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# Circular SS

## Federal Tax Guide for Employers in the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands

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## Important Changes

**Tax rates and maximum wages.**— The social security and Medicare tax rates remain the same for 1996 and 1997. The social security tax is 6.2% for both the employer and the employee (12.4% total). The Medicare tax is 1.45% for both the employer and the employee (2.9% total). The wage base for social security for 1996 is \$62,700. For 1997, the wage base for social security is \$65,400. There is no wage base limit for Medicare tax; all covered wages are subject to Medicare tax.

**Electronic deposit requirement.**— If your total deposits of social security, Medicare, and withheld Federal income taxes were more than \$50,000 in 1995, you must make electronic deposits for all depository tax liabilities

that occur after June 30, 1997, by EFTPS. For details, see section 9.

**Magnetic media filing of Forms W-2AS, W-2GU, W-2VI.**— New magnetic media filing requirements are in effect for Forms W-2 due February 28, 1997, for employers required to file more than 250 returns. For more information, call the Social Security Administration at 415-744-4559 (for American Samoa and Guam), 809-766-5574 (for the U.S. Virgin Islands).

**Notice CP 136 limited.**— The deposit schedule notification (Notice CP 136) will not be mailed to all employers for 1997 and following years. If you do not receive notification, you must determine your deposit schedule (monthly or semiweekly) prior to the start of the calendar year. See **When To Deposit** in section 9.

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## 1997 Employer's Calendar

***Note:** For any due date, you will meet the "file" or "furnish" requirement if the form is properly addressed and mailed First-Class and postmarked on or before the due date. If any date shown falls on a Saturday, Sunday, or legal holiday, use the next business day.*

### Each Time You Pay Wages

**Keep withholding records.**— Record each wage payment and the amount deducted as employee social security and Medicare taxes. The employee tax rate for wages paid in 1997 is 6.2% for social security and 1.45% for Medicare. (See section 9.)

### By January 31

**Wage and Tax Statements to Employees.**— Give each employee a completed Form W-2VI, W-2GU, W-2AS, or W-2CM. (See section 11.)

**Annual Return—Agricultural Employers.**— File **Form 943**, Employer's Annual Tax Return for Agricultural Employees, with the Internal Revenue Service. If you deposited the full amount of taxes when due, you may file Form 943 by February 10.

**FUTA Tax—U.S. Virgin Islands Employers.**— File **Form 940**, Employer's Annual Federal Unemployment Tax Return, with the Internal Revenue Service. Pay or deposit (if more than \$100) any balance of the tax due. If you deposited the full amount of taxes when due, you may file by February 10.

### By February 28

**Wage Reports to SSA.**— Send Copy A of Forms W-2VI, W-2GU, W-2AS, or W-2CM with Form W-3SS to the Social Security Administration. See Form W-3SS.

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

**Quarterly Employment Tax Return.**— File **Form 941-SS**, Employer's Quarterly Federal Tax Return, with the Internal Revenue Service. If you deposited the full amount of taxes when due, you have 10 additional days to file.

**FUTA Tax Deposits.**— Deposit FUTA tax for the quarter (including any amount carried over from other quarters) if over \$100. If \$100 or less, carry over to the next quarter. (See section 13.)

### Reminder—When Hiring Employees

Record the number and name from each new employee's social security card. An employee who does not have a number should apply for one on **Form SS-5**, Application for a Social Security Card. (See section 3.)

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## Introduction

Circular SS is for employers whose place of business is in the U.S. Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands. Employers and employees in these areas are generally subject to social security and Medicare taxes under the Federal Insurance Contributions Act. This circular summarizes employer responsibilities to collect, pay, and report these taxes.

Circular SS also provides employers in the U.S. Virgin Islands with a summary of their responsibilities in connection with the tax under the Federal Unemployment Tax Act, known as FUTA tax. See section 13.

Except as shown in the tables on pages 15 through 19, these taxes apply to every employer who pays taxable wages to employees or who has employees who report tips.

Whenever the term "United States" is used in this circular, it includes the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

This circular does not include instructions relating to the self-employment tax (for social security and Medicare of self-employed persons). See **Pub. 570**, Tax Guide for Individuals With Income From U.S. Possessions, if you need this information.

This circular also does not include instructions relating to income tax withholding. See **Circular E**, Employer's Tax Guide (Pub. 15), for information on U.S. Federal

income tax withholding and advance earned income credit payments. Contact your local tax department about income tax withholding for the U.S. Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands.

**Note:** Employers in the U.S. Virgin Islands may call 1-800-829-1040 for Federal employment tax information.

**Ordering publications and forms.**— Publications and forms are available by personal computer and modem. If you subscribe to an on-line service, ask if IRS information is available and, if so, how to get it. You can also get the information through IRIS, the Internal Revenue Information Services, on FedWorld, a government bulletin board. Tax forms, instructions, publications, and other IRS information, are available through IRIS.

IRIS is accessible directly using your modem by calling 703-321-8020. On the Internet, you can telnet to [iris.irs.ustreas.gov](http://iris.irs.ustreas.gov) or, for file transfer protocol services, connect to [ftp.irs.ustreas.gov](http://ftp.irs.ustreas.gov). If you are using the World Wide Web, connect to <http://www.irs.ustreas.gov>. FedWorld's help desk offers technical assistance on accessing IRIS (not tax help) during regular business hours at 703-487-4608. The IRIS menus offer information on available file formats and software needed to read and print files. You must print the forms to use them; the forms are not designed to be filled out on-screen.

You may get IRS forms and publications by writing to Western Area Distribution Center, Rancho Cordova, CA 95743-0001.

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## 1. Who Are Employees?

A worker may be an employee either under common law or under special statutes for special purposes.

**Employee status under common law.**— Anyone who performs services for you is your employee if you can 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 **Pub 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.

**Statutory employees.**— There are also some special definitions of employees for social security, Medicare, and FUTA taxes.

While the following persons may not be common law employees, they are considered employees for social security and Medicare purposes if tests **1** through **3** below are met.

**a.** An agent (or commission) driver who delivers food or beverages (other than milk) or picks up and delivers laundry or dry cleaning for someone else.

**b.** A full-time life insurance salesperson selling primarily for one company.

**c.** A homemaker who works by the guidelines of the person for whom the work is done, with materials furnished by and returned to that person or to someone that person designates.

**d.** A traveling or city salesperson (other than an agent-driver or commission-driver) who works full time (except for sideline sales activities) for one firm or person getting orders from customers. The orders must be for items for resale or use as supplies in the customer's business. The customers must be retailers, wholesalers, contractors, or operators of hotels, restaurants, or other businesses dealing with food or lodging.

Withhold social security and Medicare taxes from statutory employees' wages if all three of the following conditions apply.

**Tests.**—

- 1) The service contract states or implies that almost all of the services are to be performed personally by them.
- 2) They have little or no investment in the equipment and property used to perform the services (other than an investment in transportation facilities).
- 3) The services are performed on a continuing basis for the same payer.

Persons in **a** and **d** are employees for FUTA tax purposes if tests **1** through **3** are met (U.S. Virgin Islands only).

Pub. 15-A gives examples of the employer-employee relationship.

**Statutory nonemployees.**— Direct sellers and certain real estate agents, are by law considered nonemployees. They are treated as self-employed for employment tax purposes. See Pub. 15-A for details on these groups.

**Treating employees as nonemployees.**— If you incorrectly treated an employee as a nonemployee and did not withhold social security and Medicare taxes, you will be liable for the taxes. See Internal Revenue Code section 3509 for details.

**IRS help.**— If you want the IRS to determine whether a worker is an employee, file **Form SS-8**, Determination of Employee Work Status for Purposes of Federal Employment Taxes and Income Tax Withholding. You can order the form by calling 1-800-TAX-FORM (1-800-829-3676).

## Farm Crew Leaders

You are an employer of farmworkers if you are a crew leader. 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.

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## 2. Employer Identification Number (EIN)

The employer identification number (EIN) is a nine-digit number the IRS issues. Its format is 00-0000000. It is used to identify the tax accounts of employers and certain other organizations and entities that have no employees.

If you have not applied for an EIN, you should do so on **Form SS-4**, Application for Employer Identification Number, available from the IRS or Social Security Administration (SSA) offices.

Enter your EIN on all forms, attachments, and correspondence you send to the IRS and SSA for your business.

You should have only one EIN. If you have more than one, notify the Internal Revenue Service Center where you file your return. Indicate what EINs you have, the name and address to which each EIN was assigned, and the address of your principal place of business. The IRS will tell you which number to use.

If you took over another employer's business, do not use that employer's EIN.

See Circular E for information on how to make deposits or file returns if due before you receive your EIN.

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## 3. Employee's Social Security Number (SSN)

An employee's SSN consists of nine digits separated as follows: 000-00-0000. You must get each employee's name and SSN because you must enter them on the employee's wage and tax statement, Form W-2VI, W-2GU, W-2AS, or W-2CM. If you do not provide the correct name and SSN, you may owe a penalty.

If an employee does not have a social security card or needs a new one, the employee should apply for one on **Form SS-5**, Application for a Social Security Card. See the back cover for information on how to get and where to send the form. If your employee has applied for an SSN but does not have one when you file his or her wage and tax statement, enter "Applied For" on the form. When the employee receives the SSN, file **Form W-2c**,

Corrected Wage and Tax Statement, to show the employee's SSN.

**Note:** Record the name and number of each employee exactly as they appear on his or her 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 new card from the SSA.

Employees who apply for social security cards must supply proof of age, identity, and citizenship. If they are not citizens of the United States, they must submit evidence of their alien status.

If your employee was given a new social security card to show his or her correct name and number after an adjustment to his or her alien residence status, correct your records and show the new information on Form W-2VI, W-2GU, W-2AS, or W-2CM. If you filed a form for the same employee in prior years under the old name and SSN, file Form W-2c to correct the name and number. Advise the employee to contact the local SSA office about 9 months after Form W-2c is filed to ensure his or her records have been updated.

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## 4. Taxable Wages

Wages subject to social security tax (and FUTA tax for U.S. Virgin Islands employers) consist of all pay, up to the wage limit for the year, you give an employee for services performed. All wages are subject to Medicare tax. The pay may be in cash or in other forms, such as an automobile for personal use. It includes salaries, vacation allowances, bonuses, commissions, and fringe benefits. It does not matter how payments are measured or paid.

See the table on pages 15 through 19 for exceptions to taxes on wages. See sections 5 through 7 for a discussion of how the rules apply to tips, farmworkers, and household employees.

Social security and Medicare taxes apply to most payments of sick pay, including payments by third parties such as insurance companies. Special rules apply to the reporting of third-party sick pay. For details, see Pub. 15-A.

Determine the value of noncash pay (such as goods, lodging, and meals) by its fair market value. However, see **Fringe Benefits** below. This kind of pay may be subject to social security, Medicare, and FUTA taxes.

Back pay, including retroactive wage increases (but not amounts paid as liquidated damages), is taxed as ordinary wages in the year paid.

**Travel and business expenses.**— Payments to your employee for travel and other necessary expenses of your business generally are taxable if (1) your employee is not required to or does not substantiate timely those expenses to you with receipts or other documentation,

or (2) you advance an amount to your employee for business expenses and your employee is not required to or does not return timely any amount he or she does not use for business expenses.

**Sick pay.**— In general, sick pay is any amount you pay, under a plan you take part in, to an employee because of sickness or injury. These amounts are sometimes paid by a third party, such as an insurance company or employees' trust. In either case, these payments are subject to social security, Medicare, and Federal unemployment (FUTA) taxes (U.S. Virgin Islands only).

Pub. 15-A explains the employment tax rules that apply to sick pay, disability benefits, and similar payments to employees.

**Back pay under a statute.**— Treat back pay as wages and withhold and pay employment taxes under the general rules. If back pay was awarded by a court or government agency to enforce a Federal or state statute protecting an employee's right to employment or wages, special rules apply for reporting those wages to the SSA. See **Pub. 957**, Reporting Back Pay to the Social Security Administration.

## Fringe Benefits

Unless the law says otherwise, fringe benefits are includible in the gross income of the employee and are subject to income and employment taxes. Examples of fringe benefits include automobiles or aircraft flights you provide, free or discounted commercial airline flights, vacations, discounts on property or services, memberships in country clubs or other social clubs, and tickets to entertainment or sporting events. In general, the amount includible is the excess of the fair market value of the benefit over the sum of any amount paid for it by the employee plus any amount excludable by law. If a timely notice is given to the employees, there are optional special valuation rules that may be used by employers and employees to value certain fringe benefits. Certain fringe benefits are specifically excludable by law. For details on fringe benefits, see Pub. 15-A.

**When fringe benefits are treated as paid.**— You can elect to treat taxable noncash fringe benefits (including personal use of an automobile provided by you) as paid by the pay period, quarter, or on any other basis you choose, but they must be treated as paid at least annually. You do not have to make a formal election of payment dates or notify the IRS. You do not have to make this election for all employees, and the election can be changed as often as desired, as long as all benefits provided in a calendar year are treated as paid no later than December 31 of the calendar year. However, see **Special accounting rule for fringe benefits provided during November and December** later.

You can treat the value of a single taxable noncash fringe benefit as paid on one or more dates in the same

calendar year, even if the employee gets the entire benefit at one time. However, once you elect the payment dates, you must report the taxes on your return in the same tax period in which you treated them as paid. This election does not apply to a fringe benefit where real property or investment personal property is transferred.

**Withholding social security and Medicare taxes on fringe benefits.**— You add the value of fringe benefits to regular wages for a payroll period and figure social security and Medicare taxes on the total.

If you withhold less than the required amount of social security and Medicare taxes from the employee in a calendar year but report the proper amount, you may recover the taxes from the employee.

**Depositing taxes on fringe benefits.**— Once payment dates for taxable noncash fringe benefits are elected, taxes are deposited under the general deposit rules, including those for timeliness of deposit. You may make a reasonable estimate of the value of the fringe benefits deemed to be paid on the date(s) elected, for purposes of meeting the timely deposit requirements.

You may claim a refund of overpayments or elect to have any overpayment applied to the next employment tax return. If deposits are underpaid, see **Penalties** in section 9.

**When to report fringe benefits.**— In general, the value of taxable noncash fringe benefits provided in a calendar year must be determined by January 31 of the following year. If you provide a vehicle, you may either determine the actual value of the benefit for the entire calendar year, taking into account the business use of the vehicle, or consider the entire use for the calendar year as personal and include 100% of the value of the vehicle in the employee's income. For reporting information to employees, see section 11.

**Special accounting rule for fringe benefits provided during November and December.**— You may choose to treat the value of taxable noncash fringe benefits provided during November and December as paid in the next year. However, this applies only to those benefits you actually provided during November and December, not to those you merely treated as paid during those months. You may not use this rule to report moving expense reimbursements, expense allowances paid under nonaccountable plans, or taxable education reimbursements.

If you use this rule, you must notify each affected employee between the time of the employee's last paycheck of the calendar year and at or near the time you give the employee Form W-2AS, W-2GU, W-2VI, or W-2CM. If you use the special accounting rule, your employee must also use it for all purposes (e.g., for deductions related to the fringe benefit) and for the same period. You cannot use this rule for a fringe benefit when

you transfer real property or investment personal property to your employee.

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## 5. Taxable Tips

Tips your employee receives are generally subject to withholding. Your employee must report cash tips to you by the 10th of the month after the month the tips are received. The report should include tips you paid to the employee from charge receipts. Also include tips the employee received directly from customers and other employees and indirectly (e.g., tip splitting). The report should not include tips the employee paid out to other employees. No report is required for months when tips are less than \$20. Your employees report tips on **Form 4070**, Employee's Report of Tips to Employer, or on a similar statement. They may also use **Form 4070A**, Employee's Daily Record of Tips, to keep a record of their tips. Both forms are printed in **Pub. 1244**, Employee's Daily Record of Tips and Report to Employer.

**The statement must be signed by the employee and must show the following:**

- The employee name, address, and SSN.
- The employer name and address.
- The month or period the report covers.
- The total tips.

You must collect the employee social security and Medicare taxes on the employee's tips. You can collect these taxes from the employee's wages or from other funds he or she makes available. Stop collecting the employee social security tax when his or her total wages and tips for 1997 reach \$65,400.

You are responsible for the employer social security tax on wages and tips until the wages (including tips) reach the appropriate limit. There is no limit on tips subject to Medicare tax. File Form 941-SS to report withholding on tips.

If, by the 10th of the month after the month you received an employee's report on tips, you don't have enough employee funds available to deduct the employee tax, you no longer have to collect it. Show any uncollected social security and Medicare taxes on Form W-2AS, W-2GU, W-2VI, or W-2CM.

The table on page 19 shows how tips are treated for FUTA tax purposes.

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## 6. Social Security and Medicare Taxes for Farmworkers

The tests described below apply only to services that are defined as agricultural labor (farmwork). Farmworkers are employees who:

- Raise or harvest agricultural or horticultural products on a farm.
- Work in connection with the operation, management, conservation, improvement, or maintenance of your farm and its tools and equipment.
- Handle, process, or package any agricultural or horticultural commodity if you produced over half of the commodity (for a group of more than 20 operators, all of the commodity).
- Do work related to cotton ginning, turpentine, or gum resin products.
- Do housework in your private home if it is on a farm that is operated for profit.

A share farmer working for you is not your employee. However, the share farmer may be subject to self-employment tax.

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

All cash wages you pay for farmwork are subject to social security and Medicare taxes if either of the two tests below is met:

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

**Exceptions.**— The \$150 and \$2,500 tests do not apply to the following:

- 1) Wages you pay to a farmworker who receives less than \$150 in annual cash wages are not subject to social security or Medicare taxes even if you pay \$2,500 or more in that year to all your farmworkers if the farmworker:
  - a) Is employed in agriculture as a hand-harvest laborer,
  - b) Is paid piece rates in an operation that is usually paid on a piece-rate basis in the region of employment,
  - c) Commutes daily from his or her home to the farm, and
  - d) Was employed in agriculture less than 13 weeks in the preceding calendar year.

The amounts you pay to these seasonal farmworkers, however, count toward the \$2,500-or-more test for determining social security and Medicare coverage of other farmworkers.

- 2) Cash wages you pay to a household worker are counted in the \$2,500 test, but are not subject to social security and Medicare taxes unless you have paid the worker \$1,000 or more in cash wages for

the calendar year. See the table on page 17 showing liability for social security, Medicare, and FUTA taxes.

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## 7. Social Security and Medicare Taxes for Household Employees

**General rule.**— An employee who performs household services, such as a maid, babysitter, gardener, or cook, in your home is your household employee. For each household employee to whom you pay \$1,000 or more, you are required to withhold and pay social security and Medicare taxes.

If you are a sole proprietor and file Form 941-SS for business employees, you may include the wages paid to household employees on that form.

If you also must file **Form 1040**, U.S. Individual Income Tax Return, or **Form 1040-SS**, U.S. Self-Employment Tax Return—U.S. Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands (CNMI), or Puerto Rico, you may choose to report the wages paid to your household employees on that form. Attach **Schedule H**, Household Employment Taxes.

If you do not have business employees, but are required to file Form 1040, report the wages on Schedule H of that form.

If you do not have business employees, and are not required to file Form 1040, report the taxable wages paid to your household employees on Schedule H. File Schedule H as a separate return. Do not attach it to a Form 1040.

**Exceptions.**— The \$1,000 test applies to each household employee. Checks, money orders, etc., are treated as cash. The value of food, lodging, clothing, bus tokens, and other noncash items given to household employees is not subject to social security or Medicare taxes.

You do not have to pay social security or Medicare taxes on cash wages for household work in your home by your parent unless **both** of the following apply:

- You have in your home a child, or stepchild, who is under age 18, or who has a physical or mental condition requiring the personal care of an adult for at least 4 continuous weeks in the quarter.
- You are a widow or widower, or are divorced, or have a spouse in your home who, because of a physical or mental condition, cannot care for your child or stepchild for at least 4 continuous weeks in the quarter.

Social security and Medicare taxes do not apply to household work performed in your home by your child who is under age 21 or by your spouse.

Payments for household services are exempt from social security and Medicare taxes if performed by an individual who is under age 18 during any part of the calendar year, unless household work is the principal occupation of the employee. See **Pub. 926**, Household Employer's Tax Guide, for more information.

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## 8. How To Figure Social Security and Medicare Taxes

For wages paid in 1997, the social security tax rate is 6.2% and the Medicare tax rate is 1.45% for both the employer and the employee. Multiply each wage payment by these percentages to figure the tax. For example, the social security tax on a wage payment of \$355 would be \$22.01 ( $\$355 \times .062$ ) each. The Medicare tax would be \$5.15 ( $\$355 \times .0145$ ) each. (See section 5 for information on tips.)

Deduct the employee tax from each wage payment. If you are not sure that the wages you pay to a farmworker during the year will be taxable, you may either deduct the tax when you make the payments or wait until the \$2,500 test or the \$150 test explained in section 6 has been met.

If you would rather pay the employee's share of social security and Medicare taxes without deducting it from his or her wages, you may do so. If you do not deduct the taxes from the employee, you must pay them yourself. Any amount of employee social security and Medicare taxes you pay for the employee is additional income to the employee for income tax purposes.

Any employee social security and Medicare taxes you pay (rather than deducting them) for employees who are not household workers or farmworkers are includible in social security and Medicare wages. See Pub. 15-A for more information.

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## 9. Deposit Requirements

Generally, you must deposit social security and Medicare taxes if your liability (the employer tax plus the taxes withheld from employee wages) is \$500 or more for the tax return period.

**Electronic deposit requirement.**— If your total deposits of social security, Medicare, and withheld income taxes were more than \$50,000 in 1995, you must make electronic deposits for all depository tax liabilities that occur after June 30, 1997. If you were required to deposit by electronic funds transfer in prior years, continue to do so in 1997. The **Electronic Federal Tax Payment System**

(EFTPS) must be used to make deposits. If you are required to make electronic deposits by electronic funds transfer and fail to do so, you may be subject to a 10% penalty. Taxpayers who are not required to make electronic deposits may voluntarily participate in EFTPS. For information on EFTPS, you may write to:

Department of the Treasury  
Internal Revenue Service  
EFTPS Enrollment Processing  
P.O. Box 4210  
Iowa City, IA 52244-4210

You may also call 303-706-6585 for information.

## When To Deposit

**Note:** Under the rules discussed below, the only difference between farm and nonfarm workers' employment tax deposit rules is the lookback period. Therefore, farm and nonfarm workers are discussed together except where noted.

Depending on your total taxes reported during a lookback period (discussed below), you are 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 you pay your employees or how often you are required to make deposits. The terms identify which set of rules you must follow when a tax liability arises (when you have a payday).

You will need to determine your deposit schedule for a calendar year based on the total employment taxes reported on your Form 941-SS or Form 943 for a calendar lookback period. Determine your deposit schedule separately for each form.

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

**Lookback period for employers of nonfarm workers.**— The lookback period for Form 941-SS consists of four quarters beginning July 1 of the second preceding year and ending June 30 of the prior year. These four quarters are your lookback period even if you did not report any taxes for any of the quarters. For 1997, the lookback period is July 1, 1995, through June 30, 1996.

**Lookback period for employers of farmworkers.**— The lookback period for Form 943 is the second calendar year preceding the current calendar year. The lookback period for calendar year 1997 is calendar year 1995.

**Adjustments to lookback period taxes.**— To determine your taxes for the lookback period, use only the tax

you reported on the original returns (Forms 941-SS or Form 943). Do not include adjustments made on a supplemental return filed after the due date of the return. However, if you make adjustments on Form 941-SS or 943, the adjustments are included in the total tax for the period in which the adjustments are reported.

**Example of adjustments.**— An employer originally reported total taxes of \$45,000 for the lookback period. The employer discovered during February 1997 that the tax during the lookback period was understated by \$10,000 and corrected this error with an adjustment on the 1997 first quarter Form 941-SS or the 1997 Form 943. The total taxes reported in the lookback period are \$45,000. The \$10,000 adjustment is treated as part of the 1997 taxes.

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

**New employers.**— During the first calendar year of your business, your taxes for the lookback period are considered to be zero. Therefore, you are a monthly schedule depositor for the first calendar year of your business (but see the **\$100,000 one-day rule** later).

**Semiweekly deposit schedule.**— If the total tax reported for the lookback period is more than \$50,000, you are a semiweekly schedule depositor for the current year. If you are a semiweekly schedule depositor, you must deposit on Wednesday and/or Friday, depending on what day of the week you make payments, as follows:

Deposit taxes accumulated on payments made on Wednesday, Thursday, and/or Friday by the following Wednesday.

Deposit taxes accumulated on payments made on Saturday, Sunday, Monday, and/or Tuesday by the following Friday.

If a return period ends on a day other than Tuesday or Friday, taxes accumulated on the days in the tax return period just ending are subject to one deposit obligation, and taxes accumulated on the days in the next tax return period are subject to a separate deposit obligation. For example, if a return period ends on Thursday, taxes accumulated on Wednesday and Thursday are subject to one deposit obligation and taxes accumulated on Friday, the start of a new return period, are subject to a separate obligation.

**Example of monthly and semiweekly schedules for employers of nonfarm workers.**— Rose Co. reported Form 941-SS taxes as follows:



#### 1996 Lookback Period

3rd Quarter 1994	—	\$12,000
4th Quarter 1994	—	\$12,000
1st Quarter 1995	—	\$12,000
2nd Quarter 1995	—	<u>\$12,000</u>
		\$48,000

#### 1997 Lookback Period

3rd Quarter 1995	—	\$12,000
4th Quarter 1995	—	\$12,000
1st Quarter 1996	—	\$12,000
2nd Quarter 1996	—	<u>\$15,000</u>
		\$51,000

Rose Co. is a monthly schedule depositor for 1996 because its taxes for the four quarters in its lookback period (\$48,000 for the 3rd quarter of 1994 through the 2nd quarter of 1995) were not more than \$50,000. However, for 1997, Rose Co. is a semiweekly depositor because the total taxes for the four quarters in its lookback period (\$51,000 for the 3rd quarter of 1995 through the 2nd quarter of 1996) exceeded \$50,000.

**Example of monthly and semiweekly schedules for employers of farmworkers.**— Red Co. reported taxes on its 1994 Form 943 of \$48,000. On its 1995 Form 943, it reported taxes of \$60,000.

Red Co. is a monthly schedule depositor for 1996 because its taxes for its lookback period (\$48,000 for calendar year 1994) were not more than \$50,000. However, for 1997, Red Co. is a semiweekly schedule depositor because the total taxes for its lookback period (\$60,000 for calendar year 1995) exceeded \$50,000.

**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 timely if it is made by the close of 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 one additional banking day to deposit. For example, if a semiweekly schedule depositor accumulated taxes for payments made 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).

## Application of Monthly and Semiweekly Schedules

The examples below illustrate the procedure for determining the deposit date under the two different deposit schedules.

**Monthly schedule example.**— Green Inc. is a seasonal employer and a monthly schedule depositor. It pays wages each Friday. During January 1997, it paid wages but did not pay any wages during February. Green Inc. must deposit the combined tax liabilities for the January paydays by February 18 (February 15 is a Saturday and February 17 is a holiday). Green Inc. does not have a deposit requirement for February (i.e., due by March 15) because no wages were paid in February and, therefore, it did not have a tax liability for February.

**Semiweekly schedule example.**— Blue Co., a semiweekly schedule depositor, pays wages on the last day of the month. Blue Co. will deposit only once a month, but the deposit will be made under the semiweekly deposit schedule as follows. Blue Co.'s tax liability for the April 29, 1997 (Tuesday) payday must be deposited by May 2, 1997 (Friday).

**\$500 rule.**— If you accumulate less than a \$500 tax liability during a return period, no deposits are required. You may pay it with your tax return. However, if you are unsure that you will accumulate less than \$500 for a return period, deposit under the appropriate rules so that you will not be subject to failure to deposit penalties.

*Note:* You must deposit all taxes unless you fall under the \$500 rule above or you are a monthly schedule depositor with a shortfall amount under the **Accuracy of deposits rule** later.

**\$100,000 one-day rule.**— If you accumulate taxes of \$100,000 or more on any day during a deposit period, you must deposit by the close of the next banking day, whether you are a monthly or a semiweekly schedule depositor. For monthly depositors, the deposit period is a calendar month. For semiweekly schedule depositors, the deposit periods are Wednesday through Friday and Saturday through Tuesday.

For purposes of the \$100,000 rule, do not continue accumulating taxes after the end of a deposit period. For example, if a semiweekly schedule depositor has accumulated taxes of \$95,000 on Tuesday and \$10,000 on Wednesday, the \$100,000 one-day 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 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. must deposit the \$30,000 on Friday using the normal semiweekly deposit schedule.

If you are a monthly schedule depositor and you accumulate an employment tax liability of \$100,000 or more on any day during a deposit period, you become a semi-weekly schedule depositor on the next day and remain so for the remainder of the calendar year and for the following calendar year.

*Example of \$100,000 one-day rule.*— Elm Inc. started business on January 1, 1997. 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 January 8, Elm Inc. paid wages for the first time and accumulated taxes of \$60,000. On January 15, Elm Inc. paid wages and accumulated taxes of \$50,000, for a total of \$110,000. Because Elm Inc. accumulated \$110,000 on January 15, it must deposit \$110,000 by January 16, the next banking day. Elm Inc. immediately becomes a semiweekly schedule depositor for the remainder of 1997 and for 1998 but may be subject to the \$100,000 one-day rule if it accumulates \$100,000 again in any semiweekly period.

**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, and
  - 2) The deposit shortfall is paid or deposited by the shortfall makeup date as described below.
- **Monthly Schedule Depositor**— Deposit or pay the shortfall with your return by the due date of the Form 941-SS (or 943) for the period in which the shortfall occurred. You may pay the shortfall with your return even if the amount is \$500 or more.
  - **Semiweekly Schedule and \$100,000 One-Day Depositor**— Deposit by the earlier of the first Wednesday or Friday that comes on or after the 15th of the month following the month in which the shortfall occurred or, if earlier, the return due date for the period in which the shortfall occurred. For example, if a semi-weekly schedule depositor has a shortfall during January 1997, the shortfall makeup date is February 19, 1997 (Wednesday). However, if the deposit was made January 3, 1997, for a December 1996 pay date, the return due date (January 31) comes before the February 19 makeup date. The shortfall makeup date is January 31.

## 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-SS taxes). Form 943 taxes and

Form 941-SS taxes are not combined for purposes of applying any of the deposit rules.

If a deposit is due, deposit the Form 941-SS taxes and Form 943 taxes with separate FTD coupons.

## Making Deposits

**Federal tax deposit (FTD) coupon.**— If you are not making deposits by electronic funds transfer, discussed at the beginning of this section, use **Form 8109**, Federal Tax Deposit Coupon, to deposit employment taxes and all other types of taxes that are deposited. **Do not** use the FTD coupons to pay delinquent taxes assessed by the IRS. These payments should be sent directly to your Internal Revenue Service Center with a copy of any related notice the IRS sent you.

The IRS will send you an FTD coupon book 5 to 6 weeks after you receive an EIN. (Apply for an EIN on Form SS-4.) The FTD coupons are preprinted with your name, address, and EIN. The IRS will keep track of the number of coupons you use and **automatically** will send you additional FTD coupons when you need them. If you do not receive your resupply of FTD coupons, call the IRS at 1-800-829-1040.

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 8109C**, FTD Address Change, which is in the FTD coupon book. (Using Form 8109C will not change your address of record; it will change only the address where the FTD coupons are mailed.)

**Note:** *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 so 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 the failure to deposit penalty. See **Penalties**, below, for details.

**How to make deposits.**— Deliver or mail each FTD coupon and a single payment covering the taxes to be deposited to a qualified depository for Federal taxes or to the Federal Reserve bank or branch (FRB) serving your area. An authorized depository is a financial institution (e.g., a commercial bank) that is authorized to accept Federal tax deposits. Follow the instructions in the FTD coupon book. Make the check or money order payable to the depository or FRB where you make your tax deposit. To help ensure proper crediting of your account, include your EIN, the type of tax (e.g., Form 941-SS), and tax period to which the payment applies on your check or money order.

**Deposits at depositories.**— 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 can deposit taxes

with a check drawn on another financial institution only if the depository is willing to accept that form of payment.

**Note:** *Deposits made at an unauthorized financial institution may be subject to the failure to deposit penalty.*

**Deposits at FRBs.**— If you want to make a deposit at an FRB, you must make that deposit with the FRB serving your area. Deposits may be subject to the failure to deposit penalty if the payment is not considered an immediate credit item on the day it is received by the FRB. A personal check, including one drawn on a business account, is not an immediate credit item. To avoid a penalty, deposits made by personal checks drawn on other financial institutions must be made in advance of the deposit due date to allow time for check clearance. To be considered timely, the funds must be available to the FRB on the deposit due date before the FRB's daily cut-off deadline. Contact your local FRB to obtain information concerning check clearance and cutoff schedules. U.S. Virgin Islands employers may send deposits to the Federal Reserve Bank of New York. Employers in Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands may send deposits to the Federal Reserve Bank of San Francisco.

**Note:** *If you are required to deposit any taxes more than once a month, any deposit of \$20,000 or more must be made by its due date to be timely.*

**Depositing on time.**— The IRS determines whether deposits are on time by the date they are received by an authorized depository or FRB. However, a deposit received by the authorized depository or FRB after the due date will be considered timely if you establish that it was mailed in the United States at least 2 days before the due date.

If you deposit taxes at an FRB and do not comply with the deposit payment requirements, that deposit will be dated on collection of the funds by the FRB, regardless of when mailed.

If you hand deliver your deposit to the depository on the due date, be sure to deliver it before the depository closes its business day.

**Depositing without an EIN.**— If you have applied for an EIN but **have not** received it, and a deposit must be made, make the deposit with your Internal Revenue Service Center. Do not make the deposit at an authorized depository or FRB. Make it payable to the Internal Revenue Service 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. Attach an explanation to the deposit. **Do not use Form 8109-B, Federal Tax Deposit Coupon**, in this situation.

**Depositing without Form 8109.**— If you do not have the 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. Use Form 8109-B to make deposits only if:

- You are a new employer, and you already 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 check, bank receipt, or money order is your receipt.

**How to claim credit for overpayments.**— If you deposited more than the right amount of taxes, you can ask on the tax return you file to have the overpayment refunded or applied as a credit to your next return. Do not ask the depository or the FRB to request a refund from the IRS for you.

**Penalties.**— Penalties may apply if you do not make required deposits on time, you make deposits at an unauthorized financial institution, you pay directly to the IRS, or you pay with your return amounts that were required to be deposited. 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. For amounts not properly or timely deposited, the penalty rates are:

- 2%—Deposits made 1 to 5 days late.
- 5%—Deposits made 6 to 15 days late.
- 10%—Deposits made 16 or more days late. This also applies to amounts paid to the IRS within 10 days of the date of the first notice the IRS sent you asking for the tax due.
- 10%—Deposits made at unauthorized financial institutions or directly to the IRS (but see **Depositing without an EIN** earlier).
- 10%—Amounts subject to electronic deposit requirements but not deposited electronically.
- 15%—Amounts still unpaid more than 10 days after the date of the first notice the IRS sent you asking for the tax due or the day on which you receive notice and demand for immediate payment, whichever is earlier.

**Reporting agent.**— 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.

**Order in which deposits are applied.**— Tax deposits are applied first to satisfy any past due underdeposits, with the oldest underdeposit satisfied first.

**Example.** Cedar Inc. is required to make a deposit of \$1,000 on February 15 and \$1,500 on March 15. Cedar Inc. does not make the deposit on February 15. On March 15, Cedar Inc. deposits \$1,700 assuming that it has paid the March deposit in full and applied \$200 to the late February deposit. However, because deposits are applied first to past due underdeposits in due date order, \$1,000 of the March 15 deposit is applied to the late February deposit. The remaining \$700 is applied to the March 15 deposit. Therefore, in addition to the original underdeposit of \$1,000 for February 15, Cedar Inc. has an underdeposit for March 15 of \$800. Penalties will be applied to both underdeposits as explained above.

**Trust fund recovery penalty.**— If social security and Medicare taxes that must be withheld are not withheld or are not paid to the IRS, the trust fund recovery penalty may apply. The penalty is 100% of the unpaid taxes. 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 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, or an employee of a sole proprietorship. A responsible person also may be a trustee or agent who signs checks for the business or otherwise has authority to cause the spending of business funds.

**Willfully** means voluntarily, consciously, and intentionally. A responsible person acts willfully if the person knows the required actions are not taking place.

However, if you deposited all taxes when due for the quarter, you may file the return by the 10th day of the second month following the quarter.

You may report household workers in a private home on a farm operated for profit as farmworkers on Form 943.

If you stop paying wages, mark the appropriate box and show the date final wages were paid at the top of Form 941-SS for the quarter in which you made the final payment.

**Employers of farmworkers.**— Every employer of farmworkers must file a Form 943 for each calendar year beginning with the first year you pay \$2,500 or more for farmwork or you employ a farmworker who meets the \$150 test described in section 6.

File a Form 943 each year for all taxable wages paid for farmwork and for domestic services (maids, cooks, etc.) on a farm operated for profit. Do **not** report wages for those employees on Form 941-SS.

Send Form 943 to the IRS by January 31 of the following year. Send it with payment of any taxes due that you are not required to deposit. If you deposited all taxes when due, you have until February 10 to file Form 943.

If you receive a Form 943 for a year in which you are not liable for filing, write “NONE” on the form and send it back to the IRS. If at that time you do not expect to meet either test in section 6 in the future, mark the box near the top of the form indicating you do not have to file future returns. If you later become liable for any of the taxes, notify your Internal Revenue Service representative.

## Adjustments

Generally, you can correct errors on a previously filed return by making an adjustment on your current return. For every return on which you report an adjustment for a prior return, attach a statement explaining the adjustment, the period covered, and any other information required by the instructions on the return.

If you withhold no social security tax, Medicare tax, or less than the right amount of either tax from an employee's wages, you can make it up from later pay to that employee. But you are responsible for the underpayment. Any reimbursement from the employee's own funds for amounts not collected must be agreed to by you and the employee. (This does not apply to tax on tips. See section 5.)

If you withhold more than the right amount of social security tax or Medicare tax from wages paid, give the employee the amount overcollected. Be sure to keep in your records the employee's written receipt showing the date and amount of the repayment. If you don't have a receipt, you must report and pay any overcollection when you file the return for the quarter in which the overcollection was made.

Forms 941-SS and 943 explain how to correct mistakes in reporting withheld social security and Medicare taxes, including the use of **Form 941c**, Supporting

## 10. Employer's Returns

**General instructions.**— File Forms 941-SS for nonfarmworkers and 943 for farmworkers.

The IRS sends each employer a form preaddressed with name, address, and EIN. If you misplaced your form or did not receive one, ask the IRS for one. If you use a form that is not preaddressed, enter your name and EIN exactly as they appeared on previous returns.

**Nonfarm employers.**— Every nonfarm employer must file a quarterly return on Form 941-SS. File your first return for the calendar quarter in which you pay wages for nonfarm workers.

Quarter	Quarter Ending	Due
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

Statement To Correct Information. If you cannot make an adjustment for overwithheld social security and/or Medicare taxes, you may be able to claim a refund of these taxes on **Form 843**, Claim for Refund and Request for Abatement.

**Do not** file Form 941c separately from Form 941-SS or 943. Form 941c is not an amended return. It is used to provide necessary certification and background information supporting the adjustments made on Form 941-SS or 943.

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## 11. Statements for Employees

By January 31, furnish Copies B and C of Forms W-2VI, W-2GU, W-2AS, or W-2CM to each employee who worked for you during the prior year.

***Note:** Employers in the Commonwealth of the Northern Mariana Islands should contact their local tax division for instructions on completing Form W-2CM.*

**Magnetic media filing requirement.**— For returns due after December 31, 1997, employers filing 250 or more returns are required to file Forms W-2VI, W-2GU, and W-2AS, you must file using magnetic media. See page 1 for details.

**When and where to file.**— By the last day of February (or when filing a final return if you make final payments before the end of the year), send your completed forms to the following:

Employers in the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands must send Copy A of Forms W-2VI, W-2GU, W-2AS, W-2CM, and a **Form W-3SS**, Transmittal of Wage and Tax Statements, to the Social Security Administration, Data Operations Center, 1150 E. Mountain Drive, Wilkes-Barre, PA 18769-0001.

Send Copy 1 of Forms W-2VI, W-2GU, W-2AS, and W-3SS to your local tax department. For more information on Copy 1, contact your local tax department. Employers in the Commonwealth of the Northern Mariana Islands should contact their local tax department for instructions on how to file Copy 1.

If you need copies of Form W-3SS, get them from your U.S. Internal Revenue Service representative or Internal Revenue Service Center. Get Forms W-2VI, W-2GU, W-2AS, or W-2CM from your local tax department.

If you need to correct a Form W-2VI, W-2GU, W-2AS, or W-2CM after you have sent Copy A to the SSA, use **Form W-2c**, Corrected Wage and Tax Statement. Furnish employees Copies B and C of Form W-2c. Send Copy A with **Form W-3c**, Transmittal of Corrected Wage and Tax Statements, to the Social Security Administration Data Operations Center, and Copy 1 to the local tax department.

If you go out of business during the year, give your employees the Forms W-2 by the due date of the final Form 941-SS. File the SSA Copy A by the last day of the month after that due date.

If an employee loses or destroys his or her copies, furnish that employee copies of Form W-2VI, W-2GU, W-2AS, or W-2CM marked "Reissued Statement." Do not send Copy A of the reissued form to the SSA.

If a form is corrected before you send Copy A, furnish the employee the corrected copies. Mark the original Copy A "Void" in the proper box and send the new Copy A as explained above. For details, see the instructions for the forms.

**Fringe benefits.**— If you file Form W-2AS, W-2GU, W-2VI, or W-2CM, you must report any taxable fringe benefits on that form. See Form W-3SS for specific reporting instructions.

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## 12. Recordkeeping

Keep all records of employment taxes for 4 years. These should be available for IRS review.

There is no required format for such records, but they should include your EIN; the amounts and dates of all wage payments (including fringe benefits) and tips reported; the names, addresses, and occupations of employees receiving such payments; their social security numbers; copies of returns filed; dates of employment; and the dates and amount of deposits made in accordance with section 9.

**Farm employers.**— In addition to the above information, you should keep a record of the name, permanent address, and EIN of each crew leader who furnishes workers to perform farmwork. (See section 1 for information on crew leaders for purposes of social security and Medicare taxes. U.S. Virgin Islands employers, see section 13 for information on crew leaders for purposes of the FUTA tax.)

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## 13. Federal Unemployment (FUTA) Tax: U.S. Virgin Islands Employers Only

You must file **Form 940** or **Form 940-EZ**, Employer's Annual Federal Unemployment (FUTA) Tax Return, if you are subject to Federal unemployment tax under the following rules.

**In general.**— You are subject to Federal unemployment tax in 1996 on the wages you pay employees who are not farmworkers or household workers if in 1995 or 1996:

- 1) The wages you paid to employees in this category were \$1,500 or more in any calendar quarter, or
- 2) You had one or more employees for some part of a day in any 20 different weeks. The 20 weeks do not have to be consecutive.

**Household workers.**— You are subject to Federal unemployment tax on the cash wages you pay to household workers in 1996 if the total wages you pay to employees in this category were \$1,000 or more in any calendar quarter in 1995 or 1996.

**Farmworkers.**— You are subject to Federal unemployment tax on the wages you pay to farmworkers in 1996 if in either 1995 or 1996:

- 1) The total cash wages you paid for the farm labor was \$20,000 or more in any calendar quarter, or
- 2) You employ 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. The 20 weeks do not have to be consecutive.

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.

In most cases, farmworkers supplied by a crew leader are considered employees of the farm operator for FUTA tax purposes. However, this is not the case if either of the following applies, and the crew leader is not an employee of the farm operator:

- 1) The crew leader is registered under the Migrant and Seasonal Agricultural Worker Protection Act.
- 2) Substantially all the workers supplied by the crew leader operate or maintain tractors, harvesting or cropdusting machines, or other machines provided by the crew leader.

If (1) or (2) applies, the farmworkers are employees of the crew leader.

**Rate.**— The FUTA tax rate for 1996 and 1997 is 6.2% of the first \$7,000 of wages paid each employee during the calendar year. Only the employer pays the tax. Do not deduct it from employees' wages. Generally, you may take a credit of 5.4% against the FUTA tax for payments to U.S. Virgin Islands unemployment funds. Therefore, your actual tax rate is usually 0.8% (6.2% -- 5.4%). However, your credit is reduced if you did not pay all required U.S. Virgin Islands unemployment tax on time. The credit cannot be more than 5.4% of taxable FUTA wages.

**Deposits.**— If you are not required to deposit using EFTPS (see section 9), deposit the FUTA tax with an authorized financial institution or FRB that serves your geographical area. Send a deposit coupon with each payment.

Figure your liability for the FUTA tax quarterly. Multiply by .008 (0.8%) the part of the first \$7,000 of each employee's wages that you paid during the quarter. If any part of the first \$7,000 paid to employees is exempt from U.S. Virgin Islands unemployment taxes, you may deposit an amount in excess of the .008 rate. If this amount (plus any undeposited amount from earlier quarters) is more than \$100, deposit it during the first month after the quarter. If the result is \$100 or less, add it to the FUTA tax for the next quarter, and do not make a deposit. Make this calculation for each of the first three quarters of the year.

By January 31, file Form 940 or 940-EZ. Also by January 31, deposit the FUTA tax reportable on the form, minus the amounts deposited for the first three quarters, if the result is more than \$100. If the result is \$100 or less, you may either deposit the tax or pay it with Form 940 or 940-EZ by January 31.

If you made deposits of the tax due for the year in full and on time, you may file Form 940 or 940-EZ by February 10.

Once you have filed Form 940 or 940-EZ, the IRS will send you a preaddressed form near the end of each calendar year. If you do not get one, call the IRS to get one in time to file when due.

## 14. Special Rules for Various Types of Services and Products

The following table summarizes the treatment of special classes of employment and special types of payments. Employers who need more detailed information should consult their Internal Revenue Service representative or see the Employment Tax Regulations.

Special Classes of Employment and Special Types of Payments	Treatment Under Employment Taxes	
	Social Security and Medicare	Federal Unemployment (U.S. Virgin Islands Only)
Agricultural labor:		
1. Service on farm in connection with cultivating soil; raising or harvesting any agricultural or horticultural commodity; the care of livestock, poultry, bees, fur-bearing animals, or wildlife.	Taxable if \$150 or \$2,500 test is met (see section 6).	Taxable if test in section 13 is met.
2. Service in employ of owner or operator of farm, if major part of the services are performed on farm, in management or maintenance, etc., of farm, tools, or equipment, or in salvaging timber, or clearing brush and other debris left by hurricane.	Taxable if \$150 or \$2,500 test is met (see section 6).	Taxable if test in section 13 is met.
3. In connection with the production and harvesting of turpentine and other oleoresinous products.	Taxable if \$150 or \$2,500 test is met (see section 6).	Taxable if test in section 13 is met.
4. Cotton ginning.	Taxable if \$150 or \$2,500 test is met (see section 6).	Taxable if test in section 13 is met.
5. In connection with hatching of poultry, not on a farm.	Taxable (not farmwork).*	Taxable (not farmwork).*
6. In operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used only for supplying or storing water for farming purposes.	Taxable if \$150 or \$2,500 test is met (see section 6).	Taxable if test in section 13 is met.
7. In processing, packaging, delivering, etc., any agricultural or horticultural commodity in its unmanufactured state:		
a. In employ of farm operator.	If operator produced over half of commodity processed, taxable if \$150 or \$2,500 test is met (see section 6); otherwise taxable (not farmwork).*	If employer produced over half of commodity processed, taxable if test in section 13 is met; otherwise taxable (not farmwork).*
b. In employ of unincorporated group of farm operators (never more than 20).	If group produced all commodity processed, taxable if \$150 or \$2,500 test is met (see section 6); otherwise taxable (not farmwork).*	If employer produced over half of commodity processed, taxable if test in section 13 is met; otherwise taxable (not farmwork).*
c. In employ of other groups of farm operators (including cooperative organizations and commercial handlers).	Taxable (not farmwork).*	If employer produced over half of commodity processed, taxable if test in section 13 is met; otherwise taxable (not farmwork).*
8. Handling or processing commodities after delivery to terminal market for commercial canning or freezing.	Taxable (not farmwork).*	Taxable (not farmwork).*
9. Household employees on farm operated for profit.	Taxable if paid \$1,000 or more in cash in the calendar year. Exempt if performed by an individual who is under age 18 during any part of the calendar year and the work is not the principal occupation of the employee. For household services performed by parent in private home of child, see section 7.	Taxable if test in section 13 is met.
10. Service not in the course of employer's trade or business on farm operated for profit. (Cash payments only.)	Taxable if \$150 or \$2,500 test is met (see section 6); unless performed by parent in employ of child.	Taxable only if \$50 or more is paid in a quarter and employee works on 24 or more different days in that quarter or on 24 or more days in preceding quarter.

\* Wages for services not considered farmwork are reported on Form 941-SS. Other exemptions may apply. See sections 4 and 10.

Special Classes of Employment and Special Types of Payments	Treatment Under Employment Taxes	
	Social Security and Medicare	Federal Unemployment (U.S. Virgin Islands Only)
<p>Aliens:</p> <p>1. Resident</p> <p>a. Service performed in U.S.*</p> <p>b. Service performed outside U.S.</p> <p>2. Nonresident working in U.S.*</p> <p>a. Workers lawfully 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").</p> <p>b. Student, scholar, trainee, teacher, etc., as nonimmigrant alien under section 101(a)(15)(F), (J), (M), or (Q) or Philippine resident admitted to Guam under section 101(a)(15)(H) of Immigration and Nationality Act.</p> <p>c. All other nonresidents working in U.S.</p> <p>3. Nonresident working on American vessel or aircraft outside U.S.</p>	<p>Same as U.S. citizen; service as crew member of foreign vessel or aircraft exempt if any part is performed outside U.S.</p> <p>Taxable if (1) working for an American employer or (2) an American employer by agreement covers U.S. citizens and residents employed by its foreign affiliates.</p> <p>Exempt.</p> <p>Exempt if service is performed for purpose specified in section 101(a)(15)(F), (J), (H), (M) or (Q) of Immigration and Nationality Act.</p> <p>Same as U.S. citizen; service as crew member of foreign vessel or aircraft exempt if any part performed outside U.S. and employer is not American employer.</p> <p>Taxable if under contract made in U.S., or worker is employed on vessel or aircraft when it touches U.S. port.</p>	<p>Same as U.S. citizen.</p> <p>Exempt unless on or in connection with an American vessel or aircraft and either performed under contract made in U.S., or alien is employed on such vessel or aircraft when it touches U.S. port.</p> <p>Exempt.</p> <p>Same as U.S. citizen.</p>
<p>Deceased worker's wages:</p> <p>1. Paid to beneficiary or estate in same calendar year of worker's death.</p> <p>2. Paid to beneficiary or estate after the year of worker's death.</p>	<p>Taxable.</p> <p>Exempt.</p>	<p>Taxable.</p> <p>Exempt.</p>
<p>Dependent care assistance programs (limited to \$5,000; \$2,500 if married filing separately).</p>	<p>Exempt to the extent it is reasonable to believe that amounts will be excludable from gross income under Internal Revenue Code (IRC) section 129.</p>	
<p>Disabled worker's wages paid after the year in which worker became entitled to disability insurance benefits under the Social Security Act.</p>	<p>Exempt if worker did not perform any service for employer during period for which payment is made.</p>	<p>Taxable.</p>
<p>Domestic service in college clubs, fraternities, and sororities.</p>	<p>Exempt if paid to regular student; also if employee is paid less than \$100 in a year by an income-tax-exempt employer.</p>	<p>Taxable if employer paid total cash wages of \$1,000 or more in any calendar quarter in the current or preceding year.</p>
<p>Employee achievement awards.</p>	<p>Exempt to the extent it is reasonable to believe the amounts will be excludable from gross income under IRC section 74(c).</p>	
<p>Family employees:</p> <p>1. Child employed by parent (or by partnership consisting only of parents).</p> <p>2. Child employed by parent for domestic work or not in the course of a trade or business.</p> <p>3. Parent employed by child.</p> <p>4. Spouse employed by spouse.</p>	<p>Exempt until age 18.</p> <p>Exempt until age 21.</p> <p>Taxable if in course of the child's business. For household work in private home of child, see section 7.</p> <p>Taxable if in course of spouse's business.</p>	<p>Exempt until age 21.</p> <p>Exempt until age 21.</p> <p>Exempt.</p> <p>Exempt.</p>

\* U.S. includes U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.



Special Classes of Employment and Special Types of Payments	Treatment Under Employment Taxes	
	Social Security and Medicare	Federal Unemployment (U.S. Virgin Islands Only)
Federal employees: 1. Members of uniformed services; Young Adult Conservation Corps, Job Corps, or National Volunteer Antipoverty Program; Peace Corps volunteers. 2. All others.	Taxable.  Taxable if employee is covered by FERS or has a break in service of more than 1 year (unless the break in service was for temporary military or reserve duty). Others generally subject to Medicare tax.	Exempt.  Exempt unless worker is a seaman performing services on or in connection with American vessel owned by or chartered to the United States and operated by general agent of Secretary of Commerce.
Fishing and related activities, employment in connection with catching, harvesting, farming, etc.: 1. Salmon or halibut. 2. Other fish, and other aquatic forms of animal and vegetable life. 3. An arrangement with the owner or operator of the boat by which the individual receives a share of the boat's catch (or proceeds from the sale of the catch), the share depending on the boat's catch, and operating crew of the boat is normally fewer than 10 individuals.*	Taxable unless 3 applies. Taxable unless 3 applies.  Exempt, if any cash remuneration is:  (a) \$100; or less (b) contingent on minimum catch, and (c) paid solely for additional duties (such as mate, engineer, or cook for which cash remuneration is traditional.)	Taxable unless 3 applies. Exempt unless on vessel of more than 10 net tons (and 3 does not apply). Exempt, if any cash remuneration is:  (a) \$100; or less (b) contingent on minimum catch, and (c) paid solely for additional duties (such as mate, engineer, or cook for which cash remuneration is traditional.)
Foreign governments and international organizations.	Exempt.	Exempt.
Foreign service by U.S. citizens: 1. As U.S. Government employee. 2. For foreign affiliates of American employers and other private employers.	Same as within U.S. Exempt unless (1) an American employer by agreement covers U.S. citizens employed by its foreign affiliates or (2) U.S. citizen works for American employer.	Exempt. (See also <b>Federal employees</b> .) Exempt unless (1) on American vessel or aircraft and work is performed under contract made in U.S., or worker is employed on vessel when it touches U.S. port, or (2) U.S. citizen works for American employer (except in a contiguous country with which the U.S. has an agreement for unemployment compensation) or in the U.S. Virgin Islands.
Fringe benefits.	Taxable on excess of fair market value of the benefit over the sum of any amount paid for it by the employee, and any amount excludable by law. However, optional special valuation rules may apply.**	
Government employees (other than Federal)	Exempt unless services are covered by section 218 (Social Security Act) agreement.	Exempt.
Group-term life insurance costs.	Generally taxable for cost of premiums that provide more than \$50,000 coverage.	Exempt.
Homeworkers (industrial, cottage-industry): 1. Common law employees. 2. Statutory employees. (See section 1.)	Taxable. Taxable if paid \$100 or more in cash in a year.	Taxable. Exempt.
Hospital interns.	Taxable.	Exempt.
Household workers (domestic service in private homes; farmers, see <b>Agricultural labor</b> on page 15). (Also see <b>Domestic service in college clubs, fraternities, and sororities</b> on page 16.)	Taxable if paid \$1,000 or more in cash in the calendar year. Exempt if performed by an individual who is under age 18 during any part of the calendar year and the work is not the principal occupation of the employee.	Taxable if employer paid total cash wages of \$1,000 or more in any calendar quarter in the current or preceding year.
Insurance agents or solicitors: 1. Full-time life insurance salesperson. 2. Other salesperson of life, casualty, etc., insurance.	Generally taxable, regardless of common law. Taxable only if employee under common law.	Exempt if not common law employee or if paid solely by commissions. Exempt if not common law employee or if paid solely by commissions.

\* Income derived by Native Americans exercising fishing rights is generally exempt from employment taxes.

\*\* Benefits provided under cafeteria plans may qualify for exclusion from wages for social security, Medicare, and Federal unemployment taxes.

Special Classes of Employment and Special Types of Payments	Treatment Under Employment Taxes	
	Social Security and Medicare	Federal Unemployment (U.S. Virgin Islands Only)
Interest foregone on below-market loans related to compensation and deemed original issue discount. (See IRC section 7872 and related regulations for details.)	Taxable.	Taxable.
Meals and lodging furnished free or at a discounted price to the employee. (For household employees, agricultural labor, and service not in the course of the employer's trade or business, see <b>Noncash payments</b> below.)	(a) Meals—Taxable unless furnished for employer's convenience and on the employer's premises. For information on the de minimis fringe exclusion, see IRC section 132(e).  (b) Lodging—Taxable unless furnished on employer's premises, for the employer's convenience, and as condition of employment.	
Ministers of churches performing duties as such.	Exempt.	Exempt.
Moving expenses reimbursement: 1. Qualified expenses. 2. Nonqualified expenses.	Exempt, unless you have knowledge that the employee deducted the expenses in a prior year. Taxable.	Taxable.
Newspaper carrier under age 18 delivering directly to readers.	Exempt.	Exempt.
Newspaper and magazine vendors buying at fixed prices and retaining excess from sales to customers.	Exempt.	Exempt.
Noncash payments: 1. For household work, agricultural labor, and service not in the course of the employer's trade or business. 2. To certain retail commission salespersons ordinarily paid solely on a cash commission basis.	Exempt.  Taxable.	Exempt.  Taxable.
Nonprofit organizations: 1. Religious, educational, charitable, etc., organizations described in IRC section 501(c)(3) exempt from income tax under IRC section 501(a).  2. Corporations organized under Act of Congress described in IRC section 501(c)(1).  3. Other organizations exempt under IRC section 501(a) (other than a pension, profit-sharing, or stock bonus plan described in IRC section 401(a)) or under IRC section 521.	Taxable if paid \$100 or more in a year. (See <b>Form 8274</b> , Certification by Churches and Qualified Church-Controlled Organizations Electing Exemption From Employer Social Security and Medicare Taxes, for election out of social security and Medicare coverage for certain churches and church-controlled organizations.)  Taxable if employee is paid \$100 or more in a year unless services excepted by IRC section 3121(b)(5) or (6).  Taxable if employee is paid \$100 or more in a year.	Exempt.  Taxable if employee is paid \$50 or more in a quarter unless services excepted by IRC section 3306(c)(6).  Taxable if employee is paid \$50 or more in a quarter.
Partners: Bona fide members of a partnership.	Exempt.	Exempt.
Patients employed by hospitals.	Taxable (exempt for state or local government hospitals).	Exempt.
Religious orders: Members who are instructed by the order to perform services: 1. For the order, agency of the supervising church, or associated institution.  2. For any organization other than those described in 1 above.	Exempt, unless member has taken a vow of poverty and the religious order or its autonomous subdivision irrevocably elects coverage for entire active membership.  Taxable.	Exempt.  Taxable.

Special Classes of Employment and Special Types of Payments	Treatment Under Employment Taxes	
	Social Security and Medicare	Federal Unemployment (U.S. Virgin Islands Only)
Retirement and pension plans: 1. Employer contributions to a qualified plan. 2. Elective contributions and deferrals to a plan containing a qualified cash or deferred compensation arrangement (e.g., 401(k)). 3. Employer contributions to certain nonqualified deferred compensation plans. 4. Employer contributions to individual retirement accounts under a simple retirement account (SIMPLE) plan. 5. Employer contributions to IRC section 403(b) annuity contracts. 6. Distributions from qualified retirement and pension plans.	Exempt.  Taxable.  Taxable.*  Exempt, except for amounts contributed under a salary reduction SIMPLE agreement. Taxable if paid through a salary reduction agreement (written or otherwise). Exempt.	Exempt.  Taxable.  Taxable.*  Exempt, except for amounts contributed under a salary reduction SIMPLE agreement. Taxable if paid through a salary reduction agreement (written or otherwise). Exempt.
Salespersons: 1. Common law employees. 2. Statutory employees (referred to in section 4). 3. Statutory nonemployees (qualified real estate agents and direct sellers).	Taxable. Taxable.  Exempt. Treated as if self-employed individuals where substantially all payments directly related to sales or other output and services performed as nonemployee specified in written contract. Direct sellers must be in the business of selling consumer products other than in a permanent retail place of business.	Taxable. Taxable.
Scholarships and fellowship grants (includible in income under IRC section 117(c)).	Taxability depends on the nature of the employment and the status of the organization. See <b>Students.</b>	
Severance pay.	Taxable.	Taxable.
Service not in the course of the employer's trade or business, other than on a farm operated for profit or for household employment in private homes.	Taxable if employee is paid \$100 or more in cash in a year.	Taxable only if employee is paid \$50 or more in cash in a quarter and works on 24 or more different days in that quarter or in the preceding quarter.
Sickness or injury payments under: 1. Worker's compensation law. 2. Certain employer plans. 3. No employer plan.	Exempt. Exempt after end of 6 calendar months after calendar month employee last worked for employer.	Exempt.
Students: 1. Student enrolled and regularly attending classes, performing services for: a. Private school, college, or university. b. Auxiliary nonprofit organization operated for and controlled by school, college, or university. c. Public school, college, or university. 2. Full-time student performing service for academic credit, combining academic instruction with work experience as an integral part of the program. 3. Student nurse performing part-time services for nominal earnings at hospital as incidental part of training. 4. Student employed by organized camps.	Exempt. Exempt unless services are covered by a section 218 (Social Security Act) agreement. Exempt unless services are covered by a section 218 (Social Security Act) agreement. Taxable. Exempt. Taxable.	Exempt. Exempt. Exempt. Exempt unless program was established for or on behalf of an employer or group of employers. Exempt. Exempt.
Supplemental unemployment compensation benefits.	Exempt.	Exempt.
Tips: a. If \$20 or more in a month. b. If less than \$20 in a month.	Taxable. Exempt.	Taxable, for all tips reported in writing to employer Exempt.
Worker's compensation.	Exempt.	Exempt.

\* Taxable when services are performed or when there is no substantial risk of forfeiture of the rights to these amounts, whichever is later.

## Where To Get and File Social Security Number Application Forms

**U.S. Virgin Islands.**—St. Thomas: Social Security Administration Office, Room 113 Federal Office Building, 5500 Veterans Drive, Charlotte Amalie, VI 00801. St. Croix: Social Security Administration, Professional Building, Sunny Isle Shopping Center, 4500 Sion Farm, Christiansted, VI 00820-4423.

**Guam.**—Social Security Administration Office, 777 Route 4, Suite 6A, Sinajana, GU 96926.

**American Samoa.**—Social Security Administration Office, Pago Plaza, Suite 111, P.O. Box 338, Pago Pago, AS 96799.

**Commonwealth of the Northern Mariana Islands.**—Social Security Administration Office, Nauru Building—Ground Floor, Beach Road—Susupe Village, P.O. Box 489, Saipan, MP 96950.

Working people in the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, like those working in the United States, are now building protection for themselves and their families under the Social Security program. The three kinds of monthly benefits under Social Security are:

1. Retirement —at age 65. (Reduced benefits are payable as early as age 62.)
2. Disability —when a worker under age 65 becomes unable to work because of a disability.
3. Survivors —when a worker dies.

In addition to cash benefits, health insurance benefits are available for certain categories of people, whether or not they are retired.

Internal Revenue Service  
P.O. Box 85627  
Richmond, VA 23285-5627

Official Business  
Penalty for Private Use, \$300

**Do Not Forward**

Peel off the label below and place it over boxes e, f, and g on the Form W-3SS you file with the Social Security Administration. If additional Forms W-3SS are filed, fill in your name, address, and employer identification number.

### Bulk Rate

Postage and Fees Paid  
Internal Revenue Service  
Permit No. G-48

**Deliver to Payroll  
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