

Notice 931

(Rev. November 2009)



Department of the Treasury
Internal Revenue Service

Deposit Requirements for Employment Taxes

There are two deposit schedules—**monthly** or **semiweekly**—for determining when you deposit social security and Medicare taxes and withheld federal income tax. These schedules tell you when a deposit is due after a tax liability arises (for example, when you have a payday). Before the beginning of each calendar year, you must determine which of the two deposit schedules you must use. The deposit schedule you must use is based on the total tax liability you reported during a **lookback period**. Your deposit schedule is **not** determined by how often you pay your employees or make deposits. See *Application of Monthly and Semiweekly Schedules* on page 2.

These rules do not apply to federal unemployment (FUTA) tax. See the Instructions for Form 940 for information on depositing FUTA tax.

\$2,500 Rule. Instead of making deposits during the current quarter, you can pay your total Form 941 tax liability when you timely file Form 941 if:

- Your total Form 941 tax liability for either the current quarter or the preceding quarter is less than \$2,500 and
- You do not incur a \$100,000 next-day deposit obligation during the current quarter.

If you are not sure your total liability for the current quarter will be less than \$2,500, (and your liability for the preceding quarter was not less than \$2,500), make deposits using the semi-weekly or monthly rules so you won't be subject to failure to deposit penalties.

Deposit rules for Form 941. Your deposit schedule (monthly or semiweekly) for Form 941, Employer's QUARTERLY Federal Tax Return, is based on the total tax liability you reported on Form 941 during a four-quarter lookback period discussed below under *Lookback period for Form 941*.

Deposit rules for Forms 943, 944, Form 945, and Form CT-1. Generally, the deposit rules for Form 941 also apply to tax liabilities for Form 943, Employer's Annual Federal Tax Return for Agricultural Employees; Form 944, Employer's ANNUAL Federal Tax Return; Form 945, Annual Return of Withheld Federal Income Tax; and Form CT-1, Employer's Annual Railroad Retirement Tax Return. However, because Forms 943, 944, 945, and CT-1 are annual returns, the rules for determining your deposit schedule apply to a calendar year rather than a calendar quarter. See *Lookback period for annual returns* below. For more information about deposit rules for annual returns, see Pub. 15 (Circular E), Employer's Tax Guide (for Forms 944 and 945); Pub. 51 (Circular A), Agricultural Employer's Tax Guide (for Form 943); and the Instructions for Form CT-1.

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 2010 if:

- Your total deposits of such taxes in 2008 were more than \$200,000 or
- You were required to use EFTPS in 2009, or any year before 2008.

If you are required to use EFTPS and use a Federal Tax Deposit Coupon (Form 8109 or Form 8109-B) instead, you may be subject to a penalty equal to 10% of the required deposit. If you do not have to use EFTPS, you may participate voluntarily. To get more information or to enroll in EFTPS, visit the EFTPS website at www.eftps.gov, or call 1-800-555-4477. You can also get Pub. 966, *The Secure Way to Pay Your Federal Taxes*.

Depositing on time. For EFTPS deposits to be on time, you must initiate the transaction at least on 1 business day before the date the deposit is due.

Lookback period for Form 941. Your deposit schedule for a calendar year is determined from the total taxes (not reduced by any advance earned income credit payments) reported on your Forms 941 in a four-quarter lookback period. The lookback period

begins July 1 and ends June 30 as shown in the following chart. If you reported \$50,000 or less of Form 941 taxes for the lookback period, you are a monthly schedule depositor; if you reported more than \$50,000, you are a semiweekly schedule depositor. The lookback period for a 2010 Form 941 filer who filed Form 944 in either 2008 or 2009 is calendar year 2008.

Form 941 Lookback Period for Calendar Year 2010

Lookback Period				2010 Calendar Year Jan. – Dec.
2008		2009		
July 1 thru Sept. 30	Oct. 1 thru Dec. 31	Jan. 1 thru Mar. 31	Apr. 1 thru June 30	←

Lookback period for annual returns. For annual returns (Form 943, Form 944, Form 945, and Form CT-1), the lookback period is the calendar year preceding the previous year. For example, the lookback period for 2010 is 2008.

Monthly Deposit Schedule

You are a monthly schedule depositor for a calendar year if the total taxes during your lookback period were \$50,000 or less.

Under the monthly deposit schedule, deposit accumulated taxes on payments made during a calendar month by the 15th day of the following month.

Monthly schedule depositors do **not** file Form 941 on a monthly basis. Do not file Form 941-M, Employer's Monthly Federal Tax Return, unless you are instructed to do so by an IRS representative.

New employers. Your tax liability for each quarter in the lookback period is considered to be zero. Therefore, you are a monthly schedule depositor for the 1st year you are an employer. However, see the *\$100,000 Next-Day Deposit Rule* on page 2.

Semiweekly Deposit Schedule

You are a semiweekly schedule depositor for a calendar year if the total taxes during your lookback period were more than \$50,000.

Deposit Period (Payment Days)

Wednesday, Thursday, and/or Friday
Saturday, Sunday, Monday, and/or Tuesday

Deposit By

Following Wednesday
Following Friday

Semiweekly deposit period spanning 2 return periods. If a return period ends on a day other than Friday or Tuesday, taxes accumulated on the days during the return period just ending are subject to one deposit obligation, and taxes accumulated on the days covered by the new return period are subject to a separate deposit obligation. For example, if a return period ends on Thursday, taxes accumulated on Wednesday and Thursday are subject to one deposit obligation and taxes accumulated on Friday are subject to a separate obligation. Separate deposits are required because two different return periods are affected.

Example of Monthly and Semiweekly Schedules

Hazel Jones reported Form 941 tax liabilities as follows:

2009 Lookback Period	2010 Lookback Period
3rd Quarter 2007 - \$12,000	3rd Quarter 2008 - \$12,000
4th Quarter 2007 - \$12,000	4th Quarter 2008 - \$12,000
1st Quarter 2008 - \$12,000	1st Quarter 2009 - \$12,000
2nd Quarter 2008 - <u>\$12,000</u>	2nd Quarter 2009 - <u>\$15,000</u>
\$48,000	\$51,000

Hazel is a monthly schedule depositor for 2009 because her tax liability for the four quarters in the lookback period (3rd quarter 2007 through 2nd quarter 2008) was not more than \$50,000. However, for 2010, Hazel is a semiweekly schedule depositor because her liability exceeded \$50,000 for the four quarters in the lookback period (3rd quarter 2008 through 2nd quarter 2009).

Deposits on Banking Days Only

If a deposit is due on a day that is not a banking day, the deposit is considered to have been made 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 due on a Friday and Friday is a banking holiday, the deposit will be considered timely if it is made by the following Monday (if that Monday is a banking day).

Semiweekly schedule depositors 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 1 additional banking day to deposit. For example, if a semiweekly schedule depositor accumulated taxes for payments made on Friday and the following Monday is a banking holiday, the deposit normally due on Wednesday may be made on Thursday. This allows 3 banking days to make the deposit.

Application of Monthly and Semiweekly Schedules

The terms “monthly schedule depositor” and “semiweekly schedule depositor” **do not** refer to how often your business pays its employees or even to how often you must make deposits. The terms identify which set of deposit rules you must follow when an employment tax liability arises. The deposit rules are based on the dates wages are paid; **not** on when employment tax liabilities are accrued.

Monthly schedule example. Pine Co. has a monthly deposit schedule. It paid wages each Friday during March, but did not pay any wages during April. Under the monthly schedule, Pine Co. must deposit the combined tax liabilities for the March paydays by April 15. Pine Co. does not have a deposit requirement for April (due by May 15) because no wages were paid and, therefore, it did not have a tax liability for the month.

Semiweekly schedule example. Maylen Smith, who has a semiweekly deposit schedule, pays wages once each month on the last Friday of the month. Although Maylen has a semiweekly deposit schedule, she will deposit just once a month because she pays wages only once a month. The deposit, however, will be made under the semiweekly deposit schedule as follows: Maylen’s tax liability arises when she pays wages on April 23, 2010 (Friday), the liability must be deposited by April 28, 2010 (Wednesday). Under the semiweekly deposit schedule, liabilities for wages paid on Wednesday through Friday must be deposited by the following Wednesday.

\$100,000 Next-Day Deposit Rule

If you accumulate a tax liability (reduced by any advance EIC payments) of \$100,000 or more on any day during a deposit period, you must deposit the tax by the next banking day, whether you are a monthly or semiweekly schedule depositor. The deposit period for monthly schedule depositors is a calendar month. For semiweekly schedule depositors, the deposit periods are Wednesday through Friday and Saturday through Tuesday.

For the \$100,000 next-day deposit rule, do not continue accumulating tax liabilities after the end of a deposit period. For example, if a semiweekly schedule depositor has accumulated a liability of \$95,000 on a Tuesday (of a Saturday-through-Tuesday deposit period) and accumulated a \$10,000 liability on Wednesday, the \$100,000 next-day deposit rule does not apply. Therefore, \$95,000 must be deposited by Friday and \$10,000 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 the next day. For example, Fir Co. is a semiweekly schedule depositor. On Monday, Fir Co. accumulates taxes of \$110,000 and must deposit this amount on Tuesday, the next banking day. On Tuesday, Fir Co. accumulates additional taxes of \$30,000. Because the \$30,000 is not added to the previous \$110,000 and is less than \$100,000, Fir Co. must deposit the \$30,000 by Friday, following the semiweekly deposit schedule.

If you are a monthly schedule depositor and accumulate a \$100,000 tax liability on any day, you become a semiweekly

schedule depositor on the next day and remain so for at least the rest of the calendar year and for the following calendar year.

Example of \$100,000 next-day deposit rule. Fir Co. started its business on April 1, 2010. On April 12, it paid wages for the first time and accumulated a tax liability of \$40,000. On Friday, April 16, Fir Co. paid wages and accumulated a liability of \$60,000, making its accumulated Form 941 tax liability total \$100,000. Fir Co. must deposit \$100,000 by April 19, the next banking day. Because this was the 1st year of its business, the tax liability for its lookback period is considered to be zero, and it would be a monthly schedule depositor based on the lookback rules. However, because Fir Co. accumulated \$100,000 on April 16, it became a semiweekly schedule depositor on April 17. It will be a semiweekly schedule depositor for the remainder of 2010 and for 2011.

Adjustments and the Lookback Rule

Determine your tax liability for the lookback period (four-quarter lookback period for Form 941 and calendar-year lookback period for Form 943, Form 944, Form 945, and Form CT-1) based on the tax liability as **originally** reported. If you later made adjustments to correct errors on those returns by filing a Form 941-X, Form 943-X, Form 944-X, Form 945-X or Form CT-1X, these adjustments do not affect the amount of the employment tax liability for the lookback rule. However, the employment tax liability reported on an original return for 2008 and earlier years does include any prior period line adjustments (supported by a Form 941c, Supporting Statement To Correct Information) reported on the return.

Example of adjustments and the lookback rule for Form 941. An employer originally reported a tax liability of \$45,000 for the four quarters in the lookback period ending June 30, 2009. The employer discovered during January 2010 that the tax during one of the lookback period quarters was understated by \$10,000 and corrected this error with an adjustment on Form 941-X, Adjusted Employer’s QUARTERLY Federal Tax Return or Claim for Refund. This employer is a monthly schedule depositor for 2010 because the lookback period tax liabilities are based on the amounts originally reported and they were less than \$50,000. The \$10,000 adjustment does not affect the amount of tax liability for the lookback rule.

Accuracy of Deposits Rule

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

1. Any deposit shortfall does not exceed the greater of \$100 or 2% of the amount of taxes otherwise required to be deposited.
2. The deposit shortfall is paid or deposited by the shortfall makeup date as described below.

Makeup Date for Deposit Shortfall

- **Monthly schedule depositor.** Deposit or pay the shortfall with your return by the due date of the return. 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:
 1. The first Wednesday or Friday that falls on or after the 15th of the month following the month in which the shortfall occurred or
 2. The due date of your return (for the return period of the tax liability). For each calendar quarter, Form 941 is due by the last day of the month following the end of the quarter.

For example, if a semiweekly schedule depositor has a deposit shortfall during July 2010, the shortfall makeup date is August 18, 2010 (Wednesday). However, if the shortfall occurred on the required March 31 (Wednesday) deposit due date for the March 26 (Friday) pay date, the return due date for the March 26 pay date (April 30) would come before the May 19 (Friday) shortfall makeup date. In this case, the shortfall must be deposited by April 30.