



Instructions for Form 940

Employer's Annual Federal Unemployment (FUTA) Tax Return

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

What's New

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. Employers in a credit reduction state cannot file Form 940-EZ.

For 2004, New York is a credit reduction state. If you paid any wages that are subject to the unemployment compensation laws of the State of New York, you are not allowed .003 of the regular .054 credit. Use Form 940, Part I, line 6 to show this tax. If you must complete Form 940, Part III, Record of Quarterly Federal Unemployment Tax Liability, include any additional tax from Part I, line 6 in the fourth quarter column and include the amount with your fourth quarter tax deposit.

New lines for credit reduction computations. We added Part I, line 6 to show the additional FUTA tax due from employers in a credit reduction state. We moved the "Credit" line in Part II (formerly line 6) to line 4, added Part II, line 5 to show the credit reduction amount, and designated Part II, line 6 as "Credit allowable."

Increase to FUTA tax deposit threshold. The Treasury Department recently amended Regulations section 31.6302(c)-3 to increase the accumulated FUTA tax deposit threshold from \$100 to \$500. The \$500 threshold applies to FUTA tax deposits required for taxes reported on Forms 940, 940-EZ, and 940-PR, Employer's Annual Federal Unemployment (FUTA) Tax Return, for tax periods beginning after December 31, 2004.

New line for name and EIN. We added a new line to the top of page 2 on Form 940 to be completed by filers using forms that were not preaddressed by the IRS.

General Instructions

Reminders

Mailing address change. You may need to mail Form 940 to a different address than in previous years because the IRS has changed the filing location for several areas. If an envelope was received with the tax package, please use it. Otherwise, see *Where To File* on page 3.

Signature on Form 940. Only an authorized individual may sign Form 940. See *Signature* on page 8.

State unemployment information. You must contact your state unemployment tax office to receive your state reporting number, state experience rate, and details about your state unemployment tax obligations.

Worksheet for computing the Part II, line 4 credit if state contributions were paid late. Filers who made contributions to their state unemployment fund after the due date for filing Form 940 should complete the worksheet provided in the instructions for Part II, line 4, on page 6, to compute the allowable credit. **Do not** report such contributions in Part II, line 3, column (i) or on line 3b. Any credit allowed for such state contributions will appear on line 4.

Electronic Filing and Payment

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

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

- For *e-file*, visit www.irs.gov for additional information.
- For EFTPS, visit www.eftps.gov or call EFTPS Customer Service at 1-800-555-4477.

Use electronic options available from IRS and make filing and paying taxes easier.

Photographs of Missing Children

The Internal Revenue Service is a proud partner with the National Center for Missing and Exploited Children. Photographs of missing children selected by the Center may appear in instructions on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 1-800-THE-LOST (1-800-843-5678) if you recognize a child.

Purpose of Form

Use Form 940 (or Form 940-EZ) to report your annual Federal Unemployment Tax Act (FUTA) tax. FUTA tax, together with state unemployment systems, provides for payments of unemployment compensation to workers who have lost their jobs. Most employers pay both federal and state unemployment taxes. **Only the employer pays FUTA tax.** Do not collect or deduct it from your employees' wages. The tax applies to the first \$7,000 you pay each employee in a year after subtracting any exempt payments. The \$7,000 amount is the federal wage base. Your state wage base may be different.

Form 940-EZ, Employer's Annual Federal Unemployment (FUTA) Tax Return, is a simpler version of Form 940. You may use Form 940-EZ instead of Form 940 to report your annual FUTA tax if:

- You paid unemployment contributions to only one state,
- You paid all state unemployment contributions by January 31, 2005 (February 10, 2005, if you deposited all FUTA tax when due),
- All wages that were taxable for FUTA tax were also taxable for your state's unemployment tax. If, for example, you paid wages to corporate officers (these wages are taxable for FUTA tax) in a state that exempts corporate officers' wages from its unemployment tax, you cannot use Form 940-EZ, and
- You did not pay wages in a credit reduction state (that is, New York).



A successor employer claiming a credit for state unemployment contributions paid by the prior employer must file Form 940.

When To File

File Form 940 for 2004 by January 31, 2005. However, if you deposited all FUTA tax when due, you may file on or before February 10, 2005. Your return will be considered timely filed if it is properly addressed and mailed First Class or sent by an IRS-designated delivery service by the due date. See Pub. 15 (Circular E), Employer's Tax Guide, for a list of designated delivery services. Also see *Where To File* later.



Private delivery services cannot deliver items to P.O. boxes.

Who Must File

Except as noted below, you must file Form 940 if Test 1 or Test 2 applies.

Test 1. You paid wages of \$1,500 or more in any calendar quarter in 2003 or 2004.

Test 2. You had one or more employees for at least some part of a day in any 20 or more different weeks in 2003 or 20 or more different weeks in 2004.

Count all regular, temporary, and part-time employees. A partnership should not count its partners. If a business changes hands during the year, each employer who meets Test 1 or 2 must file. **For purposes of Test 1 or Test 2 only**, do not include wages paid by the prior (or subsequent) employer. But see *Successor employer* on page 5.

Household employers. File a FUTA tax return **only** if you paid total cash wages of \$1,000 or more (for all household employees) in any calendar quarter in 2003 or 2004 for household work in a private home, local college club, or local chapter of a college fraternity or sorority.

Individuals, estates, and trusts that owe FUTA tax for household work in a private home, in most cases, must file Schedule H (Form 1040), Household Employment Taxes, instead of Form 940 (or Form 940-EZ). See the Instructions for Schedule H (Form 1040), Household Employers.

In some cases, such as when you employ both household employees and other employees, you may choose to report social security, Medicare, and withheld federal income taxes for your household employee(s) on Form 941, Employer's Quarterly Federal Tax Return, or Form 943, Employer's Annual Federal Tax Return for Agricultural Employees, instead of on Schedule H (Form 1040). If you choose to report on Form 941 or Form 943, you must use Form 940 (or Form 940-EZ) to report FUTA tax.

Agricultural employers. File a FUTA tax return if either 1 or 2 below applies:

1. You paid cash wages of \$20,000 or more to farmworkers during any calendar quarter in 2003 or 2004 or
2. You employed 10 or more farmworkers during at least some part of a day (whether or not at the same time) during any 20 or more different weeks in 2003 or 20 or more different weeks in 2004.

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, to see if you meet either 1 or 2 above. However, wages paid to "H-2(A)" visa workers are not subject to FUTA tax.

Indian tribal governments. Services rendered to a federally-recognized Indian tribal government (including any subdivision, subsidiary, or wholly-owned business enterprise) after December 20, 2000 are exempt from FUTA tax (and no Form 940 or Form 940-EZ for 2004 is required), subject to the tribe's compliance with applicable state law. See code section 3309(d).

Nonprofit organizations. Religious, educational, charitable, etc., organizations described in section 501(c)(3) and exempt from tax under section 501(a) are not subject to FUTA tax and are not required to file.

State and local government employers. State or local government employers are not subject to FUTA tax and are not required to file.

Amended Returns

Use a new Form 940 to amend a previously filed Form 940. **Check the "Amended Return" box above Part I.** Enter all amounts that should have been on the original return, and sign the form. Attach an explanation of the reasons for the amended return. For example, you are filing to claim credit for contributions paid to your state unemployment fund after the due date of Form 940. File the amended return with the Internal Revenue Service address where you would have filed the original return without payment. **Do not** mail an amended Form 940 (even if it includes a payment) to a P.O. box location.

If you were required to file Form 940 but filed Form 940-EZ instead and you must correct an error, file the amended return on 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 the due date of Form 940, attach a copy of the certification from the state. This will expedite the processing of the amended return.

Where To File

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

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

<p>Exception for exempt organizations and government entities. If you are filing Form 940 for an exempt organization or government entity (federal, state, local, or Indian tribal), use the following addresses, regardless of location:</p>	
<p>Return without payment: Ogden, UT 84201-0046</p>	<p>Return with payment: P.O. Box 660095 Dallas, TX 75266-0095</p>
<p>Connecticut, Delaware, District of Columbia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, Wisconsin</p>	
<p>Return without payment: Cincinnati, OH 45999-0046</p>	<p>Return with payment: P.O. Box 105887 Atlanta, GA 30348-5887</p>
<p>Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Georgia, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, Wyoming</p>	
<p>Return without payment: Ogden, UT 84201-0046</p>	<p>Return with payment: P.O. Box 660095 Dallas, TX 75266-0095</p>
<p>Puerto Rico, U.S. Virgin Islands</p>	
<p>Return without payment: Philadelphia, PA 19255-0046</p>	<p>Return with payment: P.O. Box 80105 Cincinnati, OH 45280-0005</p>
<p>If the location of your legal residence, principal place of business, office, or agency is not listed above —</p>	
<p style="text-align: right;">All Returns: Philadelphia, PA 19255-0046</p>	

Credit for Contributions Paid to a State Fund

You get a credit for amounts you pay to a state (including the District of Columbia, Puerto Rico, and the U.S. Virgin Islands) unemployment fund by January 31, 2005 (or February 10, 2005, if that is your Form 940 due date). Your FUTA tax will be higher if you do not pay the state contributions timely. See the Part II, line 4 instructions on page 6 if you did not pay state contributions by the due date of Form 940.

“Contributions” are payments that a state requires an employer to make to its unemployment fund for the payment of unemployment benefits. However, contributions **do not include:**

- Any payments deducted or deductible from your employees’ pay;
- Penalties, interest, or special administrative taxes not included in the contribution rate the state assigned to you; and
- Voluntary contributions you paid to get a lower assigned rate.

Additional credit. You may receive an additional credit if you have a state experience rate lower than 5.4% (.054). This applies even if your rate varies during the year. This additional credit is the difference between your actual state payments and the amount you would have been required to pay at 5.4%. See *Line 3—Computation of tentative credit* on page 6.

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

Special credit for successor employers. A successor employer is an employer who received a unit of another employer’s trade or business or all or most of the property used in the trade or business of another employer. Immediately after the acquisition, the successor employer must employ one or more individuals who were employed by the previous owner.

You may be eligible for a credit based on the state unemployment contributions paid by the previous employer. You may claim these credits if you are a successor employer and acquired a business in 2004 from a previous employer who was not required to file Form 940 (or Form 940-EZ) for 2004. If you are eligible to take this credit, you must file Form 940; you may not use Form 940-EZ. See section 3302(e). Enter in Part II, line 3, columns (a) through (i), the information of the previous employer as if you paid the amounts.

If the previous employer was required to file Form 940 (or Form 940-EZ), see *Successor employer* on page 5.

Depositing FUTA Tax

When to deposit. Although Form 940 covers a calendar year, you may have to make deposits of the tax before filing the return. Generally, deposit FUTA tax quarterly if your FUTA tax exceeds \$100. Determine your FUTA tax for each of the first three quarters by multiplying by .008 that part of the first \$7,000 of each employee’s annual wages you paid during the quarter. If any part of the amounts paid is exempt from state unemployment tax, you may be required to deposit an amount greater than that determined using the .008 rate. For example, in certain states, wages paid to corporate officers, certain payments of sick pay by unions, and certain fringe benefits are exempt from state unemployment tax.

If your FUTA tax for any of the first three quarters of 2004 (plus any undeposited amount of \$100 or less from any earlier quarter) is over \$100, deposit it by the last day of the first month after the end of the quarter. If it is \$100 or less, carry it to the next quarter; a deposit is not required. If your FUTA tax for the fourth quarter (plus any undeposited amount from any earlier quarter) is over \$100, deposit the entire amount by January 31, 2005. If it is \$100 or less, you can either make a deposit or pay it with your Form 940 by January 31. (If you deposit it by January 31, you may file Form 940 by February 10, 2005.)

The deposit due dates are shown in the following chart.

If undeposited FUTA tax is over \$100 on—	Deposit it by—
March 31	April 30
June 30	July 31
September 30	October 31
December 31	January 31



If any deposit due date falls on a Saturday, Sunday, or legal holiday, you may deposit on the next business day.

How to deposit. If you choose not to enroll in EFTPS and are not required to use EFTPS (see *Electronic deposit requirement* below), use Form 8109, Federal Tax Deposit Coupon, when you make each tax deposit.

The IRS will pre-enroll you in EFTPS when you apply for an employer identification number (EIN). Follow the instructions in your EIN Package to activate your enrollment and begin making your tax deposits.

For new employers, if you would like to receive a Federal Tax Deposit (FTD) coupon booklet call 1-800-829-4933. Allow 5 to 6 weeks for delivery.

Make your deposits with an authorized financial institution (for example, a commercial bank that is qualified to accept federal tax deposits). 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.

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

- The total deposits of such taxes in 2003 were more than \$200,000 or
- You were required to use EFTPS in 2004.

If you are required to use EFTPS and use Form 8109 instead, you may be subject to a 10% penalty. If you are not required to use EFTPS, you may participate voluntarily. To enroll in or get more information about EFTPS, call 1-800-555-4477 or 1-800-945-8400, or to enroll online, visit the EFTPS website at www.eftps.gov.



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

Not Liable for FUTA Tax?

If you receive Form 940 and are not liable for FUTA tax for 2004, write "Not Liable" across the front of the form, **sign the form**, and return it to the IRS. If you will not have to file Form 940 (or Form 940-EZ) in the future, see *Final return* below.

Penalties and Interest

Avoid penalties and interest by making tax deposits when due, filing a correct return, and paying all taxes when due. There are penalties for late deposits, insufficient deposits, failure to deposit using EFTPS (when required), and late filing unless you can show reasonable cause. If

you file or deposit late, attach an explanation to the return. There are also penalties for willful failure to pay tax, and for filing false or fraudulent returns.

How To Get Forms and Publications

You can get most IRS forms and publications by accessing the IRS website at www.irs.gov or by calling the IRS at 1-800-TAX-FORM (1-800-829-3676). See the Instructions for Forms W-2 and W-3 for details and other options.

Specific Instructions

Employer's name, address, calendar year, and employer identification number (EIN). If you are not using a preaddressed Form 940, type or print your name, trade name, address, calendar tax year, and EIN on the form. Enter your name, address, calendar tax year, and EIN here, **even if** you must complete Form 940-V, Payment Voucher. Also enter your name and EIN at the top of page 2.

If you are using a preaddressed Form 940 and your address as shown is incorrect, cross it out and make the necessary changes.

Employer identification number (EIN). If you do not have an EIN, apply for one on Form SS-4, Application for Employer Identification Number or by visiting the IRS website at www.irs.gov/smallbiz. If you do not have an EIN by the time a return is due, write "Applied For" and the date you applied in the space shown for the number.

Questions A through D. If you answer "Yes" to all the questions, you may file Form 940-EZ, a simpler version of Form 940. If you answer "No" to any of the questions (or you are a successor employer claiming a credit for state unemployment contributions paid by the prior employer), you must file Form 940.

Final return. If you will not have to file Form 940 (or Form 940-EZ) in the future, check the box on the line below question D and complete and sign the return. If you start paying FUTA wages again, file Form 940 (or Form 940-EZ).

Part I. Computation of Taxable Wages

Line 1 — Total payments. Enter the total payments (before any deductions) you made during the calendar year for services of employees, even if the payments are not taxable for FUTA tax. Include salaries, wages, commissions, fees, bonuses, vacation allowances, and amounts paid to temporary or part-time employees; the value of goods, lodging, food, clothing, and noncash fringe benefits; employer contributions to a 401(k) plan, payments to a Health Savings Account (HSA) or Archer MSA, payments under adoption assistance programs, and contributions to SIMPLE retirement accounts (including elective salary reduction contributions); section 125 (cafeteria) plan benefits; and sick pay (including third-party sick pay if liability is transferred to the employer).

For details on sick pay, see Pub. 15-A, Employer's Supplemental Tax Guide. Report amounts deferred under a nonqualified deferred compensation plan at the

later of (a) when services are performed or (b) when there is no substantial risk of forfeiture of the rights to the deferred amount. For details, see Regulations section 31.3306(r)(2)-1. (Section 409A, added by the American Jobs Creation Act of 2004, provides new rules for recognition of nonqualified deferred compensation for taxable years beginning after December 31, 2004. See section 5 of Pub. 15-A, Employer's Supplemental Tax Guide, for more information.)

Include tips of \$20 or more in a month reported to you by your employees. Also, include payments made by a previous employer if you are counting those payments for the \$7,000 wage base as explained under *Successor employer* later.

Your method of payment does not determine whether payments are wages. Thus, you may pay wages hourly, daily, weekly, monthly, or yearly. You may pay wages for piecework or as a percentage of profits. You may pay wages in cash or some other way, such as goods, lodging, food, or clothing. For items other than cash, use their fair market value when paid.

Line 2 — Exempt payments. The amounts reported on line 2 are exempt from FUTA tax. For FUTA tax purposes, “wages” and “employment” 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 FUTA tax. **Do not enter payments over \$7,000 for each employee that you enter on line 3.**

You may deduct exempt payments from total payments only if you explain them on line 2. Amounts that may be exempt from your state’s unemployment tax may not be exempt from FUTA tax. For example, **corporate officers’ wages are not exempt from FUTA tax** even though your state may exempt those wages from its unemployment tax.

Enter payments for services such as the following on line 2. **These payments also must be entered on line 1.**

1. Agricultural labor if you did not meet either **1** or **2** under *Agricultural employers* on page 2 and **all** payments to “H-2(A)” visa workers.
2. Benefit payments for sickness or injury under a workers’ compensation law.
3. Household services if you did not pay total cash wages of \$1,000 or more in any calendar quarter in 2003 or 2004.
4. Certain family employment. (See section 3 in Pub.15 (Circular E).)
5. Certain fishing activities. (See Pub. 595, Tax Highlights for Commercial Fishermen.)
6. Noncash payments for farmwork or household services in a private home. (Only cash wages paid to these workers are taxable.)
7. Value of certain meals and lodging. (See section 5 in Pub. 15 (Circular E).)
8. Cost of group-term life insurance.
9. Payments attributable to the employee’s contributions to a sick-pay plan.
10. Employer contributions to a SIMPLE retirement account (other than elective salary reduction

contributions) and employer contributions to a 401(k) plan.

11. Employer payments to a Health Savings Account (HSA) or Archer MSA.

12. Benefits excludable under a section 125 (cafeteria) plan.

13. Certain statutory employees. (See section 1 in Pub. 15-A.)

14. Services performed by an inmate of a penal institution.

15. Employer reimbursements (including payments to a third party) for qualified moving expenses, to the extent such expenses would otherwise be deductible by the employee. (See Pub. 521, Moving Expenses.)

16. Any other exempt service or pay.

For more information, see section 15 in Pub. 15 (Circular E) or section 15 in Pub. 51 (Circular A), *Agricultural Employer’s Tax Guide*.

Line 3 — Payments of more than \$7,000 for services. Enter the total of amounts over \$7,000 you paid to each employee during 2004 **after subtracting any exempt payments shown on line 2**. For example, you had 10 employees and paid each \$9,000 during the year, including \$500 of exempt payments per employee. Enter \$15,000 on line 3, computed as follows:

Total payments (10 x \$9,000)	\$90,000
Less: Exempt payments (10 x \$500)	(\$5,000)
Less: Total wage base amount (10 x \$7,000) . .	<u>(\$70,000)</u>
Amount reported on line 3	<u>\$15,000</u>

Only the first \$7,000 paid to each employee is subject to FUTA tax. Do not use the state wage base for this entry. The state wage base may be different from the federal wage base of \$7,000. Do not include exempt payments from line 2 in figuring the \$7,000.

Successor employer. If you acquired a business from an employer that was required to file Form 940 (or Form 940-EZ), you may count the wages that employer paid to the employees who continue to work for you when you figure the \$7,000 wage base. Include on line 3 the payments made by the previous employer that you included on line 1.

If the first employer paid \$7,000 or more to the employee, also include on line 3 all the wages you paid to that employee. If the first employer did not pay at least \$7,000 to the employee, subtract what the first employer paid from \$7,000. Then subtract that result from the wages you paid to the employee, and include any result on line 3.

For example, during 2004, prior employer P paid \$5,000 to employee Jones before the acquisition and acquirer A paid \$3,000 to Jones after the acquisition. Subtracting the \$5,000 from \$7,000 yields \$2,000. Subtracting the \$2,000 from \$3,000 (wages paid by acquirer A to Jones) yields \$1,000. Acquirer A reports \$8,000 (total payments) on line 1 and \$6,000 (\$5,000 paid by prior employer P and \$1,000 in excess of the \$7,000 wage base) on line 3. See section 3306(b)(1) and Regulations section 31.3306(b)(1)-1(b) for details.

Line 5 — Total taxable wages. This is the total amount subject to FUTA tax. Use this amount in Part II to compute the gross FUTA tax and the maximum credit.

Line 6 — Additional tax resulting from credit reduction. Enter the amount of wages included on line 5 subject to the unemployment compensation laws of the State of New York. 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 your 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 — Gross FUTA tax. Multiply the total taxable wages from Part I, line 5, by .062. This is the maximum amount of FUTA tax.

Line 2 — Maximum credit. Multiply the total taxable wages from Part I, line 5, by .054. This is the maximum credit against FUTA tax for state contributions.

Line 3 — Computation of tentative credit. You must complete all applicable columns to receive any credit. Your state will provide an experience rate to you. If you have been assigned an experience rate of zero percent 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, 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. Also, if you are a successor employer, see *Special credit for successor employers*, on page 3.

Column (a). Enter the two-letter abbreviation for the state(s) to which you were required to pay contributions (including the District of Columbia, Puerto Rico, and the U.S. Virgin Islands).

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

Column (c). Enter the state taxable payroll on which you must pay state unemployment taxes for each state shown in column (a). If your experience rate is zero percent, enter the wages that would have been subject to state unemployment tax if the zero percent rate had not been granted.

Column (d). Enter the beginning and ending dates of the experience rate shown in column (e).

Column (e). Enter your state experience rate—the rate the state assigned to you for paying your state unemployment tax. This rate may change based on your “experience” with the state unemployment fund, for example, because of unemployment compensation paid to your former employees. If you do not know your experience rate, contact your state unemployment office. The state experience rate can be stated as a percentage or as a decimal (for example, 2.7% or .027).

Column (f). Multiply the amount in column (c) by .054.

Column (g). Multiply the amount in column (c) by the rate in column (e).

Column (h). Subtract column (g) from column (f). If zero or less, enter zero. This additional credit is the difference between 5.4% and your state experience rate.

Column (i). Enter the contributions you **actually paid** to the state unemployment fund **by the due date** for filing your Form 940. **Do not** include amounts you are required to pay but have not paid by the Form 940 due date (January 31 or February 10 as explained under *When To File* on page 2). If you are **filing Form 940 after the due date**, include only payments made by the return due date, and see the instructions and worksheet under *Line 4 — Credit* below. 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 penalties, interest, or special administrative taxes (such as surcharges, employment and training taxes, excise tax, and assessments, which are generally listed as a separate item on the state’s quarterly wage report) not included in the experience rate assigned to you.

Line 3a — Totals. Enter the totals of columns (h) and (i).

Line 3b — Total tentative credit. Add line 3a, columns (h) and (i). As noted above, column (i) includes **only** payments to your state unemployment fund that you made by the due date for filing Form 940. Payments made after the due date are eligible for a reduced credit and will appear on line 4 as described below.

Line 4 — Credit. This is the credit allowable for your payments to state unemployment funds. If you made no late state contributions, enter the smaller of the amount from Part II, line 2 or line 3b. If you do not have to make payments to the state, enter zero on this line.



*If any state contributions were made after the Form 940 due date (January 31 or February 10 as explained under *When To File* on page 2), your credit for late contributions is limited to 90% of the amount that would have been allowable as a credit if such contributions were paid on or before the Form 940 due date.*

Only taxpayers who made late contributions should complete the worksheet below.

Worksheet for Credit Computation if Any State Contributions Were Paid After the Due Date for Filing Form 940	
A. Enter the amount from Form 940, Part II, line 2	_____
B. Enter the amount from Form 940, Part II, line 3b, if any	_____
C. Subtract line B from line A. If zero or less, enter -0-	_____
D. Enter total contributions paid to the state(s) after the Form 940 due date	_____
E. Enter the smaller of line C or D	_____
F. Multiply line E by .90 (90%)	_____
G. Add lines B and F	_____
H. Enter the smaller of the amount on line G or A here and on Form 940, Part II, line 4	_____

Example of late state contributions. You paid \$1,500 of state contributions by the Form 940 due date and \$1,000 after that date. Your maximum credit on Form 940, Part II, line 2 is \$2,000, and your tentative credit on line 3b is \$1,500. The maximum credit less the tentative credit is \$500. If you had paid the \$1,000 state contributions on time, you would have been allowed an additional credit of only \$500, not the full \$1,000. Therefore, the credit for the late contributions is limited to 90% of \$500. You complete the worksheet as follows:

A. Enter the amount from Form 940, Part II, line 2	\$2,000
B. Enter the amount from Form 940, Part II, line 3b, if any	1,500
C. Subtract line B from line A. If zero or less, enter -0-	500
D. Enter total contributions paid to the state(s) after the Form 940 due date	1,000
E. Enter the smaller of line C or D	500
F. Multiply line E by .90 (90%)	450
G. Add lines B and F	1,950
H. Enter the smaller of the amount on line G or A here and on Form 940, Part II, line 4	1,950

Enter \$1,950 from line H of the worksheet on Form 940, Part II, line 4. This is the allowable credit for your contributions to the state unemployment fund.

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

Line 9 — Balance due. Make your check or money order payable to the "United States Treasury." Write your EIN, "Form 940," and "2004" on your check or money order. Enter the amount of your payment on Form 940-V at the bottom of Form 940. If the employer information is not preprinted on the payment voucher, enter the requested information. Make certain that the entity information above line A is also properly completed.

If the amount on line 9 is under \$1, you do not have to pay it. For payments over \$100, see *Depositing FUTA Tax* on page 3.

TIP You may pay the amount shown on line 9 using EFTPS. If you do so, file your return using the "Return without payment" address under Where To File on page 3. Do not complete or file Form 940-V, Payment Voucher.

Line 10 — Overpayment. If the amount on line 10 is under \$1, we will send a refund or apply it to your next return only on written request.

Part III. Record of Quarterly Federal Unemployment Tax Liability

Complete this part only if your FUTA tax in Part II, line 7, is over \$100. To figure your FUTA tax for the first three quarters, multiply by .008 that part of the first \$7,000 of each employee's annual wages you paid during the quarter. (However, if any part of the wages subject to FUTA is exempt from state unemployment tax, you may have to figure more than the tax using the .008 rate.) Enter the result in the columns for the first through third quarters.

To figure your FUTA tax for the fourth quarter (including any tax from Part I, line 6), complete Form 940 through Part II, line 7. Enter the amount from Part II, line 7 in the "Total for year" column. Subtract the sum of the amounts shown in columns one through three from the amount shown in "Total for year" column and enter the result in the column for the fourth quarter. For example, if the amounts in columns one through three each show \$200 and Part II, line 7 shows \$900, enter \$900 in the "Total for year" column. Then subtract \$600 (\$200 + \$200 + \$200) from the \$900 and enter \$300 (\$900 - \$600) in the column for the fourth quarter FUTA tax liability.

Record your FUTA tax liability based on when you pay wages, not on when you make a tax deposit. For example, if you pay wages on March 28, your FUTA tax on those wages is \$200, and you deposit the \$200 on April 30, you would record that \$200 in the first quarter, not in the second.

Example. You had two employees and paid each employee \$4,000 in the first quarter, \$5,000 in the second quarter, \$5,000 in the third quarter, and \$5,000 in the fourth quarter. (None of these payments were exempt from FUTA tax.) For the first quarter, multiply .008 x \$8,000 (the amount paid to both employees), and enter \$64 in the space for the first quarter. For the second quarter, multiply .008 only by \$6,000 (\$3,000 for each employee—the amount remaining to reach the \$7,000 maximum amount subject to FUTA tax for each employee), and enter \$48 in the space for the second quarter. Because you paid each employee more than \$7,000 by the end of the second quarter, enter zero in the column for the third quarter and \$112 (from Part II, line 7) in the "Total for year" column. Enter zero (\$112 - \$64 - \$48 - 0) in the column for the fourth quarter.

Third-Party Designee. If you want to allow any individual, corporation, firm, organization, or partnership to discuss your 2004 Form 940 with the IRS, check the "Yes" box in the **Third-Party Designee** section of the

return. Also, enter the name, phone number, and any five numbers the designee chooses as his or her personal identification number (PIN). The authorization applies only to the tax form upon which it appears.

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

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

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

The **Third-Party Designee** authorization is substantially equivalent to Form 8821, Tax Information Authorization, but automatically **expires** one year from the due date (without regard to extensions) for filing your 2004 Form 940. If you or your designee desire to terminate the authorization, a written statement conveying your wish to revoke the authorization should be submitted to the IRS address where the return was filed or would have been filed without payment.

Signature. Form 940 must be signed as follows:

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

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

figure and collect the right amount of tax. Chapter 23, Federal Unemployment Tax Act, of Subtitle C, Employment Taxes, of the Internal Revenue Code imposes a tax on employers with respect to employees. This form is used to determine the amount of the tax that you owe. Section 6011 requires you to provide the requested information if you are liable for FUTA tax under section 3301. Section 6109 requires you to provide your employer identification number (EIN). If you fail to provide this information in a timely manner, you may be subject to penalties and interest.

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

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

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping**, 15 hr., 32 min.; **Learning about the law or the form**, 1 hr., 23 min.; **Preparing and sending the form to the IRS**, 1 hr., 57 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to: Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SB, 1111 Constitution Ave. NW, IR-6406, Washington, DC 20224. **Do not** send the Form 940 to this office. Instead, see *Where To File* on page 3.

Privacy Act and Paperwork Reduction Act Notice.

We ask for the information on this form to carry out the Internal Revenue laws of the United States. We need it to