the Instructions for Form 943-X. See *Quick and Easy Access to IRS Tax Help and Tax Products* on page 26. Also see Treasury Decision 9405, 2008-32 I.R.B. 293, available at [http://www.irs.gov/irb/2008-32\\_IRB/ar13.html](http://www.irs.gov/irb/2008-32_IRB/ar13.html).

**Note.** Continue to make current period adjustments for fractions of cents, sick pay, tips, and group-term life insurance on your Form 943. Also, continue to use the information in [Collecting underwithheld taxes from employees](#), [Refunding amounts incorrectly withheld from employees](#), and [Filing corrections to Forms W-2 and W-3](#) earlier.

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## 10. 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. A list of state unemployment agencies, including web addresses and phone numbers, is available in the Instructions for Form 940. Only the employer pays FUTA tax; it is not withheld from the employees' wages. For more information, see the Instructions for Form 940.

For 2009, you must file Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return, if you:

- Paid cash wages of \$20,000 or more to farmworkers in any calendar quarter in 2008 or 2009, or
- 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 2008 or 20 or more different weeks in 2009.

To determine whether you meet either test above, you must count wages paid to aliens admitted on a temporary basis to the United States to perform farmwork, also known as “H-2(A)” visa workers. However, wages paid to “H-2(A)” visa workers are not subject to the FUTA tax.

Generally, farmworkers supplied by a **crew leader** are considered employees of the farm operator for purposes of the FUTA tax unless (a) the crew leader is registered under the Migrant and Seasonal Agricultural Worker Protection Act, or (b) substantially all of the workers supplied by the crew leader operate or maintain tractors, harvesting or crop-dusting machines, or other machines provided by the crew leader. Therefore, if (a) or (b) applies, the farmworkers are generally employees of the crew leader.

You must deposit FUTA tax with an authorized financial institution. (If you are subject to the electronic deposit requirements, you must use EFTPS. See [section 7](#).) The deposit rules for FUTA tax are different from those for income, social security, and Medicare taxes. See [Deposit rules for FUTA tax](#) later.

**FUTA tax rate.** For 2008 and 2009, the FUTA tax rate is 6.2% on the first \$7,000 of cash wages you pay to each employee. You may receive a credit of up to 5.4% of FUTA wages for the state unemployment tax that you pay. If your state tax rate (experience rate) is less than 5.4%, you are still allowed the full 5.4% credit. Therefore, your net FUTA tax rate may be as low as 0.8% (.008). FUTA tax applies, however, even if you are exempt from state unemployment tax or your employees are ineligible for unemployment compensation benefits. Form 940 takes state credits into account.

**Successor employer.** If you have acquired a business from someone else, you may be able to claim a special credit as a successor employer. See the Instructions for Form 940.

**Deposit rules for FUTA tax.** Generally, deposit FUTA tax quarterly. To figure your FUTA tax, multiply .008 times the amount of wages paid to each employee during the quarter. When an employee’s wages reach \$7,000, do not figure any additional FUTA tax for that employee. If the FUTA tax for the quarter (plus any undeposited FUTA tax from prior quarters) is more than \$500, deposit the FUTA tax with an authorized financial institution, or by using EFTPS as explained in section 7, by the last day of the month following the end of the quarter. If the amount is \$500 or less, you do not have to deposit it, but you must add it to the amount of tax for the next quarter to determine whether a deposit is required for that quarter. To help ensure proper crediting to your account, write your EIN, “Form 940,” and the tax period the deposit applies to on your check or money order.

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 major credit card, or pay the tax with a check or money order with your Form 940 by January 31.

**Filing Form 940.** By January 31, file Form 940. If you make deposits on time in full payment of the tax due for the year, you have 10 additional days to file.

Once you have filed a Form 940, you will receive a preaddressed form near the end of each calendar year. If you do not receive a form, request one by calling 1-800-829-4933 in time to receive it and file when due. Alternatively, you may download a copy of Form 940 and Instructions for Form 940 from the IRS website at [www.irs.gov](http://www.irs.gov).

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## 11. Records You Should Keep

Every employer subject to employment taxes must keep all related records available for inspection for at least 4 years after the due date for the return period to which the records relate, or the date the taxes are paid, whichever is later. You may keep the records in whatever form you choose.

Keep a record of the following information.

- Your EIN.
- Names, addresses, social security numbers, and occupations of employees.
- Dates of employees’ employment.
- Amounts and dates of all cash wages, annuity, and pension payments.
- Fair market value and dates of all noncash payments.
- Periods for which employees 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.
- Dates and amounts of tax deposits that you made and acknowledgment numbers for deposits made by EFTPS.
- Fringe benefits provided, including substantiation.

Keep copies of the following documents.

- Forms W-4 (Formulario W-4(SP)), W-4P, and W-4S.
- Forms W-5 (Formulario W-5(SP)).
- Forms W-2, including employee copies of any Forms W-2 that were returned to you as undeliverable.
- Returns that you filed.

If a **crew leader** furnished you with farmworkers, you must keep a record of the name, permanent mailing address, and EIN of the crew leader. If the crew leader has no

permanent mailing address, record his or her present address.

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## 12. Reconciling Wage Reporting Forms

When there are discrepancies between amounts reported on Form 943 filed with the IRS and Forms W-2 and W-3 filed with the SSA, the IRS must contact you to resolve the discrepancies.

To help reduce discrepancies:

1. Report bonuses as wages and as social security and Medicare wages on Forms W-2 and 943;
2. Report social security and Medicare wages and taxes separately on Forms W-2, W-3, and 943;
3. Report social security taxes on Form W-2 in the box for social security tax withheld (box 4), not as social security wages;
4. Report Medicare taxes on Form W-2 in the box for Medicare tax withheld (box 6), not as Medicare wages;
5. Make sure that social security wages for each employee do not exceed the annual social security wage base; and

6. Do not report noncash wages that are not subject to social security or Medicare taxes as social security or Medicare wages.

To reduce the discrepancies between amounts reported on Forms W-2, W-3, and 943:

1. Be sure that the amounts on Form W-3 are the total amounts from Forms W-2, excluding any amounts from Forms W-2 that were marked void, and
2. Reconcile Form W-3 with your Form 943 by comparing amounts reported for the following items.
  - Federal income tax withholding, social security wages, and Medicare wages.
  - Social security and Medicare taxes. The amounts shown on Form 943, including current year adjustments, should be approximately twice the amounts shown on Form W-3.
  - Advance earned income credit (EIC).

Amounts reported on Forms W-2, W-3, and 943 may not match for valid reasons. If they do not match, you should determine that the reasons are valid. Keep your reconciliation so that you will have a record of why amounts did not match in case there are inquiries from the IRS or the SSA.



### 13. How Do Employment Taxes Apply to Farmwork?

Type of employment	Income Tax Withholding, Social Security, and Medicare	Federal Unemployment Tax
<p><b>Farm Employment Includes:</b></p> <ol style="list-style-type: none"> <li>1. Cultivating soil; raising or harvesting any agricultural or horticultural commodity; the care of livestock, poultry, bees, fur-bearing animals, or wildlife.</li> <li>2. Work on a farm if major farm duties are in management or maintenance, etc., of farm tools or equipment or salvaging timber, or clearing brush or other debris, left by hurricane.</li> <li>3. Work in connection with the production and harvesting of turpentine and other oleoresinous products.</li> <li>4. Cotton ginning.</li> <li>5. Operating or maintenance of ditches, reservoirs, canals, or waterways used only for supplying or storing water for farming purposes and not owned or operated for profit.</li> <li>6. Processing, packaging, etc., any commodity in its unmanufactured state if employed by farm operator who produced over half of commodity processed or by group of up to 20 unincorporated farm operators if they produced all the commodity.</li> <li>7. Hatching poultry on a farm.*</li> <li>8. Production or harvesting of maple syrup.</li> </ol>	<p>Taxable if \$150 test or \$2,500 test is met. See <a href="#">section 4</a>.</p>	<p>Taxable if either test in <a href="#">section 10</a> is met.</p>
<p><b>Farm Employment Does Not Include:</b></p> <ol style="list-style-type: none"> <li>1. Handling or processing commodities after delivery to terminal market for commercial canning or freezing.</li> <li>2. Operating or maintenance of ditches, canals, reservoirs or waterways not meeting tests in (5) above.</li> <li>3. Processing, packaging, delivering, etc., any commodity in its unmanufactured state if group of farm operators do not meet the tests in (6) above.</li> <li>4. Household employment.</li> </ol>	<p>Taxable under general employment rules. Farm rules do not apply.</p>	<p>Taxable under general FUTA rules. Farm rules do not apply.</p>
<p><b>Special Employment Situations:</b></p> <ol style="list-style-type: none"> <li>1. Services not in the course of employer's trade or business on farm operated for profit (cash payments only).</li> <li>2. Workers admitted under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act on a temporary basis to perform agricultural labor ("H-2(A)" workers).</li> <li>3. Family employment.</li> </ol>	<p>Taxable if \$150 test or \$2,500 test is met (see <a href="#">section 4</a>), unless performed by parent employed by child.</p> <p>Exempt.</p> <p>Exempt for employer's child under age 18, but counted for \$150 test or \$2,500 test. Taxable for spouse of employer.</p>	<p>Taxable only if \$50 or more is paid in a quarter and employee works on 24 or more different days in current or prior quarter.</p> <p>Exempt.</p> <p>Exempt if services performed by employer's parent or spouse or by employer's child under age 21.</p>
<p>*Hatching poultry off the farm is not considered farmwork for income tax withholding, social security, and Medicare. It is considered farmwork for federal unemployment tax.</p>		



# Quick and Easy Access to IRS Tax Help and Tax Products



## Internet

You can access the IRS website 24 hours a day, 7 days a week, at [www.irs.gov](http://www.irs.gov) to:

- Access commercial tax preparation and *e-file* services available free to eligible taxpayers;
- Download forms, instructions, and publications;
- Order IRS products online;
- Research your tax questions online;
- Search publications online by topic or keyword;
- Send us comments or request help by email; and
- Sign up to receive local and national tax news by email.



## Mail

Send your order for tax products to:  
Internal Revenue Service  
National Distribution Center  
1201 N. Mitsubishi Motorway  
Bloomington, IL 61705-6613

You should receive your products within 10 days after we receive your order.



## DVD For Tax Products

You can order *Publication 1796, IRS Tax Products DVD*, and obtain:

- Current-year forms, instructions, and publications.
- Prior-year forms, instructions, and publications.
- Tax Map: an electronic research tool and finding aid.
- Tax law frequently asked questions.
- Tax Topics from the IRS telephone response system.
- Internal Revenue Code – Title 26.
- Fill-in, print, and save features for most tax forms.
- Internal Revenue Bulletins.
- Toll-free and email technical support.

The DVD is released twice during the year. The first release will ship the beginning of January and the final release will ship the beginning of March.

Buy the DVD from National Technical Information Service at [www.irs.gov/cdorders](http://www.irs.gov/cdorders) for \$30 (no handling fee) or call 1-877-233-6767 toll-free to buy the DVD for \$30 (plus a \$6 handling fee). Price is subject to change.



## Phone

Order current year forms, instructions, and publications and prior year forms and instructions by calling 1-800-TAX-FORM (1-800-829-3676). You should receive your order within 10 working days.



## Walk-In

You can pick up some of the most requested forms, instructions, and publications at many IRS offices, post offices, and libraries. Some grocery stores, copy centers, city and county government offices, credit unions, and office supply stores have a collection of reproducible tax forms available to photocopy or print from a CD-ROM.

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