



Instructions for Form 940

Employer's Annual Federal Unemployment (FUTA) Tax Return

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

Paperwork Reduction Act

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

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping . . . 12 hr., 55 min.

Learning about the law or the form 18 min.

Preparing and sending the form to the IRS 31 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form more simple, we would be happy to hear from you. You can write to both the **Internal Revenue Service**, Washington, DC 20224, Attention: IRS Reports Clearance Officer, T:FP; and the **Office of Management and Budget**, Paperwork Reduction Project (1545-0028), Washington, DC 20503. Do not send the tax form to either of these offices. Instead, see **Where To File** on page 2.

Items To Note

Changes to Form 940.—Part II, Tax Due or Refund, has been removed. Part III was renumbered as Part II. Part IV, Record of Federal Tax Liability for Unemployment Tax, is now Part III. If you answer "Yes" to questions A through D on the front of Form 940, you may file Form 940-EZ, described later. However, if you have not received a Form 940-EZ and it is near the February 1 due date, you may still use Form 940 to avoid a late filing penalty.

Credit Reduction State.—A state that has not repaid money it borrowed from the Federal

government to pay unemployment benefits is a credit reduction state. The Department of Labor determines these states. If an employer pays wages that are subject to the unemployment tax laws of a credit reduction state, that employer must pay additional Federal unemployment tax when filing its Form 940.

For 1992, Michigan is a credit reduction state. If you pay any wages that are subject to the unemployment compensation laws of the State of Michigan, you are not allowed .011 of the regular .054 credit. Line 6 is used to show this tax. You cannot file Form 940-EZ.

Form 940-EZ.—Form 940-EZ is a simplified version of Form 940. Employers who (a) pay all unemployment contributions to only one state, (b) paid unemployment contributions by February 1, 1993, (c) do not have taxable FUTA wages that are exempt from state unemployment tax, and (d) do not pay wages that are subject to Michigan unemployment compensation laws, can use Form 940-EZ. For more details, get Form 940-EZ. Do not file Form 940 if you have already filed Form 940-EZ for 1992.

FUTA Tax Rate.—The FUTA tax rate is 6.2% through 1996.

General Instructions

Purpose of Form.—The Federal Unemployment Tax Act (FUTA), together with state unemployment systems, provides for payments of unemployment compensation to workers who have lost their jobs. Most employers pay both a Federal and state unemployment tax. Use this form for your annual FUTA tax report. **Only the employer pays this tax.** The \$7,000 amount is the Federal wage base. Your state wage base may be different.

Who Must File.—In general, you must file this form if you were not a household or agricultural employer during 1991 or 1992, and you (a) paid wages of \$1,500 or more in any calendar quarter or (b) had one or more employees for some part of a day in any 20 different weeks. Count all regular, temporary, and part-time employees. A partnership should not count its partners. If there is a change in ownership or other transfer of business during the year, each employer who meets test (a) or (b) must file. Neither should report wages paid by the other. Organizations described in section 501(c)(3) do not have to file.

Household Employers.—You do not have to file this form unless you paid cash wages of \$1,000 or more in any calendar quarter in 1991 or 1992 for household work in a private home, local college club, or a local chapter of a college fraternity or sorority.

Note: See *Pub. 926, Employment Taxes for Household Employers, for more information.*

Agricultural Employers.—You must file Form 940 if either of the following applies to you:

1. You paid cash wages of \$20,000 or more to farmworkers during any calendar quarter in 1991 or 1992.

2. You employed 10 or more farmworkers during some part of a day (whether or not at the same time) for at least 1 day during any 20 different weeks in 1991 or 1992.

Count aliens admitted on a temporary basis to the United States to perform farmwork, also known as workers with "H-2(a)" visas, to determine if you meet either of the tests. However, wages paid to these aliens are not subject to FUTA tax before 1995.

Due Date.—The due date of Form 940 is generally January 31. However, since January 31, 1993, is on a Sunday, the due date for the

1992 Form 940 is February 1, 1993. However, if you deposited all tax when due, you may file on or before February 10.

Magnetic Media Reporting.—You may file Form 940 using magnetic media. A revenue procedure titled "Magnetic Tape Reporting of Form 940, Employer's Federal Unemployment Tax return," reprinted as **Pub. 1314**, explains the requirements. You can get this publication by calling 1-800-TAX-FORM (1-800-829-3676).

FUTA Amount To Deposit.—Determine your FUTA tax by multiplying by .008 that part of the first \$7,000 paid to each employee during the quarter. If any part of the amounts paid are exempt from state unemployment taxes, you may deposit an amount in excess of the .008 rate. For example, in certain states, wages paid to corporate officers are exempt from state unemployment tax. Other examples of payments taxable for FUTA purposes but exempt from specific states' unemployment taxes are certain payments of sick pay by unions and certain fringe benefits.

Employers Who Are Not Required To Deposit FUTA Tax.—If your total FUTA tax for the year is \$100 or less, you do not have to deposit the tax. Make your FUTA tax payment when you file Form 940.

Employers Who Are Required To Deposit FUTA Tax.—If your liability for any of the calendar year quarters of 1992 is over \$100 (including any undeposited amount of \$100 or less from any earlier quarter), you must make deposits using **Form 8109**, Federal Tax Deposit Coupon.

If the amount is \$100 or less, you may carry it to the next quarter. If your liability for the 4th quarter (plus any undeposited amount from any earlier quarter) is over \$100, deposit the entire amount by the due date of Form 940 (February 1, 1993, since the last day of January is a Sunday). If it is \$100 or less, you can either make a deposit or pay it with your Form 940 by the due date of Form 940.

When To Deposit.—Deposit the amount by the last day of the first month following the close of the quarter.

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

Note: *The total amount of all deposits must be shown in Part II, line 8.*

If you deposited the correct amounts, following these rules, the balance due with Form 940 will never be more than \$100.

Deposit FUTA tax in an authorized financial institution or the Federal Reserve bank for your area. To avoid a possible penalty, do not mail deposits directly to the IRS. Records of your deposits will be sent to the IRS for crediting to your business accounts. See **Identifying Your Payments** on this page.

You must use Form 8109 when making each tax deposit. The IRS will send you a book of deposit coupons when you apply for an employer identification number. Follow the instructions in the coupon book. If you do not have coupons, see Circular E.

New Business.—See **Pub. 583**, Taxpayers Starting a Business, for details on how to make tax deposits, file a return, etc., if these are due before you receive your employer identification number.

Not Liable for FUTA Tax.—If you receive Form 940 and are not liable for FUTA tax for 1992, write "Not Liable" across the front, sign the return, and return it to the IRS.

Final Return.—If you will not have to file returns in the future, check the box above Part I. Then complete and sign the return. If you start paying FUTA wages again, notify the IRS.

Where To File.—

If your principal business, office or agency is located in:	File with the Internal Revenue Service Center at:
Florida, Georgia, South Carolina	Atlanta, GA 39901
New Jersey, New York (New York City and counties of Nassau, Rockland, Suffolk, and Westchester)	Holtsville, NY 00501
New York (all other counties), Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	Andover, MA 05501
Illinois, Iowa, Minnesota, Missouri, Wisconsin	Kansas City, MO 64999

Delaware, District of Columbia, Maryland, Pennsylvania, Puerto Rico, Virginia, Virgin Islands	Philadelphia, PA 19255
Indiana, Kentucky, Michigan, Ohio, West Virginia	Cincinnati, OH 45999
Kansas, New Mexico, Oklahoma, Texas	Austin, TX 73301
Alaska, Arizona, California (counties of Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, and Yuba), Colorado, Idaho, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming	Ogden, UT 84201
California (all other counties), Hawaii	Fresno, CA 93888
Alabama, Arkansas, Louisiana, Mississippi, North Carolina, Tennessee	Memphis, TN 37501

If you have no legal residence or principal place of business in any IRS district, file with the Internal Revenue Service Center, Philadelphia, PA 19255.

Identifying Your Payments.—On balance due payments of \$100 or less (Part II, line 9), make your check or money order payable to the "Internal Revenue Service." On balance due payments of more than \$100, make your check or money order payable to the depository or Federal Reserve bank where you make your deposit. Write your employer identification number, "Form 940," and the tax period to which the payment applies on your check or money order. This will help ensure proper crediting of your account.

Penalties and Interest.—Avoid penalties and interest by making tax deposits when due, filing a correct return, and paying the proper amount of tax when due. The law provides penalties for late deposits and late filing unless you show reasonable cause for the delay. If you file late, attach an explanation to the return. See **Circular E**, Employer's Tax Guide, for information on penalties.

There are also penalties for willful failure to pay tax, keep records, make returns, and filing false or fraudulent returns.

Credit for Contributions Paid Into State Funds.—You can claim credit for amounts you pay into a certified

state (including Puerto Rico and the Virgin Islands) unemployment fund by the due date of Form 940. Your FUTA tax will be higher if you do not pay the state contributions timely.

"Contributions" are payments that state law requires you to make to an unemployment fund because you are an employer. These payments are "contributions" only to the extent that they are not deducted or deductible from the employees' pay.

Do not take credit for penalties, interest, or special administrative taxes which are not included in the contribution rate the state assigned to you. Do not take credit for voluntary contributions paid to obtain a lower assigned rate.

If you have been assigned an experience rate lower than 5.4% (.054) by a state for the whole or part of the year, you are entitled to an additional credit. This **additional** credit is equal to the difference between actual payments and the amount you would have been required to pay at 5.4%.

The total credit allowable may not be more than 5.4% of the total taxable FUTA wages eligible for credit.

Special Credit for Successor Employers.—A successor employer is an employer who received all or most of the property used in the trade or business of another employer, or a unit of that employer's trade or business, and immediately after the acquisition employs one or more individuals who were employed by the previous owner.

If you are a successor employer and have acquired a business in 1992 from a previous owner who is not an employer for FUTA purposes during 1992, you may be eligible for a credit in 1992 based on the state unemployment contributions paid by the previous owner. See section 3302(e) and Regulations 31.3302(e)-1.

Amended Returns.—If you are amending a previously filed return, complete a new Form 940, using the amounts that should have been used on the original return, and sign the return. Attach a statement explaining why you are filing an amended return. For example, you are filing to claim the 90% credit for contributions paid to your state unemployment fund after the due date of Form 940.

If you are filing an amended return after June 30 to claim contributions to your state's unemployment fund that you paid after January 31, attach a copy of the certification from the state. This will expedite the processing of the amended return. Be sure to use a Form 940 for the year you are amending. If you are correcting a 1990 or prior year form, write "Amended Return" at the top of the form. To amend a 1991 or later Form 940, check the amended return box above Part I. File the amended return with the Internal Revenue Service Center where you filed the original return.

Specific Instructions

Form 940 Questions.—Answer questions A through D at the beginning of the form. The answers will direct you to the correct form to file. If you answered "Yes" to all the questions, you may file Form 940-EZ, a simplified version of Form 940. If you answered "No" to any one of the questions, complete Form 940.

Part I.—Computation of Taxable Wages

Employer's Name, Address, and Identification Number.—Use the preaddressed Form 940 mailed to you. If you must use a form that is not preaddressed, type or print your name, trade name, address, and employer identification number on it.

Line 1—Total payments.—Enter the total payments you made to employees during the calendar year, even if they are not taxable. Include salaries, wages, commissions, fees, bonuses, vacation allowances, amounts paid to temporary or part-time employees, and the value of goods, lodging, food, clothing, noncash fringe benefits, and benefits made from a section 125 plan. Include the amount of tips reported to you in writing by your employees. Also, include contributions to a 401(k) pension plan. Enter the amount before any deductions.

How the payments are made is not important in determining if they are wages. Thus, you may pay wages for piecework or as a percentage of profits, and you may pay wages hourly, daily, weekly, monthly, or yearly. You may pay wages in cash or some other way,

such as goods, lodging, food, or clothing. For items other than cash, use the fair market value at the time of payment.

Line 2—Exempt payments.—"Wages" and "employment" as defined for FUTA purposes do not include every payment and every kind of service an employee may perform. In general, payments excluded from wages and payments for services excepted from employment are not subject to tax. You may deduct these exempt payments from total payments only if you explain them on line 2.

Enter payments for the following items:

1. Agricultural labor, if you did not meet either of the tests in **Agricultural Employers** on page 1.
2. Benefit payments for sickness or injury under a worker's compensation law.
3. Household service if you did not pay cash wages of \$1,000 or more in any calendar quarter in 1991 or 1992.
4. Certain family employment.
5. Certain fishing activities.
6. Noncash payments for farmwork or household services in a private home that are included on line 1. Only cash wages to these workers are taxable.
7. Value of certain meals and lodging.
8. Cost of group-term life insurance.
9. Payments attributable to the employee's contributions to a sick pay plan.
10. Benefits that are excludable under a section 125 plan (cafeteria plan).
11. Any other exempt service or pay.

For more information, see Special Rules for Various Types of Services and Products in Circular E.

Line 3.—Enter the total amounts over \$7,000 you paid each employee. For example, if you have 10 employees to whom you paid \$8,000 each during the year, enter \$80,000 on line 1 and \$10,000 on line 3. **Only the first \$7,000 paid to your employee is subject to FUTA tax. DO NOT use the state wage limitation for this entry. Generally, the state wage base is a different amount than the Federal wage base of \$7,000.**

If you are a successor employer and have acquired a business from a previous owner who was an employer liable for FUTA tax, you may be able to count the wages that employer paid to the employees who continue to work for you when you figure the \$7,000 wage limit. See code section 3306(b) and Regulations 31.3306(b)(1)-1(b).

Line 5—Total taxable wages.—The total taxable wage amount is used in Part II to compute the maximum FUTA rate of .062 and the maximum credit of .054.

Line 6—Computation of credit reduction.—Enter the amount of wages included on line 5 subject to the unemployment compensation laws of the State of Michigan. The wages shown on line 6 cannot exceed the total taxable wages shown on line 5. If no wages are subject to these laws, enter -0- on line 6. Multiply the wages by the rate shown.

The amount of this adjustment increases the FUTA tax by reducing the credit otherwise allowable against the FUTA tax for contributions made to state unemployment funds. However, the increase cannot be more than the credit otherwise allowable.

Part II.—Tax Due or Refund

Line 1.—Multiply the total taxable wages in Part I, line 5 by .062. This is the maximum amount of FUTA tax.

Line 2.—Multiply the total taxable wages in Part I, line 5 by .054. This is the maximum credit that is used to offset FUTA tax.

Line 3.—If you have been assigned an experience rate by your state of 0% or more, but less than 5.4% for all or part of the year, use columns (a) through (i). If you have not been assigned any experience rate by your state, use columns (a), (b), (c), and (i) only. If you have been assigned a rate of 5.4% or higher, use columns (a), (b), (c), (d), (e), and (i) only. If you were assigned an experience rate for only part of the year or the rate was changed during

the year, complete a separate line for each rate period.

If you need additional lines, attach a separate statement with a similar format.

Column (a).—Enter the two-letter abbreviation of the name of the state(s) that you were required to pay contributions to (including Puerto Rico and the Virgin Islands).

Column (b).—Enter the state reporting number that was assigned to you when you registered as an employer with each state. **Be sure to enter the correct number.** Failure to enter the correct number may result in unnecessary correspondence.

Column (c).—Enter the taxable payroll on which you must pay taxes to the unemployment fund of each state in column (a). If your experience rate is 0%, enter the amount of wages that you would have had to pay on if the rate had not been granted.

Columns (d) and (e).—Your “state experience rate” is the rate at which the state taxes your payroll for state unemployment purposes. This rate may be adjusted from time to time based on your “experience” with the state tax fund, that is, unemployment compensation paid to your former employees and other factors. If you do not know your rate, contact your state unemployment insurance service. The state experience rate can be stated as a percent or a decimal.

Column (h).—Subtract column (g) from column (f). If zero or less, enter -0-.

Column (i).—Enter the contributions actually paid to the state unemployment fund by February 1, 1993. Do not include amounts you are required to pay but have not paid by the February 1, 1993, due date. See **Amended Return** on page 3. If you are claiming excess credits as payments of state unemployment contributions, attach a copy of the letter from your state. Do not include any special assessments, surtaxes, surcharges, etc., used by the state to pay

interest on unrepaid advances from the Federal Government. Do not include amounts paid for training or job development fund taxes.

Line 3a.—Enter the totals of columns (c), (h), and (i) on this line.

Line 3b.—Add line 3a, columns (h) and (i) only. If you file Form 940 after its due date and any contributions in column (i) were made after February 1, 1993, your credit for late contributions is limited to **90%** of their amount. For example, if \$1,500 of state contributions was paid on time, and \$1,000 was paid after February 1, 1993, the total tentative credit on line 3b would be \$2,400 (\$1,500 + \$900 (90% of \$1,000)). This is assuming there is no additional credit in column (h).

Note: *If you are receiving additional credit (column (h)) because your state experience rate is less than 5.4%, the additional credit is not subject to the 90% limitation.*

Line 4.—Enter the smaller of Part II, line 3b, or line 2. This is the credit allowable for your payments to state unemployment funds. If you do not have to make payments to the state, enter -0- on this line.

Lines 5 and 6.—Enter the amount from Part I, line 6 on line 5. Subtract this amount from line 4. The result on line 6 is your allowable credit for payments to the state.

Part III.—Record of Federal Tax Liability

Complete this part if your total tax (Part II, line 1, or line 7) is over \$100. To figure your FUTA tax liability **for each of the first 3 quarters of 1992**, see **FUTA Amount To Deposit** on page 2. Enter this amount in the column for that quarter. This is your liability, not your deposit.

Your liability for the fourth quarter is the total tax (Part II, line 7) minus your liability for the first 3 quarters of the year. The total liability must equal your total tax. Otherwise, you may be charged a failure to deposit penalty figured on your average liability.