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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

For use in **2012**



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Contents

What's New	1
Reminders	2
Calendar	3
Introduction	4
1. Employer Identification Number (EIN)	4
2. Who Are Employees?	4
3. Employee's Social Security Number (SSN)	5
4. Wages and Other Compensation	6
5. Tips	7
6. Social Security and Medicare Taxes for Farmworkers	8
7. How To Figure Social Security and Medicare Taxes	8
8. Depositing Taxes	9
9. Employer's Returns	13
Reporting Adjustments to Form 941-SS, Form 944-SS, or Form 943	14
10. Wage and Tax Statements	15
11. Federal Unemployment (FUTA) Tax—U.S. Virgin Islands Employers Only	16
12. Special Rules for Various Types of Employment and Payments	17
13. How To Get Tax Help	22
Index	24

What's New

Future developments. The IRS has created a page on IRS.gov for information about Publication 80, at www.irs.gov/pub80. Information about any future developments affecting Publication 80 (such as legislation enacted after we release it) will be posted on that page.

Social security and Medicare tax for 2012. The employee tax rate for social security is 4.2% on wages paid and tips received before March 1, 2012. The employee tax rate for social security increases to 6.2% on wages paid and tips received after February 29, 2012. The employer tax rate for social security remains unchanged at 6.2%. The social security wage base limit is \$110,100. The Medicare tax rate is 1.45% each for the employee and employer, unchanged from 2011. There is no wage base limit for Medicare tax.

Employers should implement the 4.2% employee social security tax rate as soon as possible, but not later than January 31, 2012. After implementing the 4.2% rate, employers should make an offsetting adjustment in a subsequent pay period to correct any overwithholding of social security tax as soon as possible, but not later than March 31, 2012.

Social security and Medicare taxes apply to the wages of household workers you pay \$1,800 or more in cash or an

equivalent form of compensation. Social security and Medicare taxes apply to election workers who are paid \$1,500 or more in cash or an equivalent form of compensation.



At the time this publication was prepared for release, the rate for the employee's share of social security tax was 4.2% and scheduled to increase to 6.2% for wages paid after February 29, 2012. However, Congress was discussing an extension of the 4.2% employee tax rate for social security beyond February 29, 2012. Check for updates at www.irs.gov/pub80.

Form 944-SS discontinued. Form 944-SS will no longer be issued by the IRS after 2011. Beginning with tax year 2012, employers who previously filed Form 944-SS will continue to file annually on Form 944, Employer's ANNUAL Federal Tax Return (or Form 944(SP), the Spanish language equivalent to Form 944). Alternatively, taxpayers may request to begin quarterly filing Forms 941-SS, Employer's QUARTERLY Federal Tax Return—American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands. For more information, see the 2012 Instructions for Form 944.

To request to file quarterly Forms 941-SS to report your social security and Medicare taxes for the 2012 calendar year, you must either call the IRS at 1-800-829-4933 (U.S. Virgin Islands only), or 267-941-1000 (toll call) by April 2, 2012, or send a written request postmarked on or before March 15, 2012. After you contact the IRS, the IRS will send you a written notice that your filing requirement has been changed. If you do not receive this notice, you must file Form 944 for calendar year 2012. For more information, see *What if you want to file Forms 941-SS instead of Form 944*, in the 2011 Instructions for Form 944-SS.



Some of the topics discussed in this publication are for actions taken in 2012 that are related to your 2011 Form 944-SS. Other topics are for actions taken in 2012 that are related to your 2012 tax return. For simplicity, all references to Form 944-SS have been retained. References to specific lines on Form 944-SS also apply to Form 944.

VOW to Hire Heroes Act of 2011. On November 21, 2011, the President signed into law the VOW to Hire Heroes Act of 2011. This new law provides an expanded work opportunity tax credit to businesses that hire eligible unemployed veterans and for the first time also makes part of the credit available to tax-exempt organizations. Businesses claim the credit as part of the general business credit and tax-exempt organizations claim it against their payroll tax liability. The credit is available for eligible unemployed veterans who begin work on or after November 22, 2011, and before January 1, 2013. More information about the credit against a tax-exempt organization's payroll tax liability will be available early in 2012 at www.irs.gov/form5884c.

FUTA tax rate for 2012. The FUTA tax rate is 6.0% for 2012.

Commonwealth of the Northern Mariana Islands (CNMI) Filipino workers and new Commonwealth Only Transitional Worker (CW) visa classification. Filipino residents admitted to the Commonwealth of the Northern Mariana Islands (CNMI) are not treated as exempt from social security and Medicare taxes on the basis of holding a work permit under CNMI immigration law. While the

CNMI is transitioning to full implementation of U.S. immigration law, a new Commonwealth Only Transitional Worker (CW) visa classification is available for workers in the CNMI. Workers on the CW visa, including those from the Philippines, are not exempt from social security and Medicare taxes. Unless temporary workers in the CNMI are eligible for an exemption from social security and Medicare taxes based on some other circumstances (for example, a Filipino resident holding a valid U.S. H-2 visa), employers are required to withhold and pay social security and Medicare taxes.

Change of address. Beginning in 2012, employers must use new Form 8822-B, Change of Address—Business, for any address change.

Reminders

Commonwealth of the Northern Mariana Islands (CNMI) income taxes. The U.S. Treasury Department and the (CNMI) Division of Revenue and Taxation entered into an agreement under 5 USC 5517 in December 2006. Under this agreement, all federal employers with personnel resident in CNMI (including the Department of Defense) are required to withhold CNMI income taxes (rather than federal income taxes) and deposit the CNMI taxes with the CNMI Treasury. Federal employers are also required to file quarterly and annual reports with the CNMI Division of Revenue and Taxation. For questions, contact the CNMI Division of Revenue and Taxation.

Credit card and debit card payments. For information on paying your taxes with a credit or debit card, visit the IRS website at www.irs.gov/e-pay. You may not use a credit card or debit card to pay taxes that are required to be deposited.

Electronic filing and payment. Using electronic options can make filing a return and paying your federal tax easier. Use the Electronic Federal Tax Payment System (EFTPS) to make deposits or pay in full, whether you rely on a tax professional or prepare your own taxes. You can use *IRS e-file* to file certain returns. If there is a balance due on the return, you can e-file and e-pay in a single step by authorizing an electronic funds withdrawal from your bank account while e-filing. Visit the IRS website at www.irs.gov/efile for more information on filing electronically.

- For EFTPS, visit www.eftps.gov or call EFTPS Customer Service at 1-800-555-4477 (U.S. Virgin Islands only) or 303-967-5916 (toll call).
- For electronic filing of Forms W-2AS, W-2CM, W-2GU, W-2VI, W-3SS, and W-2c, visit www.socialsecurity.gov/employer.

COBRA premium assistance credit. The credit for COBRA premium assistance payments applies to premiums paid for employees involuntarily terminated between September 1, 2008 and May 31, 2010, and to premiums paid for up to 15 months. See *COBRA premium assistance credit* in Publication 15 (Circular E) (For use in 2012). You can get Publication 15 (Circular E) at IRS.gov.

Federal tax deposits must be made by electronic funds transfer. You must use electronic funds transfer to make all federal tax deposits. Generally, electronic fund transfers

are made using the Electronic Federal Tax Payment System (EFTPS). If you do not want to use EFTPS, you can arrange for your tax professional, financial institution, payroll service, or other trusted third party to make deposits on your behalf. Also, you may arrange for your financial institution to initiate a same-day wire payment on your behalf. EFTPS is a free service provided by the Department of Treasury. Services provided by your tax professional, financial institution, payroll service, or other third party may have a fee.

For more information on making federal tax deposits, see [How To Deposit](#) in section 8.

For more information about EFTPS or to enroll in EFTPS, visit the EFTPS website at www.eftps.gov or call 1-800-555-4477 (U.S. Virgin Islands only) or 303-967-5916 (toll call) or 1-800-733-4829 (TDD). Additional information about EFTPS is also available in Publication 966, The Secure Way to Pay Your Federal Taxes.

Electronic option for filing Forms W-2AS, W-2GU, or W-2VI. Employers in American Samoa, Guam, and the U.S. Virgin Islands can now use the Social Security Administration's W-2 Online service to create, save, print, and submit up to 20 Forms W-2AS, W-2GU, or W-2VI at a time over the Internet. Form W-3SS will be generated automatically based on your Forms W-2AS, W-2GU, or W-2VI. For more information, visit Social Security Administration's SSA website at www.ssa.gov/bsowelcome.htm.

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](#).

Private delivery services. You can use certain private delivery services designated by the IRS to send tax returns or payments. The list includes only the following:

- DHL Express (DHL): DHL Same Day Service.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day, 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.

Your 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.

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](#) in section 2.

Reporting discrepancies between Forms 941-SS or Forms 944-SS and Forms W-2. File Schedule D (Form 941), Report of Discrepancies Caused by Acquisitions, Statutory Mergers, or Consolidations, to explain certain wage, tax, and payment discrepancies between Forms 941-SS (or Forms 944-SS), and Forms W-2 that were caused by acquisitions, statutory mergers, or consolidations. For more information, get the Instructions for Schedule D (Form 941).

Apply for an employer identification number (EIN) online. You can apply for an EIN online by visiting IRS.gov and clicking on the *Apply for an Employer Identification Number (EIN) Online* link.

Comments and suggestions. We welcome your comments about this publication and your suggestions for future editions.

You can write to us at the following address:

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Business Forms and Publications Branch
SE:W:CAR:MP:T:B
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

We respond to many letters by telephone. Therefore, it would be helpful if you would include your daytime phone number, including the area code, in your correspondence.

You can email us at taxforms@irs.gov. Please put "Publication 80" on the subject line. Although we cannot respond individually to each email, we do appreciate your feedback and will consider your comments as we revise our tax products.

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

Calendar



If any date shown below for filing a return, furnishing a form, or depositing taxes 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. However, a statewide legal holiday does not delay the due date of federal tax deposits. 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](#) under Reminders.

The following are important dates and responsibilities. Also see Publication 509, Tax Calendars.

By January 31

- Furnish wage and tax statements to employees. Give each employee a completed Form W-2AS, W-2CM, W-2GU, or Form W-2VI. See [section 10](#) for more information.

- File Form 943, Employer's Annual Federal Tax Return for Agricultural Employees, with the Internal Revenue Service. If you deposited all Form 943 taxes when due, you have 10 additional calendar days to file.
- U.S. Virgin Islands employers only must file Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return, with the U.S. Internal Revenue Service. Pay or deposit (if more than \$500) any balance of the tax due. If you deposited the full amount of taxes when due, you have 10 additional calendar days to file.
- File Form 944-SS, Employer's ANNUAL 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 were notified by the Internal Revenue Service to file Form 944-SS instead of quarterly Forms 941-SS. If you deposited the full amount of taxes when due, you have 10 additional calendar days to file.

By February 29

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

By March 31

File electronic Forms W-2AS, W-2CM, W-2GU, or Form W-2VI with the SSA. See Social Security's Employer Reporting Instructions & Information website at www.socialsecurity.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 calendar days to file. Do not file Forms 941-SS for these quarters if you have been notified to file Form 944-SS.

Deposit FUTA tax for the quarter (including any amount carried over from other quarters) if over \$500. If \$500 or less, carry it over to the next quarter. See [section 11](#) for more information.

Introduction

This publication 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 publication summarizes employer responsibilities to collect, pay, and report these taxes.

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

This publication 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](#) for more information.

Except as shown in the table in [section 12](#), social security, Medicare, and FUTA taxes apply to every employer who pays taxable wages to employees or who has employees who report tips.

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

This publication also does not include information 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 Publication 15 (Circular E), Employer's Tax Guide, for information on U.S. federal income tax withholding.

1. Employer Identification Number (EIN)

An employer identification number (EIN) is a nine-digit number that 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 of the items that you send to the IRS and SSA for your business.

If you do not have an EIN, you may apply for one online. Go to IRS.gov and click on the *Apply for an Employer Identification Number (EIN) Online* link. You may also apply for an EIN by calling 1-800-829-4933, (U.S. Virgin Islands only) or 267-941-1099 (toll call), or you can fax or mail Form SS-4, Application for Employer Identification Number, to the IRS. Do not use a social security number (SSN) in place of an EIN.

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 that you applied for it in the space shown for the number. If you took over another employer's business, do not use that employer's EIN.

You should have only one EIN. If you have more than one, write to the IRS office where you file your returns using the "without a payment" address in the Instructions for Form 941-SS, Instructions for Form 944-SS, or Instructions for Form 943. Or call the IRS Business & Specialty Tax Line (toll free) at 1-800-829-4933 (U.S. Virgin Islands only) or 267-941-1000 (toll call). TTY/TDD users in the U.S. Virgin Islands may call 1-800-829-4059 (toll free). The IRS will tell you which EIN to use.

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

2. 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 Publication 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.

Generally, people in business for themselves are not employees. For example, doctors, lawyers, veterinarians, and others in an independent trade in which they offer their services to the public are usually not employees. However, if the business is incorporated, corporate officers who work in the business are employees. If an employer-employee relationship exists, it does not matter what it is called. The employee may be called an agent or independent contractor. It also does not matter how payments are measured or paid, what they are called, or if the employee works full or part time.

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

While the following persons may not be common law employees, they are considered employees for social security and Medicare purposes if the conditions under [Tests](#), discussed below, are met.

- a. An agent (or commission) driver who delivers food or beverages (other than milk) or picks up and delivers laundry or dry cleaning for someone else.
- b. A full-time life insurance salesperson 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 merchandise for resale or supplies for use 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* or *d*, earlier, are also employees for FUTA tax purposes if tests 1 through 3 are met (U.S. Virgin Islands only).

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

Statutory nonemployees. Certain direct sellers, real estate agents, and companion sitters are, by law, considered nonemployees. They are generally treated as self-employed for employment tax purposes. See Publication 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 *Treating employees as nonemployees* under *Who Are Employees?* in Publication 15 (Circular E), for details on Internal Revenue Code section 3509, which may apply.

IRS help. If you want the IRS to determine if a worker is an employee, file Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding.

Husband-Wife Business

If you and your spouse jointly own and operate a business and share in the profits and losses, you are partners in a partnership, whether or not you have a formal partnership agreement. See Publication 541, Partnerships, for more details. The partnership is considered the employer of any employees, and is liable for any employment taxes due on wages paid to its employees.

Exception—Qualified Joint Venture. If you and your spouse materially participate as the only members of a jointly owned and operated business, and you file a joint Form 1040 or joint Form 1040-SS, you can make a joint election to be taxed as a qualified joint venture instead of a partnership. See the Instructions for Schedule C (Form 1040) or the Instructions for Form 1040-SS. Spouses electing qualified joint venture status are treated as sole proprietors for federal tax purposes. Either of the sole proprietor spouses may report and pay the employment taxes due on wages paid to the employees, using the EIN of that spouse's sole proprietorship. For more information on qualified joint ventures, visit IRS.gov and enter the keywords *Qualified Joint Venture* in the search box. Then select "Election for Husband and Wife Unicorporated Businesses."

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.

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 and enter them on the employee's wage and tax statement, Form W-2AS, W-2CM, W-2GU, or Form W-2VI. If you do not report the employee's correct name and SSN, you may owe a penalty unless you have reasonable cause. See Publication 1586, Reasonable Cause Regulations and Requirements for Missing and Incorrect Name/TINs, for information on the requirement to solicit the employee's SSN.

Employee's social security card. You should ask the employee to show you his or her social security card. The

employee may show the card if it is available. Do not accept a social security card that says “Not valid for employment.” A social security number issued with this legend does not permit employment. 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, and submit the necessary documentation. See the back cover of this publication for information on how to get and where to send the form. The employee must complete and sign Form SS-5; it cannot be filed by the employer. If your employee has applied for an SSN but has not received the card before you must file your Form W-2 reports, and you are filing your reports on paper, enter “Applied For” in box d. Enter all zeroes in the SSN block if filing electronically. When the employee receives the SSN, file Copy A of Form W-2c, Corrected Wage and Tax Statement, with SSA to show the employee’s SSN.

Correctly record the employee’s name and SSN. Record the name and number of each employee as they appear on his or her social security card. If the name is not correct as shown on the card (for example, because of marriage or divorce), the employee should request a corrected card from the SSA. Continue to use the old name until the employee shows you the replacement social security card with the corrected name.

If the SSA issues the employee a replacement card after a name change, or a new card with a different social security number after a change in alien work status, file a Form W-2c to correct the name/SSN reported on the most recently filed Form W-2AS, W-2CM, W-2GU, or Form W-2VI. It is not necessary to correct other years if the previous name and SSN were used for years before the most recent Form W-2.

Verification of social security numbers. The SSA offers employers and authorized reporting agents three methods for verifying employee SSNs. Some verification methods require registration. For more information, call 1-800-772-6270.

- **Internet.** Verify up to 10 names and numbers (per screen) online using the Social Security Number Verification System (SSNVS) and receive immediate results, or upload batch files of up to 250,000 names and numbers and usually receive results the next business day. Visit www.socialsecurity.gov/employer/ssnv.htm for more information.
- **Telephone.** Verify up to ten names and numbers with Telephone Number Employer Verification (TNEV) by calling 1-800-772-6270 or 1-800-772-1213.
- **Paper.** Verify up to 300 names and numbers by submitting a paper request. For information, see Appendix A in the Social Security Number Verification Service (SSNVS) handbook at www.socialsecurity.gov/employer/ssnvshandbk/appendix.htm.

Registering for SSNVS and TNEV. You must register online and receive authorization from your employer to use SSNVS or TNEV. To register, visit SSA’s website at www.ssa.gov/employer and click on the *Business Services Online* link. Follow the registration instructions to obtain a user Identification (ID) and password. You will need to provide the following information about yourself and your company.

- Name.
- SSN.
- Date of birth.
- Type of employer.
- Employer identification number (EIN).
- Company name, address, and telephone number.
- Email address.

When you have completed the online registration process, the SSA will mail a one-time activation code to your employer. You must enter the activation code online to use SSNVS or TNEV.

4. Wages and Other Compensation

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 that you pay to each employee for the year. The wage base for social security tax is \$110,100 for 2012. After you pay \$110,100 to an employee in 2012, including tips, do not withhold social security tax on any amount that you later pay to the employee for the year. The wage base for FUTA tax is \$7,000 for 2012. 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 in [section 12](#) for exceptions to social security, Medicare, and FUTA 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 Publication 15-A.

Determine the value of noncash pay (such as goods, lodging, and meals) by its fair market value. However, see [Fringe Benefits](#), later in this section. 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 Publication 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 (a) your employee is not required to or does not substantiate timely those expenses to you with receipts or other documentation, or (b) you advance an amount to your employee for business expenses and your employee is not required to or does not return timely any amount that he or she does not substantiate.

Sick pay. In general, sick pay is any amount that you pay, under a plan that 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. Publication 15-A explains the employment tax rules that apply to sick pay, disability benefits, and similar payments to employees.

Fringe Benefits

Generally, fringe benefits are includible in the gross income of an employee and are subject to employment taxes. Examples of fringe benefits include the use of an automobile, aircraft flights that 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 and any amount excluded by law. For more information, see Publication 15-B, *Employer's Tax Guide to Fringe Benefits*.

When fringe benefits are treated as paid. You can choose to treat certain noncash fringe benefits (including personal use of an automobile provided by you) as paid by the pay period, quarter, or on any other basis that you choose, but they must be treated as paid at least annually. You do not have to make a formal choice of payment dates or notify the IRS. You do not have to use the same basis for all employees. You may change methods as often as you like, as long as all benefits provided in a calendar year are treated as paid no later than December 31 of the calendar year. However, see [Special accounting rule for fringe benefits provided during November and December](#), later in this section.

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 and pay the proper amount, you may recover the taxes from the employee.

Depositing taxes on fringe benefits. Once you choose payment dates for taxable noncash fringe benefits, you must deposit taxes in the same deposit period that you treat the fringe benefits as paid. You may make a reasonable estimate of the value of the fringe benefits. In general, the value of taxable noncash fringe benefits provided in a calendar year must be determined by January 31 of the following year.

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 the box 14 instructions under *Specific Instructions for Forms W-2AS, W-2GU, and W-2VI* in the separate Instructions for Forms W-2AS, W-2GU, W-2VI, and Form W-3SS.

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 that 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 that you give the employee Form W-2AS, W-2CM, W-2GU, or Form W-2VI. 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 transferred to your employee.

5. Tips

Tips that your employee receives from customers are generally subject to social security and Medicare withholding. Your employee must report cash tips to you by the 10th of the month after the month that the tips are received. The report should include tips you paid over to the employee for charge customers, tips the employee received directly from customers, and tips received from other employees under any tip-sharing arrangement. Both directly and indirectly tipped employees must report tips to you. The report should not include tips that 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 Publication 1244, *Employee's Daily Record of Tips and Report to Employer*, available at [IRS.gov](#).

The statement must be signed by the employee and must include:

- The employee's name, address, and SSN,
- Your name and address,
- The month or period that the report covers, and
- The total tips received during the month or period.

Collecting taxes on tips. You must collect the employee social security and Medicare taxes on the employee's tips. You can also collect these taxes from the employee's wages or from other funds that he or she makes available. Stop collecting the employee social security tax when his or her total wages and tips for 2012 reach \$110,100. 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 (or Form 944-SS) to report withholding and employer taxes on tips.

Ordering rule. 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 social security and Medicare tax on tips, you no longer have to collect it and are not liable for it.

Reporting tips. Report tips and any collected and uncollected social security and Medicare taxes in boxes 1, 5, 7, and 12 on Forms W-2AS, W-2CM, W-2GU, or Form W-2VI and on Form 941-SS, lines 5b and 5c (Form 944-SS, lines 4b and 4c). Report an adjustment on Form 941-SS, line 9 (Form 944-SS, line 6), for the uncollected social security and Medicare taxes. The table in [section 12](#) shows how tips are treated for FUTA tax purposes.



You are permitted to establish a system for electronic tip reporting by employees. See Regulations section 31.6053-1(d).

6. Social Security and Medicare Taxes for Farmworkers

The tests described below apply only to services that are defined as agricultural labor (farmwork). In general, you are an employer of farmworkers if your employees:

- Raise or harvest agricultural or horticultural products on your farm (including the raising and feeding of livestock);
- Work in connection with the operation, management, conservation, improvement, or maintenance of your farm and its tools, equipment;
- Provide services relating to salvaging timber, or clearing land of brush and other debris, left by a hurricane (also known as hurricane labor);
- Handle, process, or package any agricultural or horticultural commodity if you produced over half of the commodity (for a group of up to 20 unincorporated operators, all of the commodity); or
- Do work for you related to cotton ginning, turpentine, gum resin products, or the operation and maintenance of irrigation facilities.

For this purpose, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, as well as plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards. Farmwork does not include reselling activities that do not involve any substantial activity of raising agricultural or horticultural commodities, such as a retail store or a greenhouse used primarily for display or storage.

A "share farmer" working for you is not your employee. However, the share farmer may be subject to self-employment 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 that you pay to any employee for farmwork are subject to social security and Medicare taxes if either of the following two tests 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 that you employ. If you employ a family of workers, each member is treated separately. Do not count wages paid by other employers.
- The total that you pay for farmwork (cash and non-cash) to all of your employees is \$2,500 or more during the year.

Exceptions. The \$150 and \$2,500 tests do not apply to wages that you pay to a farmworker who receives less than \$150 in annual cash wages and the wages are not subject to social security and Medicare taxes even if you pay \$2,500 or more in that year to all of your farmworkers if the farmworker:

- Is employed in agriculture as a hand-harvest laborer,
- Is paid piece rates in an operation that is usually paid on a piece-rate basis in the region of employment,
- Commutes daily from his or her home to the farm, and
- Had been employed in agriculture less than 13 weeks in the preceding calendar year.

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

7. How To Figure Social Security and Medicare Taxes

The employee tax rate for social security is 4.2% on wages paid and tips received before March 1, 2012. The employee tax rate for social security increases to 6.2% on wages paid and tips received after February 29, 2012. The employer tax rate for social security remains unchanged at 6.2%. The social security wage base limit is \$110,100. The 2012 employee tax rate for Medicare is 1.45% (amount withheld) each for the employee and employer (2.9% total). There is no wage base limit for Medicare tax; all covered wages are subject to Medicare tax. Multiply each wage payment by these percentages to figure the tax to withhold from employees. Employers report both the employee and employer shares on Form 941-SS, 944-SS, or Form 943 (farm employment). See [section 5](#) for information on tips.



At the time this publication was prepared for release, the rate for the employee's share of social security tax was 4.2% and scheduled to increase to 6.2% for wages paid after February 29, 2012. However,

Congress was discussing an extension of the 4.2% employee tax rate for social security beyond February 29, 2012. Check for updates at www.irs.gov/pub80.

Deducting the tax. Deduct the employee tax from each wage payment. If you are not sure that the wages that 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 that you must pay.

Household and agricultural employers. 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 Publication 15-A.

8. Depositing Taxes

You must deposit social security and Medicare taxes if your tax liability (Form 941-SS, line 10; Form 944-SS, line 7; or Form 943, line 9) is \$2,500 or more for the tax return period. You must make the deposit by electronic funds transfer. For more information about electronic funds transfers, see [How To Deposit](#), later in this section.

Payment with Return

\$2,500 rule. Instead of making deposits during the current quarter, you can pay your total Form 941-SS tax liability when you timely file Form 941-SS 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 semiweekly or monthly rules so you won't be subject to failure to deposit penalties.

Employers who have been notified to file Form 944-SS can pay their tax liability due for the fourth quarter with Form 944-SS, if their fourth quarter tax liability is less than \$2,500. Employers must have deposited any tax liability due for the first, second, and third quarters, according to

the deposit rules, in order to avoid failure-to-deposit penalties for deposits due during those quarters.



Only monthly schedule depositors are allowed to make an Accuracy of Deposits Rule payment with the return. Semiweekly schedule depositors must timely deposit the amount. See [Accuracy of Deposits Rule](#) and [How To Deposit](#), later in this section.

When To Deposit

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.

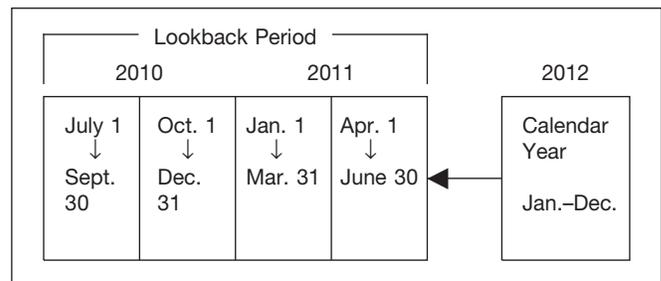
The terms "monthly schedule depositor" and "semi-weekly schedule depositor" do not refer to how often you pay your employees or how often you are required to make deposits. The terms identify which set of rules that you must follow when a tax liability arises (for example, when you have a payday).

You will need to determine your deposit schedule for a calendar year based on the total employment taxes reported on Form 941-SS, line 10 (line 8 for quarters ending before January 1, 2011); Form 944-SS, line 7; Form 943, line 9; 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 four quarters beginning July 1 of the second preceding year and ending June 30 of the prior year. These four quarters are your lookback period even if you did not report any taxes for any of the quarters. For 2012, the lookback period is July 1, 2010, through June 30, 2011.

Lookback Period for Calendar Year 2012



The lookback period for Form 944-SS (or Form 944) is the second calendar year preceding the current calendar year. For example, the lookback period for calendar year 2012 is calendar year 2010. In addition, for employers who filed Form 944-SS (or Form 944) for 2010 or 2011 and will file Form 941-SS (or Form 941) for 2012, the lookback period for 2012 is the second calendar year preceding the current calendar year, that is, 2010.

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 2012 is calendar year 2010.

Adjustments to lookback period taxes. To determine your taxes for the lookback period, use only the tax that you reported on the original returns (Forms 941-SS, 944-SS, or Form 943). Do not include any adjustments shown on Form 941-X, Form 944-X, or Form 943-X.

Example. An employer originally reported total taxes of \$45,000 for the lookback period. The employer discovered during January 2012 that the tax reported during the lookback period was understated by \$10,000 and corrected this error by filing Form 941-X. The employer is a monthly schedule depositor for 2012 because the lookback period tax liabilities are based on the amounts originally reported, and they were \$50,000 or less.

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.

Monthly Deposit Schedule

If your 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. Your tax liability for any quarter in the lookback period before the date you started or acquired your business is 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](#), later in this section).

Semiweekly Deposit Schedule

If your 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 that 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 depositors are generally not required to deposit twice a week if their payments were in the same semiweekly period unless the [\\$100,000 Next-Day Deposit Rule](#), discussed later in this section, applies. For example, if you made a payment on both Wednesday and Friday and incurred taxes of \$10,000 for each pay date, deposit the \$20,000 on the following Wednesday. If you made no additional payments on Saturday through Tuesday, no deposit is due on 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.

Example. If you have a pay date on Saturday, March 31, 2012 (first quarter), and another pay date on Sunday, April 1, 2012 (second quarter), two separate deposits will be required even though the pay dates fall within the same semiweekly period. Both deposits will be due on Friday, April 6, 2012 (3 business days from the end of the semi-weekly deposit period).

Examples of Monthly and Semiweekly Schedules

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

2011 Lookback Period	
3rd Quarter 2009	\$12,000
4th Quarter 2009	12,000
1st Quarter 2010	12,000
2nd Quarter 2010	<u>12,000</u>
	\$48,000

2012 Lookback Period	
3rd Quarter 2010	\$12,000
4th Quarter 2010	12,000
1st Quarter 2011	12,000
2nd Quarter 2011	<u>15,000</u>
	\$51,000

Rose Co. is a monthly schedule depositor for 2011 because its taxes for the four quarters in its lookback period (\$48,000 for the 3rd quarter of 2009 through the 2nd quarter of 2010) were not more than \$50,000. However, for 2012, Rose Co. is a semiweekly schedule depositor because the total taxes for the four quarters in its lookback period (\$51,000 for the 3rd quarter of 2010 through the 2nd quarter of 2011) exceeded \$50,000.

Employers of farmworkers. Red Co. reported taxes on its 2010 Form 943 (line 9) of \$48,000. On its 2011 Form 943 (line 9), it reported taxes of \$60,000.

Red Co. is a monthly schedule depositor for 2012 because its taxes for its lookback period (\$48,000 for calendar year 2010) were not more than \$50,000. However, for 2013, Red Co. is a semiweekly schedule depositor because the total taxes for its lookback period (\$60,000 for calendar year 2011) exceeded \$50,000.

New agricultural employers. New agricultural employers filing Form 943 are monthly schedule depositors for the first and second calendar years of their business because their taxes for the lookback period (2 years) are considered to be zero. However, see the [\\$100,000 Next-Day Deposit Rule](#), later in this section.

Deposits on Business Days Only

If a deposit due date falls on a day that is not a business day, the deposit is considered 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 required to be made on Friday, but Friday

is a legal holiday, the deposit is considered timely if it is made by the following Monday (if Monday is a business day).

Legal holiday. The term “legal holiday” means any legal holiday in the District of Columbia. Legal holidays for 2012 are listed below.

- January 2—New Year’s Day (observed)
- January 16—Birthday of Martin Luther King, Jr.
- February 20—Washington’s Birthday
- April 16—District of Columbia Emancipation Day
- May 28—Memorial Day
- July 4—Independence Day
- September 3—Labor Day
- October 8—Columbus Day
- November 12—Veterans Day (observed)
- November 22—Thanksgiving Day
- December 25—Christmas Day

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. Spruce Co. is a monthly schedule depositor with seasonal employees. It paid wages each Friday during January but did not pay any wages during February. Under the monthly deposit schedule, Spruce Co. must deposit the combined tax liabilities for the four January paydays by February 15. Spruce Co. does not have a deposit requirement for February (due by March 15) because no wages were paid and, therefore, it did not have a tax liability for February.

Semiweekly schedule example. Green, Inc. is a semiweekly schedule depositor and pays wages once each month on the last Friday of the month. Although Green, Inc., has a semiweekly deposit schedule, it will deposit just once a month because it pays wages only once a month. The deposit, however, will be made under the semiweekly deposit schedule as follows: Green, Inc.’s tax liability for the April 27, 2012 (Friday), payday 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 taxes of \$100,000 or more on any day during a deposit period, you must deposit by the close of the next business day, whether you are a monthly or a semiweekly schedule depositor.

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.

However, 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 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. does not have to deposit the \$30,000 until Friday (following 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. Elm, Inc. started its business on May 1, 2012. On May 4, it paid wages for the first time and accumulated a tax liability of \$40,000. On Friday, May 11, Elm, Inc. paid wages and accumulated a liability of \$60,000, making its accumulated Form 941-SS tax liability total \$100,000. Elm, Inc. must deposit \$100,000 by Monday, May 14, the next business day. Because this was the first 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 Elm, Inc. 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.

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:

1. **Monthly schedule depositor.** Deposit or pay the shortfall by the due date of the Form 941-SS, 944-SS, or Form 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.
2. **Semiweekly schedule depositor.** Deposit by the earlier of:
 - a. The 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
 - b. The return due date for the period in which the shortfall occurred.

For example, if a semiweekly schedule depositor filing Form 941-SS has deposit shortfall during July 2012, the shortfall makeup date is August 15, 2012 (Wednesday). However, if the shortfall occurred on the required April 6

(Friday), deposit date for a March 31 (Saturday) pay date, the return due date for the March 31 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, 2012.

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 or Form 944-SS taxes). Form 943 taxes and Form 941-SS (or Form 944-SS) taxes are not combined for purposes of applying any of the deposit rules.

If a deposit is due, deposit the Form 941-SS (or Form 944-SS) taxes and Form 943 taxes separately, as discussed below.

How To Deposit

You must deposit employment taxes by electronic funds transfer. See [Payment with Return](#), earlier in this section, for exceptions explaining when taxes may be paid with the tax return instead of being deposited.

Electronic deposit requirement. You must use electronic funds transfer to make all federal tax deposits (such as deposits of employment tax, excise tax, and corporate income tax). Generally, electronic fund transfers are made using the Electronic Federal Tax Payment System (EFTPS). If you do not want to use EFTPS, you can arrange for your tax professional, financial institution, payroll service, or other trusted third party to make deposits on your behalf.

If you are required to make deposits and fail to do so, you may be subject to a penalty equal to 10% of the required deposit. EFTPS is a free service provided by the Department of the Treasury. To get more information or to enroll in EFTPS, call 1-800-555-4477 toll free (U.S. Virgin Islands only) or 303-967-5916 (toll call). You can also visit the EFTPS website at www.eftps.gov. Additional information about EFTPS is also available in Publication 966.

When you receive your EIN. If you are a new employer that indicated a federal tax obligation when requesting an EIN, you will be pre-enrolled in EFTPS. You will receive information about Express Enrollment in your *Employer Identification Number (EIN) Package* and an additional mailing containing your EFTPS personal identification number (PIN) and instructions for activating your PIN. Follow the steps in your "How to Activate Your Enrollment" brochure to activate your enrollment and begin making your payroll tax deposits. Be sure to tell your payroll provider about your EFTPS enrollment.

Deposit record. For your records, an Electronic Funds Transfer (EFT) Trace Number will be provided with each successful payment. The number can be used as a receipt or to trace the payment.

Depositing on time. For deposits made by EFTPS to be on time, you must initiate the deposit by 8 p.m. Eastern time the day before the date the deposit is due. If you use a third party to make deposits on your behalf, they may have different cutoff times.

Same-day payment option. If you fail to initiate a deposit transaction on EFTPS by 8 p.m. Eastern time the day before the date a deposit is due, you can still make your deposit on time by using the Federal Tax Application

(FTA). If you ever need the same-day payment method, you will need to make arrangements with your financial institution ahead of time. Please check with your financial institution regarding availability, deadlines, and costs. Your financial institution may charge you a fee for payments made this way. To learn more about the information you will need to provide your financial institution to make a same-day wire payment, please visit www.eftps.gov to download the *Same-Day Payment Worksheet*.

How to claim credit for overpayments. If you deposited more than the right amount of taxes for a tax period, you can choose on Form 941-SS, Form 941, Form 944-SS, Form 944, or Form 943 for that tax period to have the overpayment refunded or applied as a credit to your next return. Do not ask EFTPS to request a refund from the IRS for you.

Deposit Penalties

Penalties may apply if you do not make required deposits on time or if you make deposits of less than the required amount. 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. The IRS may also waive penalties if you inadvertently fail to deposit in the first quarter that a deposit is due, or the first quarter during which your frequency of deposits changed, if you timely filed your employment tax return.

For amounts not properly or timely deposited, the penalty rates are as follows.

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 that the IRS sent asking for the tax due.

10% - Deposits paid directly to the IRS or paid with your tax return (but see [Payment with Return](#), earlier in this section, for exceptions).

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

Late deposit penalty amounts are determined using calendar days, starting from the due date of the liability.

Special rule for former Form 944-SS filers. If you filed Form 944-SS for the prior year and must file Forms 941-SS for the current year because your employment tax liability for the prior year exceeded the Form 944-SS eligibility requirement (\$1,000 or less), the failure-to-deposit penalty will not apply to a late deposit of employment taxes for the first month of the current year if the taxes are deposited in full by March 15 of the current year.

Order in which deposits are applied. Deposits generally are applied to the most recent tax liability within the return period (quarter or year). 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, if you do so within 90 days of the date of the notice. Follow the instructions on the penalty notice that you received. For more information on designating deposits, see Rev. Proc. 2001-58. You can find Rev. Proc.

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

Trust fund recovery penalty. If federal 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, or any other person or entity that is responsible for collecting, accounting for, and paying over trust fund taxes. 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.

“Averaged” failure-to-deposit penalty. The IRS may assess an “averaged” failure-to-deposit (FTD) penalty of 2% to 10% if you are a monthly schedule depositor and did not properly complete Form 941-SS, line 16, when your tax liability shown on Form 941-SS, line 10, was \$2,500 or more. IRS may also assess this penalty of 2% to 10% if you are a semiweekly schedule depositor and your tax liability shown on Form 941-SS, line 10, was \$2,500 or more and you did any of the following.

- Completed Form 941-SS, line 16, instead of Schedule B (Form 941).
- Failed to attach a properly completed Schedule B (Form 941).
- Completed Schedule B (Form 941) incorrectly, for example, by entering tax deposits instead of tax liabilities in the numbered spaces.

The IRS figures the penalty by allocating your total tax liability shown on Form 941-SS, line 10, equally throughout the tax period. Your deposits and payments may not be counted as timely because IRS does not know the actual dates of your tax liabilities.

You can avoid the penalty by reviewing your return before filing it. Follow these steps before filing your Form 941-SS.

- If you are a monthly schedule depositor, report your tax liabilities (not your deposits) in the monthly entry spaces on Form 941-SS, line 16.
- If you are a semiweekly schedule depositor, report your tax liabilities (not your deposits) on Schedule B

(Form 941) in the lines that represent the dates you paid your employees.

- Verify that your total liability shown on Form 941-SS, line 16, or the bottom of Schedule B (Form 941) equals your tax liability shown on Form 941-SS, line 10.
- Do not show negative amounts on Form 941-SS, line 16, or Schedule B (Form 941).
- For prior period errors, **do not** adjust your tax liabilities reported on Form 941-SS, line 16, or on Schedule B (Form 941). Instead, file an adjusted return (Form 941-X or 944-X) if you are also adjusting your tax liability. If you are only adjusting your deposits in response to a failure-to-deposit penalty notice, see the Instructions for Schedule B (Form 941) or the Form 945-X instructions (for Form 944-SS).



If you filed Form 944-SS for 2011 and line 7 was \$2,500 or more, you were required to complete Form 944-SS, lines 13a–13m, or attach Form 945-A, Annual Record of Federal Tax Liability. If you failed to complete lines 13a–13m, or failed to attach Form 945-A, whichever was required, IRS may assess an “averaged” failure-to-deposit (FTD) penalty.

9. Employer’s Returns

General instructions. File Form 941-SS (or Form 944-SS) for nonfarm workers and Form 943, for farmworkers. (U.S. Virgin Islands employers may be required to file Form 940 for the combined wages of nonfarm workers and farmworkers.)

Employers with employees subject to U.S. income tax withholding. If you have both employees who are subject to U.S. income tax withholding and employees who are not subject to U.S. income tax withholding, you must file only Form 941 (or Form 944) and include all your employees’ wages on that form.

Nonfarm employers. File Form 941-SS for the calendar quarter in which you first pay wages for nonfarm workers and for each quarter thereafter unless you are a seasonal employer or file a final return. Due dates for each quarter of the calendar year are as follows.

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 the due date for filing your return falls on a Saturday, Sunday, or legal holiday, you may file on the next business day.

If you closed your business or stopped paying wages and do not have to file returns in the future, check the box on line 17 of your final Form 941-SS and show the date final wages were paid.

Form 944-SS. If IRS notified you to file Form 944-SS, file your 2011 Form 944-SS by January 31, 2012, or by February 10, 2012, if you deposited all taxes when due.

Household employers reporting social security and Medicare taxes. If you are a sole proprietor and file Form 941-SS (or Form 944-SS) for business employees, you may include taxes for household employees on your Form 941-SS (or Form 944-SS). Otherwise, report social security and Medicare taxes for household employees on Schedule H (Form 1040), Household Employment Taxes. See Publication 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 the employer pays \$2,500 or more for farmwork or employs 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 on Form 943. Do not report wages for farmworkers on Form 941-SS or Form 944-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 required to file, write "NONE" on Form 943, line 9, sign 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 above line 1. If you later become liable for any of the taxes, notify the IRS.

Penalties. For each whole or part month that a return is not filed when required (disregarding any extensions of the filing deadline), there is a failure-to-file penalty of 5% of the unpaid tax due with that return. The maximum penalty is generally 25% of the tax due. Also, for each whole or part month that the tax is paid late (disregarding any extensions of the payment deadline), there is a failure-to-pay penalty of 0.5% per month of the amount of tax. For individual filers only, the failure-to-pay penalty is reduced from 0.5% per month to 0.25% per month if an installment agreement is in effect. You must have filed your return on or before the due date of the return to qualify for the reduced penalty. The maximum amount of the failure-to-pay penalty is also 25% of the tax due. If both penalties apply in any month, the failure-to-file penalty is reduced by the amount of the failure-to-pay penalty. The penalties will not be charged if you have a reasonable cause for failing to file or pay. If you receive a penalty notice, you can provide an explanation of why you believe reasonable cause exists.

Reporting Adjustments to Form 941-SS, Form 944-SS, or Form 943

Current Period Adjustments

Make current period adjustments for fractions of cents, sick pay, tips, and group-term life insurance on your Form 941-SS, Form 944-SS, or Form 943. See the Instructions for Form 941-SS, Form 944-SS, or Form 943, for information on how to report these adjustments.

Prior Period Adjustments

Forms for prior period adjustments. The Internal Revenue Service has developed Form 941-X and Form 944-X

to replace Form 941c, Supporting Statement to Correct Information. There are also new Forms 943-X, 945-X, and CT-1X to report corrections on the corresponding returns. Form 941-X and Form 944-X also replace Form 843, Claim for Refund or Request for Abatement, for employers to request a refund or abatement of overreported employment taxes. Continue to use Form 843 when requesting a refund or abatement of assessed interest or penalties.



See *Revenue Ruling 2009-39, 2009-52 I.R.B. 951*, for examples of how the interest-free adjustment and claim for refund rules apply in 10 different situations. You can find *Rev. Rul. 2009-39*, at www.irs.gov/irb/2009-52_IRB/ar14.html.

Background. Treasury Decision 9405 changed the process for making interest-free adjustments to employment taxes reported on Form 941-SS and Form 944-SS and for filing a claim for refund of employment taxes. Treasury Decision 9405, 2008-32 I.R.B. 293, is available at www.irs.gov/irb/2008-32_IRB/ar13.html. You will use the adjustment process if you underreported employment taxes and are making a payment, or if you overreported employment taxes and will be applying the credit to the Form 941-SS or Form 944-SS period during which you file Form 941-X or Form 944-X. You will use the claim process if you overreported employment taxes and are requesting a refund or abatement of the overreported amount. We use the terms "correct" and "corrections" to include interest-free adjustments under sections 6205 and 6413, and claims for refund and abatement under sections 6402, 6414, and 6404 of the Internal Revenue Code.

Correcting employment taxes. When you discover an error on a previously filed Form 941-SS or Form 944-SS, you must:

- Correct that error using Form 941-X or Form 944-X,
- File a separate Form 941-X or Form 944-X for each Form 941-SS or Form 944-SS you are correcting, and
- File Form 941-X or Form 944-X separately. **Do not** file with Form 941-SS or Form 944-SS.

Report current quarter adjustments for fractions of cents, third-party sick pay, tips, and group-term life insurance on Form 941-SS, lines 7–9, or on Form 944-SS, line 6. Report the correction of underreported and overreported amounts for the same tax period on a single Form 941-X or Form 944-X unless you are requesting a refund. If you are requesting a refund and are correcting both underreported and overreported amounts, file one Form 941-X or Form 944-X correcting the underreported amounts only and a second Form 941-X or Form 944-X correcting the overreported amounts.

See the chart on the back of Form 941-X or Form 944-X for help in choosing whether to use the adjustment process or the claim process. See the Instructions for Form 941-X or Instructions for Form 944-X for details on how to make the adjustment or claim for refund or abatement.

Exceptions to interest-free corrections of employment taxes. A correction will not be eligible for interest-free treatment if:

- The failure to report relates to an issue raised in an IRS examination of a prior return, or
- The employer knowingly underreported its employment tax liability.

A correction will not be eligible for interest-free treatment after the earlier of the following:

- Receipt of an IRS notice and demand for payment after assessment, or
- Receipt of an IRS Notice of Determination of Worker Classification (Letter 3523).

Collecting underwithheld taxes from employees. If you withhold no social security tax, Medicare tax, or less than the correct amount of either tax from an employee's wages, you can make it up by withholding from later pay to that employee. But you are the one who owes the underpayment. Reimbursement is a matter for settlement between you and the employee. See [section 5](#) for special rules for tax on tips.

Refunding amounts incorrectly withheld from employees. If you withheld more than the correct amount of social security tax or Medicare tax from wages paid, and discover the error before filing Form 941-SS, Form 944-SS, or Form 943, repay or reimburse the employee the amount overwithheld before filing the return.

Note. An employer reimburses an employee by applying the overwithheld amount against taxes to be withheld on future wages.

Be sure to keep in your records the employee's written receipt showing the date and amount of the repayment or record of reimbursement. You must report and pay any taxes overwithheld when you file the return for the return period in which the overcollection was made if you have not repaid or reimbursed the employee.

For an overcollection reported on a previously filed form 941-SS, Form 944-SS, or Form 943, an employer is required to repay or reimburse its employees prior to filing an adjusted employment tax return. Employers filing claims for refund of overpaid social security and Medicare taxes may either repay or reimburse the employees their share of FICA tax first or get employee consents to file the claim for the excess tax on their behalf. Employers must retain the written receipt of the employee showing the date and amount of the repayment, record of reimbursement, or the written consent of the employee.

10. Wage and Tax Statements

By January 31, furnish Copies B and C of Form W-2AS, W-2CM, W-2GU, or Form W-2VI to each employee. 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 of the next year. 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 department for instructions on completing Form W-2CM.

When and where to file electronically. If you are required to file 250 or more Forms W-2AS, W-2CM, W-2GU, or Form W-2VI, you must file electronically. See the Instructions for Forms W-2AS, W-2GU, W-2VI and Form W-3SS or call the Social Security Administration (SSA) at 1-800-772-6270 for more information. You may also visit Social Security's Employer W-2 Filing Instructions & Information website at www.socialsecurity.gov/employer to

electronically file your Forms W-2. File your 2011 wage and tax statements electronically by April 2, 2012.

If you experience problems filing electronically, contact the SSA at 1-888-772-9270. To speak with the SSA's Employer Services Liaison Officer for your region, call 212-264-1117 (toll call) for the U.S. Virgin Islands or 510-970-8247 (toll call) for Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Waiver. You may request a waiver on Form 8508, Request for Waiver From Filing Information Returns Electronically. You must submit Form 8508 to the IRS at least 45 days before the due date of Form W-2AS, W-2CM, W-2GU, or Form W-2VI. See the Form 8508 instructions for more information.

When and where to file paper forms. By February 29, 2012 (or when filing a final return if you make final payments before the end of the year), send your completed forms to the following locations.

- Employers in American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands must send Copy A of Forms W-2AS, W-2CM, W-2GU, Form W-2VI, 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-2AS, W-2CM, W-2GU, W-2VI, 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 Forms W-2AS, W-2CM, W-2GU, W-2VI, and W-3SS, see [How To Get Tax Help](#) in section 13.

If you go out of business during the year, give your employees their Forms W-2 by the due date of your final Form 941-SS. File Copy A with the SSA 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-2AS, W-2CM, W-2GU, or W-2VI marked "REISSUED STATEMENT." Do not send Copy A of the reissued form to the SSA.

Correcting Forms W-2AS, W-2CM, W-2GU, W-2VI, and W-3SS. If you need to correct a Form W-2AS, W-2CM, W-2GU, or Form W-2VI 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. For more information, see the Instructions for Forms W-2c and W-3c.

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. Only send the new Copy A to SSA; do not send the Copy A marked "Void." If you are required to file 250 or more Forms W-2c during a calendar year, you must file them electronically unless the IRS grants you a waiver. For more information, see the Instructions for Forms W-2 and W-3.

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 your employees' wages. For more information, see the Instructions for Form 940.

You must file Form 940, 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 2012 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 2011 or 2012, or
2. You had one or more employees for at least some part of a day in any 20 or more different weeks in 2011 or 20 or more different weeks in 2012.

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 any calendar quarter in 2011 or 2012.

Farmworkers. You are subject to FUTA tax on the wages that you pay to farmworkers in 2012 if:

- You paid total cash wages of \$20,000 or more for the farmwork in any calendar quarter to farmworkers during 2011 or 2012, or
- 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 2011 or 20 or more different weeks in 2012.

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 of 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 generally employees of the crew leader.

Computing FUTA rate. For 2012, the FUTA tax rate is 6.0%. The tax applies to the first \$7,000 you pay to each employee as wages during the year. 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 0.6% (6.0% – 5.4%) for wages paid in 2012. 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 if all your FUTA wages are not subject to U.S. Virgin Islands unemployment tax. The credit cannot be more than 5.4% of taxable FUTA wages.

Form 940. By January 31, 2012, file Form 940. If you made all FUTA tax deposits on time, you may file Form 940 by February 10, 2012.

Deposits. For deposit purposes, figure FUTA tax quarterly. Determine your FUTA tax liability by multiplying the amount of taxable wages paid during the quarter by 0.6%. Stop depositing FUTA tax on an employee's wages when he or she reaches \$7,000 in taxable wages for the calendar year. If your FUTA tax liability for any calendar quarter is \$500 or less, you do not have to deposit the tax. Instead, you may carry it forward and add it to the liability figured in the next quarter to see if you must make a deposit. If your FUTA tax liability for any calendar quarter is over \$500 (including any FUTA tax carried forward from an earlier quarter), you must deposit the tax by electronic funds transfer. See [section 8](#) for more information on deposits.

12. Special Rules for Various Types of Employment 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)
Agricultural labor:		
1. Service on farm in connection with cultivating soil; raising or harvesting any agricultural or horticultural commodity; the care of livestock, poultry, bees, fur-bearing animals, or wildlife.	Taxable if \$150 test or \$2,500 test in section 6 is met.	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 in section 6 is met.	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 in section 6 is met.	Taxable if either test in section 11 is met.
4. Cotton ginning.	Taxable if \$150 test or \$2,500 test in section 6 is met.	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 in section 6 is met.	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 in section 6 is met; 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 in section 6 is met; 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).
Aliens:		
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: (a) working for an American employer or (b) an American employer by agreement with the IRS covers U.S. citizens and residents employed by its foreign affiliates, or subsidiary of an American employer.	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 or Form 944-SS. Other exemptions may apply. See sections 4 and 9. ** 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)
Aliens (continued):		
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 or CNMI under section 101(a)(15)(H)(ii) 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 the Immigration and Nationality Act. However, these taxes may apply if the employee becomes a resident alien.	
c. Korean resident admitted to Guam under section 101(a)(15)(H)(ii) of the Immigration and Nationality Act.	Exempt if service is performed for purposes specified in section 101(a)(15)(H)(ii) of the Immigration and Nationality Act. However, these taxes may apply if the employee becomes a resident alien.	Exempt.
d. Korean resident admitted to CNMI under section 101(a)(15)(H)(ii) of the Immigration and Nationality Act.	Taxable.	Exempt.
e. 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.	
Deceased worker's wages:		
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.
Dependent care assistance programs (limited to \$5,000; \$2,500 if married filing separately).	Exempt to the extent that it is reasonable to believe that amounts will be excludable from gross income under Internal Revenue Code (IRC) section 129.	
Disabled worker's wages paid after the year in which worker became entitled to disability insurance benefits under the Social Security Act.	Exempt if worker did not perform any service for employer during period for which payment is made.	Taxable.
Domestic service in college clubs, fraternities, and sororities.	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.
Employee achievement awards.	Exempt to the extent it is reasonable to believe the amounts will be excludable from gross income under IRC section 74(c).	
Family employees:		
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.
Federal employees:		
1. Members of uniformed services; Young Adult Conservation Corps, Job Corps, or National Volunteer Antipoverty Program; Peace Corps volunteers and volunteer leaders.	Taxable.	Exempt.
2. All others.	Taxable if employee is covered by FERS or has a break in service of more than one 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)
Fishing and related activities, employment in connection with catching, harvesting, farming, etc.: 1. Salmon or halibut. 2. Other fish and other aquatic forms of animal and vegetable life. 3. An arrangement with the owner or operator of the boat by which the individual receives a share of the boat's catch (or proceeds from the sale of the catch), the share depending on the boat's catch, and operating crew of the boat is normally fewer than 10 individuals.*	Taxable unless 3 applies. Taxable unless 3 applies. Exempt if any cash remuneration is: (a) \$100 or less, (b) contingent on minimum catch, and (c) paid solely for additional duties (such as mate, engineer, or cook for which cash remuneration is traditional).	Taxable unless 3 applies. Exempt unless on vessel of more than 10 net tons and 3 does not apply.
Foreign governments and international organizations.	Exempt.	Exempt.
Foreign service by U.S. citizens: 1. As U.S. Government employee. 2. For foreign affiliates or subsidiaries of American employers and other private employers.	Same as within U.S. Exempt unless (a) an American employer by agreement with the IRS covers U.S. citizens employed by its foreign affiliates or subsidiaries or (b) U.S. citizen works for American employer.	Exempt. See also <i>Federal employees</i> , earlier. Exempt unless (a) 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 (b) U.S. citizen works for American employer (except in a contiguous country with which the U.S. has an agreement for unemployment compensation) or in the U.S. Virgin Islands.
Fringe benefits.	Taxable on excess of fair market value of the benefit over the sum of an amount paid for it by the employee and any amount excludable by law. However, optional special valuation rules may apply.** See Publication 15-B for details.	
Government employees (other than federal). U.S. Virgin Islands. American Samoa and political subdivisions. Guam and Commonwealth of Northern Mariana Islands and political subdivisions.	(See IRC section 3121(b)(7) or visit www.socialsecurity.gov . Taxable if covered by Section 218 Agreement with SSA. Taxable, unless employee covered by a retirement system. Exempt, except for certain temporary and intermittent employees.	Exempt. Exempt. Exempt.
Group-term life insurance costs. See Publication 15-B for details.	Exempt, except for the cost of premiums that provide more than \$50,000 coverage.	Exempt.
Homeworkers (industrial, cottage-industry): 1. Common law employees. 2. Statutory employees. See section 1.	Taxable. Taxable if paid \$100 or more in cash in a year.	Taxable. Exempt.
Hospital interns.	Taxable.	Exempt.
Household workers (domestic service in private homes). Also see <i>Domestic service in college clubs, fraternities, and sororities</i> , earlier.	Taxable if paid \$1,800 or more in cash in 2012. Exempt if performed by an individual who is under age 18 during any part of the calendar year and the work is not the principal occupation of the employee.	Taxable if employee paid total cash wages of \$1,000 or more (for all household employees) in any calendar quarter in the current or preceding year.
Insurance agents or solicitors: 1. Full-time life insurance salesperson. 2. Other salesperson of life, casualty, etc., insurance.	Taxable. 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).
Interest foregone on below-market loans related to compensation and deemed original issue discount. See IRC section 7872 and its regulations for details.	See Publication 15-A.	
Meals and lodging furnished free or at a discounted price to the employee. For household employees, agricultural labor, and service not in the course of the employer's trade or business, see <i>Noncash payments</i> , later.	(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.	

* 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)
Ministers of churches performing duties as such.	Exempt.	Exempt.
Moving expense reimbursement: 1. Qualified expenses. 2. Nonqualified expenses.	Exempt unless you have knowledge that the employee deducted the expenses in a prior year. Taxable.	Exempt. Taxable.
Newspaper carrier under age 18 delivering directly to readers.	Exempt.	Exempt.
Newspaper and magazine vendors buying at fixed prices and retaining excess from sales to customers.	Exempt.	Exempt.
Noncash payments: 1. For household work, agricultural labor, and service not in the course of the employer's trade or business. 2. To certain retail commission salespersons ordinarily paid solely on a cash commission basis.	Exempt. Taxable.	Exempt. Taxable.
Nonprofit organizations: 1. Religious, educational, charitable, etc., organizations described in IRC section 501(c)(3) exempt from income tax under IRC section 501(a). 2. Corporations organized under Act of Congress described in IRC section 501(c). 3. Other organizations exempt under IRC section 501(a) (other than a pension, profit-sharing, or stock bonus plan described in IRC section 401(a)) or under IRC section 521.	Taxable if paid \$100 or more in a year. (See Form 8274, Certification by Churches and Qualified Church-Controlled Organizations Electing Exemption From Employer Social Security and Medicare Taxes, for election out of social security and Medicare coverage for certain churches and church-controlled organizations.) Taxable if employee is paid \$100 or more in a year unless services excepted by IRC section 3121(b)(5) or (6). Taxable if employee is paid \$100 or more in a year.	Exempt. Taxable if employee is paid \$50 or more in a quarter unless services excepted by IRC section 3306(c)(6). Taxable if employee is paid \$50 or more in a quarter.
Partners: Bona fide members of a partnership.	Exempt.	Exempt.
Patients employed by hospitals.	Taxable (exempt for state or local government hospitals).	Exempt.
Religious orders: Members who are instructed by the order to perform services: 1. For the order, agency of the supervising church, or associated institution. 2. For any organization other than those described in 1 above.	Exempt unless member has taken a vow of poverty and the religious order or its autonomous subdivision irrevocably elects coverage for entire active membership. Taxable.	Exempt. Taxable.
Retirement and pension plans: 1. Employer contributions to a qualified plan. 2. Elective employee contributions and deferrals to a plan containing a qualified cash or deferred compensation arrangement (for example, 401(k)). 3. Employee salary reduction contributions to a SIMPLE retirement account. 4. Employer contributions to individual retirement accounts under a simplified employee pension (SEP) plan. 5. Employer contributions to IRC section 403(b) annuity contracts.	See Publication 15-A for details and information on employer contributions to nonqualified deferred compensation arrangements. Exempt. Taxable. Taxable. Exempt except for amounts contributed under a salary reduction SEP agreement. Taxable if paid through a salary reduction agreement (written or otherwise).	Exempt. Taxable. Taxable.

Special Classes of Employment and Special Types of Payments	Treatment Under Employment Taxes	
	Social Security and Medicare	Federal Unemployment (U.S. Virgin Islands Only)
Retirement and pension plans: (continued)		
6. Distributions from qualified retirement and pension plans and section 403(b) annuities.	Exempt.	Exempt.
Salespersons:		
1. Common law employees.	Taxable.	Taxable.
2. Statutory employees (referred to in section 1).	Taxable.	Taxable except for full-time life insurance sales agents.
3. Statutory nonemployees (qualified real estate agents and direct sellers).	Exempt. Treated as 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.	
Scholarships and fellowship grants (includible in income under section 117(c)).	Taxability depends on the nature of the employment and the status of the organization. See <i>Students</i> below.	
Severance or dismissal pay.	Taxable.	Taxable.
Service not in the course of the employer's trade or business , other than on a farm operated for profit or for household employment in private homes.	Taxable if employee is paid \$100 or more in cash in a year.	Taxable only if employee is paid \$50 or more in cash in a quarter and works on 24 or more different days in that quarter or in the preceding quarter.
Sickness or injury payments under:		
1. Worker's compensation law.	Exempt.	Exempt.
2. Certain employer plans.	Exempt after end of six calendar months after calendar month employee last worked for employer (applies to both 2 and 3). See Publication 15-A for details.	
3. No employer plan.		
Students:		
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.
Supplemental unemployment compensation benefits.	Exempt under certain conditions. See Publication 15-A.	Exempt under certain conditions. See Publication 15-A.
Tips:		
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.
Worker's compensation.	Exempt.	Exempt.

13. How To Get Tax Help

You can get help with unresolved tax issues, order free publications and forms, ask tax questions, and get information from the IRS in several ways. By selecting the method that is best for you, you will have quick and easy access to tax help.

Tax help. For federal employment tax information, employers in the U.S. Virgin Islands may call 1-800-829-4933 (toll free). All others may call 267-941-1000 (toll call). If you are in the U.S. Virgin Islands and have access to TTY/TDD equipment, call 1-800-829-4059 with your tax question or to order forms and publications. If you are an employer in the Commonwealth of the Northern Mariana Islands, you must get Form W-2CM and the instructions for completing and filing that form by:

- Writing to the Department of Finance, Division of Revenue and Taxation, Commonwealth of the Northern Mariana Islands, P.O. Box 5234 CHR, Saipan, MP 96950,
- calling 670-664-1000, or
- visiting www.cnmidof.net.



Internet. You can access the IRS website at IRS.gov 24 hours a day, 7 days a week to:

- *E-file* your return. Find out about commercial tax preparation and *e-file* services available free to eligible taxpayers.
- Download forms, including talking tax forms, instructions, and publications.
- Order IRS products online.
- Research your tax questions online.
- Search publications online by topic or keyword.
- Use the online Internal Revenue Code, regulations, or other official guidance.
- View Internal Revenue Bulletins (IRBs) published in the last few years.
- Sign up to receive local and national tax news by email.
- Get information on starting and operating a small business.



Phone. Many services are available by phone.

- *Ordering forms, instructions, and publications.* Employers in the U.S. Virgin Islands can order current-year forms, instructions, and publications, and prior-year forms and instructions by calling 1-800-TAX-FORM (1-800-829-3676). All others may call 267-679-1000 (toll call) to make a request. You should receive your order within 10 days.
- *Asking tax questions.* Employers in the U.S. Virgin Islands may call 1-800-829-4933 (toll free). All others may call 267-941-1000 (toll call).

- *TTY/TDD equipment.* If you have access to TTY/TDD equipment, call 1-800-829-4059 (U.S. Virgin Islands only) to ask tax questions or to order forms and publications.
- *TeleTax topics.* Call 1-800-829-4477 (U.S. Virgin Islands only) to listen to pre-recorded messages covering various tax topics.

Evaluating the quality of our telephone services. To ensure IRS representatives give accurate, courteous, and professional answers, we use several methods to evaluate the quality of our telephone services. One method is for a second IRS representative to listen in on or record random telephone calls. Another is to ask some callers to complete a short survey at the end of the call.



Mail. You can send your order for forms, instructions, and publications to the address below. You should receive a response within 10 days after your request is received.

Internal Revenue Service
1201 N. Mitsubishi Motorway
Bloomington, IL 61705-6613

Taxpayer Advocate Service. The Taxpayer Advocate Service (TAS) is your voice at the IRS. Our job is to ensure that every taxpayer is treated fairly, and that you know and understand your rights. We offer free help to guide you through the often-confusing process of resolving tax problems that you haven't been able to solve on your own. Remember, the worst thing you can do is nothing at all.

TAS can help if you can't resolve your problem with the IRS and:

- Your problem is causing financial difficulties for you, your family, or your business.
- You face (or your business is facing) an immediate threat of adverse action.
- You have tried repeatedly to contact the IRS but no one has responded, or the IRS has not responded to you by the date promised.

If you qualify for our help, we'll do everything we can to get your problem resolved. You will be assigned to one advocate who will be with you at every turn. We have offices in every state, the District of Columbia, and Puerto Rico. Although TAS is independent within the IRS, our advocates know how to work with the IRS to get your problems resolved. And our services are always free.

As a taxpayer, you have rights that the IRS must abide by in its dealings with you. Our tax toolkit at www.TaxpayerAdvocate.irs.gov can help you understand these rights.

If you think TAS might be able to help you, call your local advocate, whose number is in your phone book and on our website at www.irs.gov/advocate. You can also call our toll-free number at 1-877-777-4778 (U.S. Virgin Islands only).

TAS also handles large-scale or systemic problems that affect many taxpayers. If you know of one of these broad issues, please report it to us through our Systemic Advocacy Management System at www.irs.gov/advocate.

Free tax services. Publication 910, IRS Guide to Free Tax Services, is your guide to IRS services and resources. Learn about free tax information from the IRS, including

publications, services, and education and assistance programs. The publication also has an index of over 100 TeleTax topics (recorded tax information) you can listen to on the telephone. The majority of the information and services listed in this publication are available to you free of charge. If there is a fee associated with a resource or service, it is listed in the publication.

Accessible versions of IRS published products are available on request in a variety of alternative formats for people with disabilities.



DVD for tax products. You can order Publication 1796, IRS Tax Products DVD, and obtain:

- Current-year forms, instructions, and publications.
- Prior-year forms, instructions, and publications.
- Tax Map: an electronic research tool and finding aid.
- Tax law frequently asked questions.
- Tax Topics from the IRS telephone response system.

- Internal Revenue Code—Title 26 of the U.S. Code.
- Links to other Internet based Tax Research materials.
- Fill-in, print, and save features for most tax forms.
- Internal Revenue Bulletins.
- Toll-free and email technical support.
- Two releases during the year.
 - The first release will ship the beginning of January 2012.
 - The final release will ship the beginning of March 2012.

Purchase the DVD from National Technical Information Service (NTIS) at www.irs.gov/cdorders for \$30 (no handling fee) or call 1-877-233-6767 toll free to buy the DVD for \$30 (plus a \$6 handling fee).



<hr/>		
A		
Adjustments	14	
Agricultural labor	17	
Aliens, nonresidents	18	
Assistance (See Tax help)		
<hr/>		
C		
Calendar	3	
Comments on publication	3	
Common-law employee	4	
Corrected wage and tax statement	15	
Crew leaders	5	
Current period adjustments	14	
<hr/>		
D		
Deposit:		
How to deposit	12	
Penalties	12	
Period	10	
Requirements	9	
Rules:		
\$100,000 next-day deposit	11	
Accuracy of deposits	11	
Schedules:		
Monthly	10	
Semiweekly	10	
When to deposit	9	
<hr/>		
E		
Electronic deposits	12	
Electronic filing and payment	2	
Employee	4	
Employer identification number (EIN)	4	
<hr/>		
F		
Family employees	18	
Farm crew leaders	5	
Farmworkers	8, 14	
Federal employees	18	
Fishing	19	
Form	4	
940	4	
941-SS	4, 14	
941-X	10	
943	4	
943-X	10	
944-SS	4, 9, 14	
944-X	10	
<hr/>		
4070	7	
4070A	7	
8274	20	
Schedule H (Form 1040)	14	
SS-4	4	
SS-5	3, 6	
SS-8	5	
W-2AS	3	
W-2c	6, 15	
W-2CM	3, 4	
W-2GU	3, 4	
W-2VI	3, 4	
W-3SS	4	
Free tax services	22	
Fringe benefits	7, 19	
FUTA tax	16	
<hr/>		
G		
Government employees, nonfederal	19	
Group-term life insurance	19	
<hr/>		
H		
Help (See Tax help)		
Hiring new employees	3	
Homeworkers	19	
Hospital interns	19	
Household employers	14	
Household workers	14, 19	
How to deposit	12	
<hr/>		
I		
Insurance agents	19	
IRS help (employee v. subcontractor)	5	
<hr/>		
L		
Lookback period:		
Farmworkers	9	
Nonfarm workers	9	
<hr/>		
M		
Meals and lodging	19	
Ministers	20	
Monthly deposit schedule	10	
More information (See Tax help)		
Moving expenses	20	
<hr/>		
N		
Newspaper delivery	20	
<hr/>		
Noncash payments	20	
Nonprofit organizations	20	
<hr/>		
P		
Partners	20	
Penalties	12	
Pension plans	20	
Prior period adjustments	14	
Private delivery services	3	
Publications (See Tax help)		
<hr/>		
R		
Recordkeeping	3	
Religious orders	20	
Retirement and pension plans	20	
<hr/>		
S		
Salespersons	21	
Scholarships and fellowships	21	
Semiweekly deposit schedule	10	
Severance pay	21	
Sick pay	7, 9, 21	
Social security number (SSN)	5	
Statutory employee	5	
Statutory nonemployee	5	
Students	21	
Suggestions for publication	3	
Supplemental unemployment compensation benefits	21	
<hr/>		
T		
Tax help	22	
Taxes paid by employer	9	
Taxpayer Advocate	22	
Tips	7, 21	
Travel and business expenses	6	
Trust fund recovery penalty	13	
TTY/TDD information	22	
<hr/>		
W		
Wage and Tax Statement	15	
<hr/>		

Where To Get and File Social Security Number Application Forms

Department of the Treasury
Internal Revenue Service
Ogden, UT 84201

Official Business

Penalty for Private Use, \$300

PRSRT STD
Postage and Fees Paid
Internal Revenue Service
PERMIT NO. G-48

**Deliver to Payroll
Department**

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

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 14, St. Thomas, VI 00802. St. Croix: Social Security Administration, 1, 2, & 3A Sunny Isle Shopping Center, Christiansted, VI 00820.

Guam—Social Security Administration Office, Suite 300, 655 Harmon Loop Road, Dededo, GU 96929.

American Samoa—Social Security Administration Office, McDonald's Building, Room 3, 2nd Floor, Fagatogo Village, Pago Pago, AS 96799.

Commonwealth of the Northern Mariana Islands—Social Security Administration Office, Suite 201, MH II Building, Marina Height Business Park, Saipan, MH 96950.

Form SS-5, Application for a Social Security Card, can also be obtained from the Social Security website at www.socialsecurity.gov.

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 or older depending on your date of birth. (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.