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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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**A Change To Note**

The social security wage base for 2003 is \$87,000. There is no wage base limit for Medicare tax. The tax rate remains 6.2% for social security tax and 1.45% for Medicare tax.

**Reminders**

**Electronic deposits.** You may deposit your taxes electronically using the Electronic Federal Tax Payment System (EFTPS). Although use of EFTPS is required for certain employers (see section 8 for details), all employers may use this electronic payment system. Using EFTPS, you can transmit your payment information by telephone or your personal computer. To get more information or to enroll in EFTPS, call 1-800-555-4477 or 1-800-945-8400. You can also visit the EFTPS Web Site at [www.eftps.gov](http://www.eftps.gov).

**Change of address.** If you changed your business mailing address or business location, notify the IRS by filing **Form 8822**, Change of Address.

**Private delivery services.** You can use certain private delivery services designated by the IRS to send tax returns or payments. If you mail by the due date using any of these services, you are considered to have filed on time. The most recent list of designated private delivery services was published in September 2002. The list includes only the following:

- Airborne Express (Airborne): Overnight Air Express Service, Next Afternoon Service, and Second Day Service.
- DHL Worldwide Express (DHL): DHL “Same Day” Service, and DHL USA Overnight.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2 Day, FedEx International Priority, and FedEx International First..
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

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



*Private delivery services cannot deliver items to P.O. boxes. You must use the U.S. Postal Service to mail any item to an IRS P.O. box address.*

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

**Unresolved tax issues.** If you have attempted to deal with an IRS problem unsuccessfully, you should contact the Taxpayer Advocate. The Taxpayer Advocate independently represents your interests and concerns within the IRS by protecting your rights and resolving problems that have not been fixed through normal channels.

While Taxpayer Advocates cannot change the tax law or make a technical tax decision, they can clear up problems that resulted from previous contacts and ensure that your case is given a complete and impartial review.

Your assigned personal advocate will listen to your point of view and will work with you to address your concerns. You can expect the advocate to provide:

- A “fresh look” at a new or ongoing problem.
- Timely acknowledgment.
- The name and phone number of the individual assigned to your case.
- Updates on progress.
- Timeframes for action.
- Speedy resolution.
- Courteous service.

When contacting the Taxpayer Advocate, you should provide the following information:

- Your name, address, and employer identification number.
- The name and telephone number of an authorized contact person and the hours he or she can be reached.
- The type of tax return and year(s) involved.
- A detailed description of the problem.
- Previous attempts to solve the problem and the office that had been contacted.
- A description of the hardship you are facing (if applicable).

You may contact a Taxpayer Advocate by calling a toll-free number, **1-877-777-4778**. Persons who have access to TTY/TDD equipment may call 1-800-829-4059 and ask for Taxpayer Advocate assistance. If you prefer, you may call, write, or fax the Taxpayer Advocate office in your area. See **Pub. 1546**, The Taxpayer Advocate Service of the IRS, for a list of addresses and fax numbers.

**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, and their social security numbers; copies of returns filed; dates of employment; and the dates and amounts of deposits made in accordance with section 8. Farm employers must keep a record of the name, permanent address, and EIN of each crew leader (see **Farm Crew Leaders** on page 4).

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## Calendar

The following are important dates and responsibilities. Also see **Pub. 509**, Tax Calendars for 2003.

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

### By January 31

- **Furnish wage and tax statements to employees.** Give each employee a completed Form W-2VI, W-2GU, W-2AS, or W-2CM (see section 10).
- File **Form 943**, Employer’s Annual Tax Return for Agricultural Employees, with the Internal Revenue Service. If you deposited all Form 943 taxes when due, you have 10 additional days to file.

- **File Form 940 or 940-EZ—U.S. Virgin Islands employers.** File **Form 940** or **940-EZ**, Employer's Annual Federal Unemployment (FUTA) Tax Return, with the U.S. 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 have 10 additional days to file.

#### By February 28

**File wage and tax statements with the Social Security Administration (SSA).** File Copy A of Forms W-2VI, W-2GU, W-2AS, or W-2CM with **Form W-3SS**, Transmittal of Wage and Tax Statements, with the Social Security Administration. For electronically filed returns, see **By March 31** below.

#### By March 31

**File electronic Forms W-2VI, W-2GU, W-2AS, or W-2CM.** File copy A of electronic (not magnetic media or paper) Forms W-2VI, W-2GU, W-2AS, or W-2CM with the Social Security Administration. See the SSA Web Site at [www.ssa.gov/employer](http://www.ssa.gov/employer) for more information.

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

File **Form 941-SS**, Employer's Quarterly Federal Tax Return (American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands), with the Internal Revenue Service. If you deposited the full amount of taxes when due, you have 10 additional days to file.

**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 11).

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## Introduction

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

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.

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 11).

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.

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. In the U.S. Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands, contact your local tax department for information about income tax withholding. See **Circular E**, Employer's Tax Guide (Pub. 15), for information on U.S. Federal income tax withholding.

***Note:** Employers in the U.S. Virgin Islands may call 1-800-829-4933 for Federal tax information. If you have access to TTY/TDD equipment, call 1-800-829-4059 with your tax question or to order forms and publications.*

## How To Get Forms and Publications

**Personal computer.** Access the IRS's Web Site at [www.irs.gov](http://www.irs.gov) to do the following:

- Download forms, instructions, and publications.
- See answers to frequently asked tax questions.
- Search publications on-line by topic or keyword.
- Send us comments or request help via e-mail.
- Sign up to receive hot tax issues and news by e-mail from the IRS Digital Dispatch.

You can also reach us using file transfer protocol at [ftp.irs.gov](ftp://ftp.irs.gov).

**By phone.** U.S. Virgin Islands employers can order forms and publications 24 hours a day, 7 days a week, by calling **1-800-TAX-FORM** (1-800-829-3676). Others can get IRS forms and publications by writing to the Western Area Distribution Center, Rancho Cordova, CA 95743-0001.

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## 1. Who Are Employees?

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

**Employee status under common law.** Generally, a worker 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. See **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 se-

curity and Medicare purposes if the conditions under **Tests** later 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 who sells 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.

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

- 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** above 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.** Certain 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.

**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 Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding.

## 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)

An **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. **Use your EIN on all the items you send to the IRS and SSA for your business.**

If you have not asked for an EIN, request one on **Form SS-4**, Application for Employer Identification Number. Form SS-4 contains information on how to apply for an EIN by mail or by telephone.

If you do not have an EIN by the time a return is due and you are filing a paper return, enter "Applied For" and the date you applied in the space shown for the number. If you took over another employer's business, do not use that employer's EIN. Make your check for any amount due on a return payable to the "United States Treasury" and show on it your name (as shown on Form SS-4), address, kind of tax, period covered, and date you applied for an EIN.

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

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

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

An employee's **social security number (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. You should ask the employee to show you his or her social security card. The employee is required to show it to you if it is available. You may, but you are not required to, photocopy the social security card if the employee provides it.

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 of this circular 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 Form W-2 and you are filing the form on paper, 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. Continue to use the old name until the employee shows you the new social security card with the new name.

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 is given a new social security card following an adjustment to his or her resident status that shows a different name or SSN, file a Form W-2c for the most current year only.

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## 4. Taxable Wages

Generally, all wages are subject to social security and Medicare tax (and FUTA tax for U.S. Virgin Islands employers). However, wages subject to social security tax and FUTA tax are limited by a wage base amount you pay to each employee for the year. After you pay \$87,000 to an employee in 2003, **including tips**, do not withhold social security tax on any amount you later pay the employee for the year. The wage base for FUTA tax is \$7,000 for 2003. All wages are subject to Medicare tax. The wages may be in cash or in other forms, such as an automobile for personal use. Wages include 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 and 6 for a discussion of how the rules apply to tips and farmworkers.

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** later. Except for farmworkers and household employees, 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. For information on reporting back pay to the Social Security Administration, see **Pub. 957**, Reporting Back Pay and Special Wage Payments to the Social Security Administration.

**Travel and business expenses.** Payments to your employee for travel and other necessary expenses of your business generally are included in taxable wages 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. In either case, these payments are subject to social security, Medicare, and FUTA taxes (U.S. Virgin Islands only). Sick pay becomes exempt from these taxes after the end of 6 calendar months after the calendar month the employee last worked for the employer. Pub. 15-A explains the employment tax rules that apply to sick pay, disability benefits, and similar payments to employees.

## Fringe Benefits

Unless the law provides otherwise, fringe benefits are includible in the gross income of the employee and are subject to 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 included in the employee’s income 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. For details on fringe benefits, see **Pub. 15-B**, Employer’s Tax Guide to Fringe Benefits.

**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** on page 6.

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 (discussed in section 8), 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. In general, the value of taxable noncash fringe benefits provided in a calendar year must be determined by January 31 of the following year.

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 **Deposit Penalties** in section 8.

**Valuation of vehicles provided to employees.** If you provide a vehicle to your employees, 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 10.

**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.

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-2VI, W-2GU, W-2AS, or W-2CM. If you use the special accounting rule, your employee must also use it for the same period that you use it. You cannot use this rule for a fringe benefit of real property or tangible or intangible real property of a kind normally held for investment that is a transfer 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, available from the IRS.

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

- The employee's name, address, and SSN.
- The employer's 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 2003 reach \$87,000. Collect the employee Medicare tax for the whole year on all wages and tips.

You are responsible for the employer social security tax on wages and tips until the wages (**including tips**) reach the wage base limit. You are responsible for the employer Medicare tax for the whole year on all wages and tips. 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 do not have enough employee funds available to deduct the employee tax, you no longer have to collect it. Show these tips and any uncollected social security and Medicare taxes on Forms W-2VI, W-2GU, W-2AS, or W-2CM and on lines 6c, 6d, 7a, and 7b of Form 941-SS. Report an adjustment on line 9 of Form 941-SS for the uncollected social security and Medicare taxes.

**Note:** You are permitted to establish a system for electronic tip reporting by employees. See *Regulations section 31.6053-1*.

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 your employees if they:

- Raise or harvest agricultural or horticultural products on your 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 an unincorporated group of up to 20 operators, all of the commodity).
- Do work for you 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-employ-

ment tax. In general, share farming is an arrangement in which certain commodity products are shared between the farmer and the owner (or tenant) of the land. For details, see Regulations section 31.3121(b)(16)-1.

## 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 for farmwork (cash and noncash) to all of your employees 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.

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

- 2) Cash wages you pay a household employee are counted in the \$2,500 test but are not subject to social security and Medicare taxes unless you have paid the worker \$1,300 or more in cash wages in 2002 (\$1,400 in 2003). See the table on page 17 showing liability for social security, Medicare, and FUTA taxes.

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

For wages paid in 2003, 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.)

**Note:** 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.

**Employee's portion of taxes paid by employer.** If you pay your employee's social security and Medicare taxes without deducting them from the employee's pay, you must include the amount of the payments in the employee's wages for social security and Medicare taxes. This increase in the employee's wage payment for your payment of the employee's social security and Medicare taxes is also subject to employee social security and Medicare taxes. This again increases the amount of the additional taxes you must pay.

**Note:** This discussion does not apply to household and agricultural employers. If you pay a household or agricultural employee's social security and Medicare taxes, these payments must be included in the employee's wages. However, this wage increase due to the tax payments is not subject to social security or Medicare taxes as discussed in this section. See Publication 15-A for details.

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

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## 8. Deposit Requirements

You must deposit social security and Medicare taxes if your tax liability (line 10 of Form 941-SS or line 11 of Form 943) is \$2,500 or more for the tax return period. You make the deposits either electronically or with paper coupons. These methods are discussed later.

### Payment with Return

You may make a payment with Forms 941-SS or 943 instead of depositing if:

- You accumulate less than a \$2,500 tax liability during the return period (line 10 of Form 941-SS or line 11 of Form 943) and you pay in full with a timely filed return. However, if you are unsure that you will accumulate less than \$2,500, deposit under the rules explained in this section so that you will not be subject to failure to deposit penalties, or
- You are a monthly schedule depositor and make a payment in accordance with the **Accuracy of De-**

**posits Rule** on page 10. This payment may be \$2,500 or more.



Only monthly schedule depositors are allowed to make this payment with the return.

## 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.

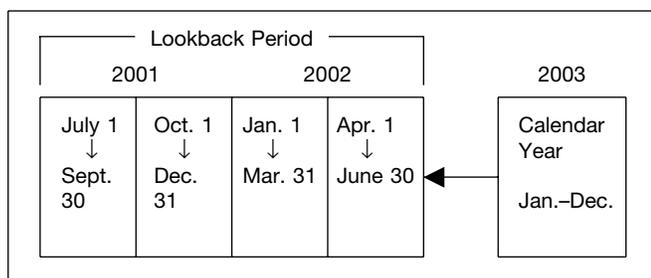
Depending on your total taxes reported during a lookback period (discussed below), you are either a **monthly schedule depositor** or a **semiweekly schedule depositor**.

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 line 10 of Form 941-SS, line 11 of Form 941, or line 9 of Form 943 for your lookback period (defined below). If you filed both Forms 941-SS and 941 during the lookback period, combine the tax liabilities for these returns for purposes of determining your deposit schedule. Determine your deposit schedule for Form 943 separately from Forms 941-SS and 941.

**Lookback period for employers of nonfarm workers.** The lookback period for Form 941-SS (or Form 941) consists of 4 quarters beginning July 1 of the second preceding year and ending June 30 of the prior year. These 4 quarters are your lookback period even if you did not report any taxes for any of the quarters. For 2003, the lookback period is July 1, 2001, through June 30, 2002.

### Lookback Period for Calendar Year 2003



**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 2003 is calendar year 2001.

**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, 941, or 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 2003 that the tax during the lookback period was understated by \$10,000 and corrected this error with an adjustment on the 2003 first quarter Form 941-SS. The employer is a monthly schedule depositor for 2003 because the lookback period tax liabilities are based on the amounts originally reported, and they were less than \$50,000. The \$10,000 adjustment is treated as part of the 2003 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 wage 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 Next-Day Deposit Rule** on page 9).

## 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 wage payments, as follows:

- Deposit taxes on wage payments made on Wednesday, Thursday, and/or Friday by the following Wednesday.
- Deposit taxes on wage payments made on Saturday, Sunday, Monday, and/or Tuesday by the following Friday.

**Semiweekly deposit period spanning two quarters.** If you have more than one pay date during a semiweekly period and the pay dates fall in different calendar quarters, you will need to make separate deposits for the separate liabilities. For example, if you have a pay date on Saturday March 29, 2003 (first quarter), and another pay date on Tuesday, April 1, 2003 (second quarter), two separate deposits will be required even though the pay dates fall within the same semiweekly period. Both deposits will be due Friday, April 4, 2003 (three banking days from the end of the semiweekly deposit period).

## Deposit Period

The term "deposit period" refers to the period during which tax liabilities are accumulated for each required deposit due date. For monthly schedule depositors, the deposit period is a calendar month. The deposit periods for semi-weekly schedule depositors are Wednesday through Friday and Saturday through Tuesday.

## Examples of Monthly and Semiweekly Schedules

**Employers of nonfarm workers.** Rose Co. reported Form 941-SS taxes as follows:

2002 Lookback Period	
3rd Quarter 2000	\$12,000
4th Quarter 2000	12,000
1st Quarter 2001	12,000
2nd Quarter 2001	<u>12,000</u>
	\$48,000
2003 Lookback Period	
3rd Quarter 2001	\$12,000
4th Quarter 2001	12,000
1st Quarter 2002	12,000
2nd Quarter 2002	<u>15,000</u>
	\$51,000

Rose Co. is a monthly schedule depositor for 2002 because its taxes for the 4 quarters in its lookback period (\$48,000 for the 3rd quarter of 2000 through the 2nd quarter of 2001) were not more than \$50,000. However, for 2003, Rose Co. is a semiweekly schedule depositor because the total taxes for the 4 quarters in its lookback period (\$51,000 for the 3rd quarter of 2001 through the 2nd quarter of 2002) exceeded \$50,000.

**Employers of farmworkers.** Red Co. reported taxes on its 2000 Form 943 of \$48,000. On its 2001 Form 943, it reported taxes of \$60,000.

Red Co. is a monthly schedule depositor for 2002 because its taxes for its lookback period (\$48,000 for calendar year 2000) were not more than \$50,000. However, for 2003, Red Co. is a semiweekly schedule depositor because the total taxes for its lookback period (\$60,000 for calendar year 2001) exceeded \$50,000.

## Deposits on Banking Days Only

If a deposit due date falls 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 at least 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 2003, 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 15. Green Inc. does not have a deposit requirement for February (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 because it pays wages 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 30, 2003 (Wednesday) payday must be deposited by May 7, 2003 (Wednesday).

## \$100,000 Next-Day Deposit 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 schedule depositors, the deposit period is a calendar month. For semi-weekly 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 next-day deposit rule does not apply because the \$10,000 is accumulated in the next deposit period. Thus, \$95,000 must be deposited by Friday and \$10,000 must be deposited by 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 by Friday using the normal semiweekly deposit schedule.

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

**Example of \$100,000 next-day deposit rule.** Elm Inc. started business on May 2, 2003. 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 May 9, Elm Inc. paid wages for the first time and accumulated taxes of \$40,000. On May 16 (Friday), Elm Inc. paid wages and accumulated taxes of \$60,000, for a total of \$100,000. Because Elm Inc. accumulated \$100,000 on May 16, it must deposit \$100,000 by May 19 (Monday), the next banking day. Elm Inc. immediately becomes a semiweekly schedule depositor for the remainder of 2003 and for 2004 but may be subject to the \$100,000 next-day deposit rule if it accumulates \$100,000 again in any semiweekly deposit 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.

### Makeup date for deposit shortfall:

- **Monthly schedule depositor.** Deposit or pay the shortfall 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 \$2,500 or more.
- **Semiweekly schedule depositor.** Deposit by the **earlier** of the **(1)** first Wednesday or Friday (whichever comes first) that comes on or after the 15th of the month following the month in which the shortfall occurred or **(2)** the return due date for the period in which the shortfall occurred. For example, if a semiweekly schedule depositor has a deposit shortfall during February 2003, the shortfall makeup date is March 19, 2003 (Wednesday). However, if the shortfall occurred on the required April 2 (Wednesday) deposit date for a March 28 (Friday) pay date, the return due date for the March 28 tax liability (April 30) would come before the May 16 (Friday) shortfall makeup date. In this case, the shortfall must be deposited by April 30.

## 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 separately, as discussed below.

## How To Deposit

The two methods of depositing employment taxes are discussed next. See **Payment With Return** on page 7 for exceptions explaining when taxes may be paid with the tax return instead of deposited.

**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 2003 if:

- The total deposits of such taxes in 2001 were more than \$200,000 or
- You were required to use EFTPS in 2002.

If you are required to use EFTPS and fail to do so, you may be subject to a 10% penalty. If you are not required to use EFTPS, you may participate voluntarily. To get more information or to enroll in EFTPS, call 1-800-555-4477 or 1-800-945-8400 or visit the EFTPS Web Site at [www.eftps.gov](http://www.eftps.gov).

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

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

For new employers, the IRS will send you a Federal Tax Deposit (FTD) coupon book 5 to 6 weeks after you receive an employer identification number (EIN). (Apply for an EIN on Form SS-4.) The IRS will keep track of the number of FTD coupons you use and **automatically** will send you additional coupons when you need them. If you do not receive your resupply of FTD coupons, call 1-800-829-4933. You can have the FTD coupon books sent to a branch office, tax preparer, or service bureau that is making your deposits by showing that address on **Form 8109-C**, FTD Address Change, which is in the FTD coupon book. (Filing Form 8109-C will not change your address of record; it will change only the address where the FTD coupons are mailed.) The FTD coupons will be preprinted with your name, address, and EIN. They have entry spaces for indicating the type of tax and the tax period for which the deposit is made.

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

If you have branch offices depositing taxes, give them FTD coupons and complete instructions so 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. This is because your account will be underpaid by the amount of the deposit credited to the other person's account. See **Deposit Penalties** below for details.

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

If you prefer, you may mail your coupon and payment to Financial Agent, Federal Tax Deposit Processing, P.O. Box 970030, St. Louis, MO 63197. Make your check or money order payable to **Financial Agent**.

**Depositing on time.** The IRS determines whether deposits are on time by the date they are received by an authorized depository. To be considered timely, the funds must be available to the depository on the deposit due date before the daily cutoff deadline. However, a deposit received by the authorized depository after the due date will be considered timely if the taxpayer establishes that it was mailed in the United States (including U.S. Territories) at least 2 days before the due date.

If you hand deliver your deposit to the depository on the due date, be sure to deliver it before the daily cutoff deadline.

**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 without an EIN.** If you have applied for an EIN but **have not** received it, and you must make a deposit, make the deposit with the IRS. **Do not** make the deposit at an authorized depository. Make it payable to the "United States Treasury" and show on it your name (as shown on Form SS-4), address, kind of tax, period covered, and date you applied for an EIN. Send an explanation with 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. You may get this form by calling 1-800-829-4933. Be sure to have your EIN ready when you call. You will not be able to obtain this form by calling 1-800-TAX-FORM.

Use Form 8109-B to make deposits only if—

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

**Deposit record.** For your records, a stub is provided with each FTD coupon in the coupon book. The FTD coupon itself will not be returned. It is used to credit your account. Your 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 for a quarter, you can choose on Form 941-SS for that quarter to have the overpayment refunded or applied as a credit to your next return. Do not ask the depository or EFTPS to request a refund from the IRS for you.

## Deposit Penalties

Penalties may apply if you do not make required deposits on time. 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. Also applies to amounts paid within 10 days of the date of the first notice the IRS sent asking for the tax due.

**10%** - Deposits made at an unauthorized financial institution, paid directly to the IRS, or paid with your tax return (but see **Depositing without an EIN** above for exceptions).

**10%** - Amounts subject to electronic deposit requirements but not deposited using (EFTPS).

**15%** - Amounts still unpaid more than 10 days after the date of the first notice the IRS sent asking for the tax due or the day on which you receive notice and demand for immediate payment, whichever is above.

**Order in which deposits are applied.** Deposits generally are applied to the most recent tax liability within the return period (quarter or year). For examples on how the IRS will apply deposits, see Rev. Proc. 2001-58. However, if you receive a failure-to-deposit penalty notice, you may designate how your payment is to be applied in order to minimize the amount of the penalty. Follow the instructions on

the penalty notice you receive. For more information on designating deposits, see Rev. Proc. 2001-58. You can find Rev. Proc. 2001-58 on page 579 of Internal Revenue Bulletin 2001-50 at [www.irs.gov/pub/irs-irbs/irb01-50.pdf](http://www.irs.gov/pub/irs-irbs/irb01-50.pdf).

**Example:** Cedar Inc. is required to make a deposit of \$1,000 on April 15 and \$1,500 on May 15. It does not make the deposit on April 15. On May 15, Cedar Inc. deposits \$2,000. Under the new rule, which applies deposits to the most recent tax liability, \$1,500 of the deposit is applied to the May 15 deposit and the remaining \$500 is applied to the April deposit. Accordingly, \$500 of the April 15 liability remains undeposited. The penalty on this underdeposit will apply as explained above.

**Trust fund recovery penalty.** If income, social security, and Medicare taxes that must be withheld are not withheld or are not deposited or paid to the United States Treasury, the trust fund recovery penalty may apply. The penalty is the full amount of the unpaid trust fund tax. This penalty may apply to you if these unpaid taxes cannot be immediately collected from the employer or business.

The trust fund recovery penalty may be imposed on all persons who are determined by the IRS to be **responsible** for collecting, accounting for, and paying over these taxes, and who acted **willfully** in not doing so.

A **responsible person** can be an officer or employee of a corporation, a partner or employee of a partnership, an accountant, a volunteer director/trustee, or an employee of a sole proprietorship. A responsible person also may include one who signs checks for the business or otherwise has authority to cause the spending of business funds.

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

## 9. Employer's Returns

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

The IRS sends each employer a form preaddressed with name, address, and EIN. If you use a form that is not preaddressed, enter your name and EIN exactly as they appeared on previous returns.

**Nonfarm employers.** File your first Form 941-SS return for the calendar quarter in which you pay wages for non-farm workers.

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

However, if you deposited all taxes when due for the quarter, you have 10 additional days from the due dates above to file the return.

If you go out of business, or stop paying wages, check the final return box and show the date final wages were paid on Form 941-SS for the quarter in which you made the final payment.

**Household employers reporting social security and Medicare taxes.** If you are a sole proprietor and file Form 941-SS for business employees, you may include taxes for household employees on your Form 941-SS. Otherwise, report social security and Medicare taxes for household employees on **Schedule H (Form 1040)**, Household Employment Taxes. See **Pub. 926**, Household Employer's Tax Guide, for more information.

**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. You may report household workers in a private home on a farm operated for profit as farmworkers on Form 943. **Do not** report wages for farmworkers 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 10 additional days to file.

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, check the final return box. If you later become liable for any of the taxes, notify your Internal Revenue Service representative.

## Adjustments

Generally, you can correct errors on a prior return by making an adjustment on Forms 941-SS or 943 for the tax period (quarter or year) during which the error was discovered. For example, if you made an error reporting social security tax on your second quarter 2002 Form 941-SS and discovered the error during January 2003, correct the error by making an adjustment on your first quarter 2003 Form 941-SS.

The adjustment increases or decreases your tax liability for the period in which it is reported (the quarter or year the error is discovered) and is interest free. The net adjustments reported on Form 941-SS (or Form 943) may include any number of corrections for one or more previous quarters (or years), including both overpayments and underpayments.

You are required to provide background information and certifications supporting prior period adjustments. File **Form 941c**, Supporting Statement To Correct Information, with Form 941-SS or Form 943, or attach an equivalent supporting statement.

**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 Form 943.

Form 941-SS and the Form 943 instructions explain how to correct mistakes in reporting withheld social security and Medicare taxes, including the use of Form 941c. You may also make an adjustment for overwithheld social security and/or Medicare taxes or claim a refund of these taxes on **Form 843**, Claim for Refund and Request for Abatement.

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 do not have a receipt, you must report and pay any overcollection when you file the return for the return period in which the overcollection was made.

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## 10. Wage and Tax Statements

By January 31, furnish Copies B and C of Form W-2VI, W-2GU, W-2AS, or W-2CM to each employee who worked for you during the prior year. If an employee stops working for you during the year, furnish the statement at any time after employment ends but no later than January 31. However, if the employee asks you for Form W-2, furnish it within 30 days of the request or the last wage payment, whichever is later.

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

**Electronic or magnetic media filing requirement.** If you are required to file 250 or more Forms W-2VI, W-2GU, or W-2AS, you must file using magnetic media (or electronically). See the **Instructions for Forms W-2 and W-3** or call the Social Security Administration (SSA) at 1-800-772-6270 for more information. You may also visit the SSA Web Site at [www.ssa.gov/employer](http://www.ssa.gov/employer).

**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 SSA at the address shown on Form W-3SS.
- 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 or from the IRS.

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 SSA at the address shown on Form W-3c.

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 with 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 to the SSA, 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.

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## 11. Federal Unemployment (FUTA) Tax—U.S. Virgin Islands Employers Only

The Federal Unemployment Tax Act (FUTA), with state unemployment systems, provides for payments of unemployment compensation to workers who have lost their jobs. Most employers pay both a Federal and a state unemployment tax. Only the employer pays FUTA tax; it is not withheld from the employees' wages. For information, see the **Instructions for Form 940**.

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

**In general.** You are subject to FUTA tax in 2003 on the wages you pay employees who are not farmworkers or household workers if:

- 1) You paid wages of \$1,500 or more in any calendar quarter of 2002 or 2003 or
- 2) You had one or more employees for at least some part of a day in any 20 different weeks in 2002 or 20 or more different weeks in 2003.

**Household workers.** You are subject to FUTA tax only if you paid total cash wages of \$1,000 or more for all household workers in 2003 in any calendar quarter in 2002 or 2003.

**Farmworkers.** You are subject to FUTA tax on the wages you pay to farmworkers in 2003 if:

- 1) You paid total cash wages of \$20,000 or more for the farmwork in any calendar quarter to farmworkers during 2002 or 2003 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 2002 or 20 or more different weeks in 2003.

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 2002 and 2003 is 6.2% of the first \$7,000 of wages you pay 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 by the due date of Form 940 or 940-EZ. The credit cannot be more than 5.4% of taxable FUTA wages.

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

Form 940-EZ is a simple FUTA tax return for filers with uncomplicated tax situations. You can generally use Form 940-EZ if:

- You are liable for unemployment tax only in the U.S. Virgin Islands;
- You make all required payments to the U.S. Virgin Islands by the due date of Form 940 or 940-EZ; and
- All wages subject to FUTA tax are also subject to U.S. Virgin Islands unemployment tax.

If you do not meet these conditions, file Form 940 instead. Once you have filed Form 940 or 940-EZ, the IRS will send you a preaddressed form.

**Deposits.** If you are not required to deposit using EFTPS (see section 8), deposit the FUTA tax with an authorized financial institution. Send a deposit coupon with each payment.

Figure your liability for FUTA tax deposits quarterly. Multiply by .008 (0.8%) the amount of wages paid during the quarter to employees who have not exceeded \$7,000 in wages for the calendar year. Stop depositing FUTA tax on an employee's wages when his or her wages exceed \$7,000 for the calendar year. 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 by the last day of the first month after the end of 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 3 quarters of the year.

If the FUTA tax reportable on Form 940 or 940-EZ, minus the amounts deposited for the first 3 quarters, is more than \$100, deposit the tax by January 31. 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.

## 12. Special Rules for Various Types of Services and Payments

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)
<b>Agricultural labor:</b>		
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 test or \$2,500 test is met (see section 6).	Taxable if either test in section 11 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 test or \$2,500 test is met (see section 6).	Taxable if either test in section 11 is met.
3. In connection with the production and harvesting of turpentine and other oleoresinous products.	Taxable if \$150 test or \$2,500 test is met (see section 6).	Taxable if either test in section 11 is met.
4. Cotton ginning.	Taxable if \$150 test or \$2,500 test is met (see section 6).	Taxable if either test in section 11 is met.
5. In connection with hatching of poultry.	Taxable (not farmwork if performed off farm).*	Taxable if either test in section 11 is met.
6. In operation or maintenance of ditches, canals, reservoirs, or waterways used only for supplying or storing water for farming purposes and not owned or operated for profit.	Taxable if \$150 test or \$2,500 test is met (see section 6).	Taxable if either test in section 11 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 test or \$2,500 test is met (see section 6); otherwise, taxable (not farmwork).	If employer produced over half of commodity processed, taxable if either test in section 11 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 test or \$2,500 test is met (see section 6); otherwise taxable (not farmwork).*	If employer produced over half of commodity processed, taxable if either test in section 11 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 either test in section 11 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 \$1,400 or more in cash in 2003. Exempt if performed by an individual who is under age 18 during any part of the calendar year and housework is not the principal occupation of the employee.	Taxable if either test in section 11 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 test 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.
<b>Aliens:</b>		
1. Resident		
a. Service performed in U.S.**	Same as U.S. citizen; exempt if any part of service as crew member of foreign vessel or aircraft is performed outside U.S.	Same as U.S. citizen.
b. Service performed outside U.S.**	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.	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.

\* Wages for services not considered farmwork are reported on Form 941—SS. Other exemptions may apply. See sections 4 and 9.

\*\* 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)
<b>Aliens (continued):</b>		
2. Nonresidents working in U.S.*		
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").	Exempt.	Exempt.
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 the Immigration and Nationality Act.	Exempt if service is performed for purposes specified in section 101(a)(15)(F), (H), (J), (M), or (Q) of Immigration and Nationality Act. However, these taxes may apply if the employee becomes a resident alien.	
c. All other nonresidents working in U.S.*	Same as U.S. citizen; exempt if any part of service as crew member of foreign vessel or aircraft is performed outside U.S. and employer is not American employer.	Same as U.S. citizen.
3. Nonresident working on American vessel or aircraft outside U.S.*	Taxable if under contract made in U.S. or worker is employed on vessel or aircraft when it touches U.S. port.	
<b>Deceased worker's wages:</b>		
1. Paid to beneficiary or estate in calendar year of worker's death.	Taxable.	Taxable.
2. Paid to beneficiary or estate after the year of worker's death.	Exempt.	Exempt.
<b>Dependent care assistance programs</b> (limited to \$5,000; \$2,500 if married filing separately).	Exempt to the extent it is reasonable to believe that amounts will be excludable from gross income under Internal Revenue Code (IRC) section 129.	
<b>Disabled worker's wages paid after the year in which worker became entitled to disability insurance benefits under the Social Security Act.</b>	Exempt if worker did not perform any service for employer during period for which payment is made.	Taxable.
<b>Domestic service in college clubs, fraternities, and sororities.</b>	Exempt if paid to regular student; also exempt if employee is paid less than \$100 in a year by an income-tax-exempt employer.	Taxable if employer paid total cash wages of \$1,000 or more (for all household employees) in any calendar quarter in the current or preceding year.
<b>Employee achievement awards.</b>	Exempt to the extent it is reasonable to believe the amounts will be excludable from gross income under IRC section 74(c).	
<b>Family employees:</b>		
1. Child employed by parent (or by partnership in which each partner is a parent of the child).	Exempt until age 18.	Exempt until age 21.
2. Child employed by parent for domestic work or not in the course of a trade or business.	Exempt until age 21.	Exempt until age 21.
3. Parent employed by child.	Taxable if in course of the child's business. For household work in private home of child, see Pub. 926.	Exempt.
4. Spouse employed by spouse.	Taxable if in course of spouse's business.	Exempt.
<b>Federal Employees:</b>		
1. Members of uniformed services; Young Adult Conservation Corps, Job Corps, or National Volunteer Antipoverty Program; Peace corps volunteers.	Taxable	Exempt.
2. All others.	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 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.

\* 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)
<b>Fishing and related activities, employment in connection with catching, harvesting, farming, etc.:</b> 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).
<b>Foreign governments and international organizations.</b>	Exempt.	Exempt.
<b>Foreign service by U.S. citizens:</b> 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> on page 16). 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.
<b>Fringe benefits.</b>	Taxable on excess of fair market value of the benefit over the sum of an amount paid for it by the employee and any amount excludable by law. However, optional special valuation rules may apply.**	
<b>Government employees</b> (other than Federal).	Taxable if services are covered by section 218 (Social Security Act) agreement; taxable in certain other cases.	Exempt.
<b>Group-term life insurance costs.</b> (See Pub. 15-B for details.)	Exempt, except for the cost of premiums that provide more than \$50,000 coverage.	Exempt.
<b>Homeworkers</b> (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.
<b>Hospital interns.</b>	Taxable.	Exempt.
<b>Household workers</b> (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 \$1,400 or more in cash in 2003. Exempt if performed by a 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 employee paid total cash wages of \$1,000 or more (for all household employees) in any calendar quarter in the current or preceding year.
<b>Insurance agents or solicitors:</b> 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.	Taxable if employee under common law and not paid solely by commissions (applies to both 1 and 2).
<b>Interest foregone on below-market loans related to compensation and deemed original issue discount.</b> See IRC section 7872 and its regulations for details.	See Pub. 15-A.	
<b>Meals and lodging furnished free or at a discounted price to the employee.</b> (For household employees, agricultural labor, and service not in the course of the employer's trade or business, see <b>Noncash payments</b> on page 18.)	(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.	
<b>Ministers of churches performing duties as such.</b>	Exempt.	Exempt.

\* 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 FUTA 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)
<b>Moving expense reimbursement:</b>		
1. Qualified expenses.	Exempt unless you have knowledge that the employee deducted the expenses in a prior year.	
2. Nonqualified expenses.	Taxable.	Taxable.
<b>Newspaper carrier under age 18 delivering directly to readers.</b>	Exempt.	Exempt.
<b>Newspaper and magazine vendors buying at fixed prices and retaining excess from sales to customers.</b>	Exempt.	Exempt.
<b>Noncash payments:</b>		
1. For household work, agricultural labor, and service not in the course of the employer's trade or business.	Exempt.	Exempt.
2. To certain retail commission salespersons ordinarily paid solely on a cash commission basis.	Taxable.	Taxable.
<b>Nonprofit organizations:</b>		
1. Religious, educational, charitable, etc., organizations described in IRC section 501(c)(3) exempt from income tax under IRC 501(a).	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.)	Exempt.
2. Corporations organized under Act of Congress described in IRC section 501(c).	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 \$50 or more in a quarter unless services excepted by IRC section 3306(c)(6).
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 employee is paid \$100 or more in a year.	Taxable if employee is paid \$50 or more in a quarter.
<b>Partners: Bona fide members of a partnership.</b>	Exempt.	Exempt.
<b>Patients employed by hospitals.</b>	Taxable (exempt for state or local government hospitals).	Exempt.
<b>Religious orders: Members who are instructed by the order to perform services:</b>		
1. For the order, agency of the supervising church, or associated institution.	Exempt unless member has taken a vow of poverty and the religious order or its autonomous subdivision irrevocably elects coverage for entire active membership.	Exempt.
2. For any organization other than those described in 1 above.	Taxable.	Taxable.
<b>Retirement and pension plans:</b>		
1. Employer contributions to a qualified plan.	Exempt.	Exempt.
2. Elective contributions and deferrals to a plan containing a qualified cash or deferred compensation arrangement (e.g., 401(k)).	Taxable.	Taxable.
3. Employer contributions to certain nonqualified deferred compensation plans.	Taxable.*	Taxable.*
4. Employer contributions to individual retirement accounts under a SIMPLE retirement plan.	Exempt except for amounts contributed under a salary reduction SIMPLE agreement.	
5. Employer contributions to IRC section 403(b) annuity contracts.	Taxable if paid through a salary reduction agreement (written or otherwise)	
6. Distributions from qualified retirement and pension plans.	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.

Special Classes of Employment and Special Types of Payments	Treatment Under Employment Taxes	
	Social Security and Medicare	Federal Unemployment (U.S. Virgin Islands Only)
<b>Salespersons:</b>		
1. Common law employees.	Taxable.	Taxable.
2. Statutory employees (referred to in section 1).	Taxable.	Taxable.
3. Statutory Nonemployees (qualified real estate agents and direct sellers).	Exempt. Treated as if self-employed individuals if substantially all payments directly related to sales or other output and services performed as nonemployees specified in written contract. Direct sellers must be in the business of selling consumer products other than in a permanent retail place of business.	
<b>Scholarships and fellowship grants</b> (includible in income under section 117(c)).	Taxability depends on the nature of the employment and the status of the organization. See <b>Students</b> below.	
<b>Severance pay:</b>	Taxable.	Taxable.
<b>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.</b>	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.
<b>Sickness or injury payments under:</b>		
1. Worker's compensation law.	Exempt.	Exempt.
2. Certain employer plans.	Exempt after end of 6 calendar months after calendar month employee last worked for employer (applies to both 2 and 3). See Pub. 15-A for details.	
3. No employer plan.		
<b>Students:</b>		
1. Student enrolled and regularly attending classes (generally, at least half time or equivalent) while pursuing course of study, performing services for:		
a. Private school, college, or university.	Exempt.	Exempt.
b. Auxiliary nonprofit organization operated for and controlled by school, college, or university.	Exempt unless services are covered by a section 218 (Social Security Act) agreement.	Exempt.
c. Public school, college, or university.	Exempt unless services are covered by a section 218 (Social Security Act) agreement.	Exempt.
2. Full-time student performing service for academic credit, combining academic instruction with work experience as an integral part of the program.	Taxable.	Exempt unless program was established for or on behalf of an employer or group of employers.
3. Student nurse performing part-time services for nominal earnings at hospital as incidental part of training.	Exempt.	Exempt.
4. Student employed by organized camps.	Taxable.	Exempt.
<b>Supplemental unemployment compensation benefits.</b>	Exempt under certain conditions (see Pub. 15-A).	Exempt under certain conditions (see Pub. 15-A).
<b>Tips:</b>		
1. If \$20 or more in a month.	Taxable.	Taxable for all tips reported in writing to employer.
2. If less than \$20 in a month.	Exempt.	Exempt.
<b>Worker's compensation.</b>	Exempt.	Exempt.

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

**U.S. Virgin Islands**—St. Thomas: Social Security Administration Office, 8000 Nisky Center, First Floor, Suite 2, Charlotte Amalie, VI 00802. St. Croix: Social Security Administration, Professional Building, 4500 Sion Farm, Centerline Road, Christiansted, VI 00820-4423.

**Guam**—Social Security Administration Office, 777 Route 4, Suite 6A, Sinajana, GU 96910.

**American Samoa**—Social Security Administration Office, Pago Plaza, Suite 11, Pago Pago, AS 96799.

**Commonwealth of the Northern Mariana Islands**—Social Security Administration Office, Hong Kong Bank, Suite 201, Garapan Village, 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.

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### Internal Revenue Service

P.O. Box 85627  
Richmond, VA 23285-5627

### Official Business

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### Deliver to Payroll Department

**Note:** *This publication contains important payroll information. Keep it. You will need to refer to it during the coming year.*

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