



However, for 2012, Hazel is a semiweekly schedule depositor because her liability exceeded \$50,000 for the four quarters in the lookback period (3rd quarter 2010 through 2nd quarter 2011).

## Deposits on Business Days Only

If a deposit is due on a day that is not a business day, the deposit is considered to have been made timely if it is made by the close of the next business day. A business day is any day other than a Saturday, Sunday, or legal holiday. For example, if a deposit is due on a Friday and Friday is a legal holiday, the deposit will be considered timely if it is made by the following Monday (if that Monday is a business day). The term "legal holiday" means any legal holiday in the District of Columbia. For a list of legal holidays, see Pub. 15 (Circular E), or visit IRS.gov and enter the words "legal holidays" in the search box.

**Special rule for 2011.** Notice 2010-87 provides that the IRS will not assert penalties for deposits due during calendar year 2011 that are untimely solely because the depositor treated a statewide legal holiday as if it were a legal holiday in the District of Columbia.

**Semiweekly schedule depositors** have at least 3 business days to make a deposit. That is, if any of the 3 weekdays after the end of a semiweekly period is a legal holiday, you will have an additional business day to deposit for each day that is a legal holiday. For example, if a semiweekly schedule depositor accumulated taxes for payments made on Friday and the following Monday is a legal holiday, the deposit normally due on Wednesday may be made on Thursday. This allows 3 business 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 27, 2012 (Friday), the liability must be deposited by May 2, 2012 (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 of \$100,000 or more on any day during a deposit period, you must deposit the tax by the next business 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 again 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 business 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 May 1, 2012. On May 8, it paid wages for the first time and accumulated a tax liability of \$40,000. On Friday, May 11, Fir Co. paid wages and accumulated a liability of \$60,000, making its accumulated tax liability total \$100,000. Fir Co. must deposit \$100,000 by May 14, the next business 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 May 11, it became a semiweekly schedule depositor on May 12. It will be a semiweekly schedule depositor for the remainder of 2012 and for 2013.

## 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.

**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, 2011. The employer discovered during January 2012 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 2012 because the lookback period tax liabilities are based on the amounts originally reported and they did not exceed \$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 2012, the shortfall makeup date is August 15, 2012 (Wednesday). However, if the shortfall occurred on the required April 4 (Wednesday) deposit due date for the March 30 (Friday) pay date, the return due date for the March 30 pay date (April 30) would come before the May 16 (Wednesday) shortfall makeup date. In this case, the shortfall must be deposited by April 30.