

2010

Instructions for Form 944

Employer's ANNUAL Federal Tax Return



Department of the Treasury
Internal Revenue Service

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

What's New

Qualified employer's social security tax exemption. Qualified employers are allowed an exemption for their share (6.2%) of social security tax on wages/tips paid to qualified employees after March 31, 2010, and before January 1, 2011. See the instructions for lines 5a through 5d on page 6.

Qualified employer's social security tax credit. Qualified employers are allowed a credit for their share (6.2%) of social security tax on wages/tips paid to qualified employees after March 18, 2010, and before April 1, 2010. See the instructions for lines 11c through 11e on page 7.

COBRA premium assistance credit extended. 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 the instructions for line 11a on page 7.

Social security wage base for 2010 and 2011. Do not withhold or pay social security tax after an employee reaches \$106,800 in social security wages for the year. There is no limit on the amount of wages subject to Medicare tax.

Advance payment of earned income credit (EIC). The option of receiving advance payroll payments of EIC expires on December 31, 2010. Individuals eligible for EIC in 2011 can still claim the credit when they file their federal income tax return. Individuals who receive advance payments of EIC in 2010 must file a 2010 federal income tax return.

Electronic deposit requirement. The IRS has issued proposed regulations under section 6302 which provide that beginning January 1, 2011, you must deposit all depository taxes (such as employment tax, excise tax, and corporate income tax) electronically using the Electronic Federal Tax Payment System (EFTPS). Under these proposed regulations, which are expected to be finalized by December 31, 2010, Forms 8109 and 8109-B, Federal Tax Deposit Coupon, cannot be used after December 31, 2010. For more information about EFTPS or to enroll in EFTPS, visit the EFTPS website at www.eftps.gov, or call 1-800-555-4477. You can also get Pub. 966, The Secure Way to Pay Your Federal Taxes.

Reminders

Employers can choose to file Forms 941 instead of Form 944 for 2011. Beginning with tax year 2010, employers that would otherwise be required to file Form 944 can notify the IRS if they want to file quarterly Forms 941 instead of Form 944. Employers required to file Form 944, who want to file Forms 941 instead, must notify the IRS they are electing to file quarterly Forms 941 and opting out of filing Form 944. See *What if you want to file Forms 941 instead of Form 944?* on page 2. For more information, see Rev. Proc. 2009-51, 2009-45 I.R.B. 625, available at www.irs.gov/irb/2009-45_IRB/ar12.html.

Correcting a previously filed Form 944. If you discover an error on a previously filed Form 944, make the correction using Form 944-X, Adjusted Employer's ANNUAL Federal Tax Return or Claim for Refund. Form 944-X is filed separately from Form 944. For more information, see section 13 of Pub. 15 (Circular E), Employer's Tax Guide, or visit IRS.gov and type *Correcting Employment Taxes* in the search box.

Form 944—annual employment tax filing for small employers. To reduce burden on small employers, the Internal Revenue Service (IRS) has simplified the rules for filing employment tax returns to report social security, Medicare, and withheld federal income taxes.

Paid preparers must sign Form 944. Paid preparers must complete and sign the paid preparer's section of Form 944.

Electronic filing and payment. Now, more than ever before, businesses can enjoy the benefits of filing and paying their federal taxes electronically. Whether you rely on a tax professional or handle your own taxes, the IRS offers you convenient programs to make filing and paying easier. Spend less time and worry on taxes and more time running your business. Use e-file and Electronic Federal Tax Payment System (EFTPS) to your benefit.

- For e-file, visit www.irs.gov/efile.
- For EFTPS, visit www.eftps.gov or call EFTPS Customer Service at 1-800-555-4477, 1-800-733-4829 (TDD), or 1-800-244-4829 (Spanish).



If you were a semiweekly schedule depositor at any time during 2010, you must file a paper Form 944 and Form 945-A, Annual Record of Federal Tax Liability.

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

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 to your financial institution to make a same-day wire payment, visit www.eftps.gov to download the *Same-Day Payment Worksheet*.

Electronic funds withdrawal (EFW). If you file Form 944 electronically, you can e-file and e-pay (electronic funds withdrawal) the balance due in a single step using tax preparation software or through a tax professional. However, **do not** use EFW to make federal tax deposits. For more information on paying your taxes using EFW, visit the IRS website at www.irs.gov/e-pay. A fee may be charged to file electronically.

Credit or debit card payments. Employers can pay the balance due shown on Form 944 by credit or debit card. **Do not** use a credit or debit card to make federal tax deposits. For more information on paying your taxes with a credit or

debit card, visit the IRS website at www.irs.gov/e-pay. A convenience fee will be charged for this service.

Employer's liability. Employers are responsible to ensure that tax returns are filed and deposits and payments are made, even if the employer contracts with a third party. The employer remains liable if the third party fails to perform a required action.

Where can you get telephone help? You can call the IRS Business & Specialty Tax Line toll free at 1-800-829-4933 on Monday through Friday from 7 a.m. to 10 p.m. local time (Alaska and Hawaii follow Pacific time) for answers to your questions about completing Form 944, tax deposit rules, or obtaining an employer identification number (EIN).

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

General Instructions

Federal law requires you, as an employer, to withhold taxes from your employees' paychecks. Each time you pay wages, you must withhold — or take out of your employees' paychecks — certain amounts for federal income tax, social security tax, and Medicare tax. Under the withholding system, taxes withheld from your employees are credited to your employees in payment of their tax liabilities.

Federal law also requires employers to pay any liability for the employer's portion of social security and Medicare taxes. This portion of social security and Medicare taxes is not withheld from employees.

What Is the Purpose of Form 944?

Form 944 is designed so the smallest employers (those whose annual liability for social security, Medicare, and withheld federal income taxes is \$1,000 or less) will file and pay these taxes only once a year instead of every quarter. These instructions give you some background information about Form 944. They tell you who must file Form 944, how to complete it line by line, and when and where to file it.

For more information about annual employment tax filing and tax deposit rules, see Treasury Decision 9440, 2009-5 I.R.B. 409, at www.irs.gov/irb/2009-05_IRB/ar10.html.

If you want more in-depth information about payroll tax topics, see Pub. 15 (Circular E), or visit the IRS website at www.irs.gov/businesses and click on the *Employment Taxes* link.

Who Must File Form 944?

In general, if the IRS has notified you to file Form 944, then you must file Form 944 instead of Form 941 to report all the following amounts.

- Wages you have paid.
- Tips your employees have received.
- Federal income tax you withheld.
- Both the employer's and the employee's share of social security and Medicare taxes.
- Current year's adjustments to social security and Medicare taxes for fractions of cents, sick pay, tips, and group-term life insurance.
- Advance earned income tax credit (EIC) payments.
- Credit for COBRA premium assistance payments.
- Exemption for qualified employer's share of social security tax on wages/tips paid to qualified employees.

If you received notification to file Form 944, you must file Form 944 to report your social security, Medicare, and withheld federal income taxes for the 2010 calendar year unless you contacted the IRS by April 1, 2010, to request to file Form 941 quarterly instead and received written confirmation that your filing requirement was changed. You must file Form 944 even if you have no taxes to report (or you have taxes in excess of \$1,000 to report) unless you filed a final return — See *If your business has closed...* on page 3. Also see *What if you want to file Forms 941 instead of Form 944?* below.

TIP *If you have not received notification to file Form 944 but estimate your employment tax liability for calendar year 2011 will be \$1,000 or less and would like to file Form 944 instead of Form 941, you can contact the IRS to request to file Form 944. To file Form 944 for calendar year 2011, you must call the IRS at 1-800-829-4933 by April 1, 2011, or send a written request postmarked by March 15, 2011. The IRS will send you a written notice that your filing requirement has been changed to Form 944. If you do not receive this notice, you must file Form 941 for calendar year 2011.*

New employers are also eligible to file Form 944 if they will meet the eligibility requirements. New employers filing Form SS-4, Application for Employer Identification Number, must complete line 13 of Form SS-4 indicating the highest number of employees expected in the next 12 months and must check the box on line 14 to indicate whether they expect to have \$1,000 or less in employment tax liability for the calendar year and would like to file Form 944. Generally, if you pay \$4,000 or less in wages subject to social security and Medicare taxes and federal income tax withholding, you are likely to pay \$1,000 or less in employment taxes. New employers are advised of their employment tax filing requirement when they are issued their EIN.

TIP *If the IRS notified you to file Form 944 for 2010, file Form 944 (and not Form 941) even if your tax liability for 2010 exceeds \$1,000.*

What if you want to file Forms 941 instead of Form 944?

You must file Form 944 if the IRS has notified you to do so, unless you contact the IRS to request to file quarterly Form 941 instead. To request to file quarterly Form 941 to report your social security, Medicare, and withheld federal income taxes for the 2011 calendar year call the IRS at 1-800-829-4933 by April 1, 2011, or send a written request postmarked by March 15, 2011, unless you are a new employer. See *New employers* above. 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 2011. See Rev. Proc. 2009-51, 2009-45 I.R.B. 625, available at www.irs.gov/irb/2009-45_IRB/ar12.html.

Who cannot file Form 944?

The following employers **cannot** file Form 944.

- **Employers who are not notified.** If the IRS does not notify you to file Form 944, do not file Form 944. You can call the IRS at 1-800-829-4933 by April 1, 2011, to determine if you can file Form 944 for calendar year 2011.
- **Household employers.** If you employ only household employees, do not file Form 944. For more information, see Pub. 926, Household Employer's Tax Guide, and Schedule H (Form 1040), Household Employment Taxes.
- **Agricultural employers.** If you employ only agricultural employees, do not file Form 944. For more information, see Pub. 51 (Circular A), Agricultural Employer's Tax Guide, and

What if you reorganize or close your business?

If you sell or transfer your business...

If you sell or transfer your business, you and the new owner must each file a Form 944 or Form 941, whichever is required, for the year in which the transfer occurred. Report only the wages you paid.

When two businesses merge, the continuing firm must file a return for the year in which the change took place and the other firm should file a **final return**.

Changing from one form of business to another—such as from a sole proprietorship to a partnership or corporation—is considered a transfer. If a transfer occurs, you may need a new EIN. See section 1 of Pub. 15 (Circular E). Attach a statement to your return with all the following information.

- The new owner's name (or the new name of the business).
- Whether the business is now a sole proprietorship, partnership, or corporation.
- The kind of change that occurred (a sale or transfer).
- The date of the change.
- The name of the person keeping the payroll records and the address where those records will be kept.

If your business has closed...

If you go out of business or stop paying wages to your employees, you must file a **final return**. To tell the IRS Form 944 for a particular year is your final return, check the box in Part 3 on page 2 of Form 944 and enter the final date you paid wages. Also attach a statement to your return showing the name of the person keeping the payroll records and the address where those records will be kept.

If you participated in a statutory merger or consolidation, or qualify for predecessor-successor status due to an acquisition, you should generally file Schedule D (Form 941), Report of Discrepancies Caused by Acquisitions, Statutory Mergers, or Consolidations. See the Instructions for Schedule D (Form 941) to determine whether you should file Schedule D (Form 941) and when you should file it.

When Must You File?

File Form 944 by January 31, after the end of the calendar year. If you made deposits in full payment of your taxes by January 31, you have 10 more calendar days after that date to file your Form 944.

File Form 944 only once for each calendar year. If you filed Form 944 electronically, do not file a paper Form 944. For more information about filing Form 944 electronically, see *Electronic filing and payment* on page 1.

If we receive Form 944 after the due date, we will treat Form 944 as filed on time if the envelope containing Form 944 is properly addressed, contains sufficient postage, and is postmarked by the U.S. Postal Service on or before the due date, or sent by an IRS-designated private delivery service on or before the due date. If you do not follow these guidelines, we will consider Form 944 filed when it is actually received. See Pub. 15 (Circular E) for more information on IRS-designated private delivery services.

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

How Should You Complete Form 944?

Review Your Business Information at the Top of the Form

If you are using a copy of Form 944 that has your business name and address preprinted at the top of the form, check to make sure the information is correct. Carefully review your EIN to make sure that it exactly matches the EIN assigned to your business by the IRS. If any information is incorrect, cross it out and enter the correct information. See also *If you change your name or address...* below.

If you use a tax preparer to fill out Form 944, make sure the preparer uses your business name and EIN **exactly** as they appear on the preprinted form.

If you are not using a preprinted Form 944, enter your EIN, name, and address in the spaces provided. Also enter your name and EIN at the top of page 2. Do not use your social security number (SSN) or individual taxpayer identification number (ITIN). Generally, enter the business (legal) name that you used when you applied for your EIN on Form SS-4. For example, if you are a sole proprietor, enter "Tyler Smith" on the "Name" line and "Tyler's Cycles" on the "Trade name" line. Leave the "Trade name" line blank if it is the same as your "Name."

Employer identification number (EIN). To make sure that businesses comply with federal tax laws, the IRS monitors tax filings and payments by using a numerical system to identify taxpayers. A unique 9-digit EIN is assigned to all corporations, partnerships, and some sole proprietors. Businesses needing an EIN must apply for a number and use it throughout the life of the business on all tax returns, payments, and reports.

Your business should have only one EIN. If you have more than one and are not sure which one to use, write to the IRS office where you file your returns (using the "Without a payment" address under *Where Should You File?* on page 5) or call the IRS at 1-800-829-4933. TTY/TDD users can call 1-800-829-4059.

If you do not have an EIN, you may apply for one online. Visit 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, or you can fax or mail Form SS-4 to the IRS. If you have applied for an EIN but do not have your EIN by the time a return is due, write "Applied For" and the date you applied in the space shown for the number.



Always be sure the EIN on the form you file exactly matches the EIN the IRS assigned to your business. Do not use your social security number on forms that ask for an EIN. Filing a Form 944 with an incorrect EIN or using another business's EIN may result in penalties and delays in processing your return.

If you change your name or address... Notify the IRS **immediately** if you change your business name or address.

- **Name change.** Write to the IRS office where you filed your return without payment to notify the IRS of any name change. Get Pub. 1635, Understanding Your EIN Employer Identification Number, to see if you need to also apply for a new EIN.
- **Address change.** Complete and mail Form 8822, Change of Address, for any address change.

Completing and Filing Form 944

Make entries on Form 944 as follows to enable accurate processing.

- Use 12-point Courier font (if possible) for all entries if you are using a typewriter or computer to complete Form 944.

- Do not enter dollar signs and decimal points. Commas are optional. Report dollars to the left of the preprinted decimal point and cents to the right of it.
- Leave blank any data field with a value of zero (except lines 1 and 9).
- Enter negative amounts using a minus sign (if possible). Otherwise, use parentheses.
- Enter your name and EIN on **all** pages and attachments. Filers using the IRS-preaddressed Form 944 do not have to enter their name and EIN on page 2.

Other Forms You Must Use

To notify employees about the earned income credit (EIC), you must give the employees one of the following:

- The IRS Form W-2, Wage and Tax Statement, which has the required information about the EIC on the back of Copy B.
- A substitute Form W-2 with the same EIC information on the back of the employee's copy that is on the back of Copy B of the IRS Form W-2.
- Notice 797, Possible Federal Tax Refund Due to the Earned Income Credit (EIC).
- Your written statement with the same wording as Notice 797.

For more information, see section 10 of Pub. 15 (Circular E) and Pub 596, Earned Income Credit.

Reconciling Form 944 and Form W-3

The IRS matches amounts reported on your Form 944 with Form W-2 amounts totaled on your Form W-3, Transmittal of Wage and Tax Statements. If the amounts do not agree, the IRS may contact you. The following amounts are reconciled.

- Federal income tax withholding.
- Social security wages.
- Social security tips.
- Medicare wages and tips.
- Advance earned income credit (EIC) payments.

For more information, see section 12 of Pub. 15 (Circular E) and the Instructions for Schedule D (Form 941).

Must You Deposit Your Taxes?

If your liability for social security, Medicare, and withheld federal income taxes is less than \$2,500 for the year, you can pay the taxes with your return. To avoid a penalty, you should pay in full and file on time. You do not have to deposit the taxes. However, you may choose to make deposits of these taxes even if your liability is less than \$2,500. If your liability for these taxes is \$2,500 or more, you are generally required to deposit the taxes instead of paying them when you file Form 944. See the *Federal Tax Deposit Requirements for Form 944 Filers* chart below. If you do not deposit the taxes when required, you may be subject to penalties and interest.

The \$2,500 threshold at which federal tax deposits must be made is different from the amount of annual tax liability (\$1,000 or less) that makes an employer eligible to participate in the Employers' Annual Federal Tax Program and file Form 944. Designated Form 944 filers whose businesses grow during the year may be required to make federal tax deposits (see chart below), but they will still file Form 944 for the year.

Federal Tax Deposit Requirements for Form 944 Filers	
If Your Tax Liability is:	Your Deposit Requirement is:
Less than \$2,500 for the year	No deposit required. You may pay the tax with your return. If you are unsure that your tax liability for the year will be less than \$2,500, deposit under the rules below.
\$2,500 or more for the year, but less than \$2,500 for the quarter	You can deposit by the last day of the month after the end of a quarter. However, if your fourth quarter tax liability is less than \$2,500, you may pay the fourth quarter's tax liability with Form 944.
\$2,500 or more for the quarter	You must deposit monthly or semiweekly depending on your deposit schedule. But, if you accumulate \$100,000 or more of taxes on any day, you must deposit the tax by the next business day. See section 11 of Pub. 15 (Circular E).

Note. When you make deposits depends on your deposit schedule, which is either monthly or semiweekly, depending on the amount of your tax liability during the lookback period. The lookback period for Form 944 filers is different than the lookback period for Form 941 filers, so your deposit schedule may have changed. For more information, see section 11 of Pub. 15 (Circular E).

What About Penalties and Interest?

Avoiding penalties and interest

You can avoid paying penalties and interest if you do all of the following.

- Deposit or pay your taxes when they are due, using EFTPS if required.
- File your fully completed Form 944 on time.
- Report your tax liability accurately in Part 2 of Form 944.
- Submit valid checks for tax payments.
- Give accurate Forms W-2 to employees.
- File Form W-3 and Copies A of Forms W-2 with the Social Security Administration (SSA) on time and accurately.

Penalties and interest are charged on taxes paid late and returns filed late at a rate set by law. See sections 11 and 12 of Pub. 15 (Circular E) for details. Use Form 843, Claim for Refund and Request for Abatement, to request abatement of assessed penalties or interest. Do not request abatement of assessed penalties or interest on Form 944, Form 944-X, or Form 941-X.




A trust fund recovery penalty may apply if federal income, social security, and Medicare taxes that must be withheld are not withheld or paid. The penalty is the full amount of the unpaid trust fund tax. This penalty may apply when these unpaid taxes cannot be collected from the employer. The trust fund recovery penalty may be imposed on all people the IRS determines to be responsible for collecting, accounting for, and paying these taxes, and who acted willfully in not doing so. For details, see section 11 of Pub. 15 (Circular E).

Where Should You File?

Where you file depends on whether you include a payment with your form.

If you are in . . .	Without a payment . . .	With a payment . . .
Special filing address for exempt organizations; federal, state and local governmental entities; and Indian tribal governmental entities; regardless of location	Department of the Treasury Internal Revenue Service Ogden, UT 84201-0044	Internal Revenue Service P.O. Box 105118 Atlanta, GA 30348-5118
Connecticut	New Jersey	Department of the Treasury
Delaware	New York	Internal Revenue Service
District of Columbia	North Carolina	Internal Revenue Service
Georgia	Ohio	Cincinnati, OH
Illinois	Pennsylvania	45280-4522
Indiana	Rhode Island	45999-0044
Kentucky	South Carolina	
Maine	Tennessee	
Maryland	Vermont	
Massachusetts	Virginia	
Michigan	West Virginia	
New Hampshire	Wisconsin	
Alabama	Missouri	Department of the Treasury
Alaska	Montana	Internal Revenue Service
Arizona	Nebraska	Internal Revenue Service
Arkansas	Nevada	Ogden, UT
California	New Mexico	84201-0044
Colorado	North Dakota	
Florida	Oklahoma	
Hawaii	Oregon	
Idaho	South Dakota	
Iowa	Texas	
Kansas	Utah	
Louisiana	Washington	
Minnesota	Wyoming	
Mississippi		
No legal residence or principal place of business in any state	Internal Revenue Service P.O. Box 409101 Ogden, UT 84409	Internal Revenue Service P.O. Box 105273 Atlanta, GA 30348-5273

 **Your filing or payment address may have changed from that used to file your employment tax return in prior years. If you are using an IRS-provided envelope, use only the labels and envelope provided with the tax package. Do not send Form 944 or any payments to the Social Security Administration (SSA). Private delivery services cannot deliver to P.O. boxes.**

Specific Instructions

Part 1: Answer these questions for 2010.

1. Wages, tips, and other compensation

Enter amounts on line 1 that would also be included in box 1 of your employees' Forms W-2. See the Instructions for Forms W-2 and W-3 for details.

2. Income tax withheld from wages, tips, and other compensation

Enter the federal income tax that you withheld (or were required to withhold) from your employees on this year's wages, tips, taxable fringe benefits, and supplemental unemployment compensation benefits.

3. If no wages, tips, and compensation are subject to social security or Medicare tax

If no wages, tips, and other compensation are subject to social security or Medicare taxes, check the box on line 3 and go to line 5d. If this question does not apply to you, leave the box blank. For more information about exempt wages, see section 15 of Pub. 15 (Circular E). For religious exemptions, see section 4 of Pub. 15-A, Employer's Supplemental Tax Guide.

4. Taxable social security and Medicare wages and tips

4a. Taxable social security wages. Report the total wages, sick pay, and fringe benefits subject to social security taxes that you paid to your employees during the year.

Enter the amount before deductions. **Do not** include tips on this line. For information on types of wages subject to social security taxes, see section 5 of Pub. 15 (Circular E).

The rate of social security tax on taxable wages is 6.2% (.062) each for the employer and employee or 12.4% (.124) for both. Stop paying social security tax on and reporting an employee's wages on line 4a when the employee's taxable wages (including tips) reach \$106,800 during 2010. However, continue to withhold income and Medicare taxes on wages and tips even when the social security wage base of \$106,800 has been reached.

$$\begin{array}{r} \text{line 4a (column 1)} \\ \times \text{.124} \\ \hline \text{line 4a (column 2)} \end{array}$$



Do not reduce the amount reported on line 4a by any amount paid to qualified new employees. The social security tax exemption on wages/tips will be figured on lines 5b and 5c and will reduce the tax on line 5d.

4b. Taxable social security tips. Enter all tips your employees reported to you during the year until the total of the tips and wages for an employee reach \$106,800 in 2010. Include all tips your employees reported to you even if you were unable to withhold the 6.2% employee's share of social security tax.

An employee must report cash tips to you, including tips you paid the employee for charge customers, totaling \$20 or more in a month by the 10th of the next month. Employees may use Form 4070, Employee's Report of Tips to Employer (available only in Pub. 1244, Employee's Daily Record of Tips and Report of Tips to Employer), or submit a written statement or electronic tip record.

$$\begin{array}{r} \text{line 4b (column 1)} \\ \times \text{.124} \\ \hline \text{line 4b (column 2)} \end{array}$$



Do not reduce the amount reported on line 4b by any amount paid to qualified new employees. The social security tax exemption on wages/tips will be figured on lines 5b and 5c and will reduce the tax on line 5d.

4c. Taxable Medicare wages and tips. Report all wages, tips, sick pay, and taxable fringe benefits that are subject to Medicare tax. Unlike social security wages, there is no limit on the amount of wages subject to Medicare tax.

The rate of Medicare tax is 1.45% (.0145) each for the employer and employee or 2.9% (.029) for both. Include all tips your employees reported during the year, even if you were unable to withhold the employee tax of 1.45%.

$$\begin{array}{r} \text{line 4c (column 1)} \\ \times \text{.029} \\ \hline \text{line 4c (column 2)} \end{array}$$

For more information on tips, see section 6 of Pub. 15 (Circular E).



Do not reduce the amount reported on line 4c by any amount paid to qualified new employees. The social security tax exemption does not apply to Medicare tax.

4d. Total social security and Medicare taxes. Add social security tax, social security tips tax, and Medicare tax.

line 4a (column 2)
line 4b (column 2)
+ line 4c (column 2)
line 4d

5. Employer's social security tax exemption

Complete lines 5a–5c to figure the payroll tax exemption for the employer's share (6.2%) of social security tax on wages/tips paid to one or more qualified employees.

An employer must be a qualified employer to be eligible for the employer's social security tax exemption. A **qualified employer** is any employer other than Federal, State, and any related government entities. All public institutions of higher education and Indian tribal governments are also qualified employers.

An employer may elect not to apply the social security tax exemption with respect to a qualified employee. The election is made by not including that employee or that employee's wages on lines 5a–5c and lines 11c–11e. An election not to apply the social security tax exemption for a qualified employee may allow a qualified employer to claim the Work Opportunity Credit for that employee. A qualified employer cannot apply both the social security tax exemption on Form 944 and claim the Work Opportunity Credit for the same employee. For more information, see Form 5884, Work Opportunity Credit.

For more information about the employer's social security tax exemption, visit IRS.gov and enter the keywords *HIRE Act* in the search box.

5a. Number of qualified employees paid exempt wages/tips after March 31, 2010. Enter on line 5a the **total** number of qualified employees paid exempt wages/tips to which you applied the social security tax exemption. Qualified employees included on line 11c may also be included on line 5a.

A **qualified employee** is an employee who:

- Begins employment with you after February 3, 2010, and before January 1, 2011;
- Certifies by signed affidavit (Form W-11, Hiring Incentives to Restore Employment (HIRE) Act Employee Affidavit, or similar statement) under penalties of perjury, that he or she has not been employed for more than 40 hours during the 60-day period (including 2009) ending on the date the employee begins employment with you;
- Is not employed by you to replace another employee unless the other employee separated from employment voluntarily or for cause (including downsizing); and
- Is not related to you. An employee is related to you if he or she is your child or a descendant of your child, your sibling or stepsibling, your parent or ancestor of your parent, your stepparent, your niece or nephew, your aunt or uncle, or your in-law. An employee is also related to you if he or she is related to anyone who owns more than 50% of your outstanding stock or capital and profits interest or is your dependent or a dependent of anyone who owns more than 50% of your outstanding stock or capital and profits interest.

If you are an estate or trust, see section 51(i)(1) and section 152(d)(2) for more details.

Exempt wages/tips are the wages/tips paid to qualified employees for which the employer is exempt from paying the employer's 6.2% share of social security tax.

5b. Exempt wages/tips paid to qualified employees after March 31, 2010. Enter the amount of exempt wages/tips paid after March 31, 2010, to all qualified employees reported on line 5a. See the instructions for line 5a for the definition of exempt wages/tips.

5c. Social security tax exemption. Multiply the amount of exempt wages/tips reported on line 5b by 6.2% (.062) and enter the result on line 5c. See the instructions for line 15 for details about applying this exemption to your tax liability.

5d. Total taxes before adjustments. Add the income tax withheld from wages, tips, and other compensation from line 2 and the total social security and Medicare taxes before adjustments from line 4d, and subtract the qualified employer's social security tax exemption (line 5c). Enter the result on line 5d.

6. Current year's adjustments

Enter **tax amounts** that result from current period adjustments. Use a minus sign (if possible) to show an adjustment that decreases the total taxes shown on line 5d. Otherwise, use parentheses.

In certain cases, you must adjust the amounts you reported as social security and Medicare taxes in column 2 of lines 4a, 4b, and 4c to figure your correct tax liability for this year's Form 944. See section 13 of Pub. 15 (Circular E).

If you need to adjust any amount reported on line 6 or 6a from a previously filed Form 944, complete and file Form 944-X. Form 944-X is an adjusted return and is filed separately from Form 944. See section 13 of Pub. 15 (Circular E).

Fractions of cents. Enter adjustments for fractions of cents (due to rounding) relating to the employee share of social security and Medicare taxes withheld. The employee share (one-half) of amounts shown in column 2 of lines 4a, 4b, and 4c may differ slightly from amounts actually withheld from employees' paychecks due to rounding social security and Medicare taxes based on statutory rates.

Sick pay. Enter the adjustment for the employee share of social security and Medicare taxes that were withheld by your third-party sick pay payer.

Adjustments for tips and group-term life insurance. Enter adjustments for both the following items.

- Any uncollected employee share of social security and Medicare taxes on tips.
- The uncollected employee share of social security and Medicare taxes on group-term life insurance premiums paid for former employees.

7. Total taxes after adjustments

Combine the amounts shown on lines 5d and 6 and enter the result on line 7.

8. Advance earned income credit (EIC) payments made to employees



After December 31, 2010, advance payroll payments of EIC cannot be made to employees. However, employees may be eligible to claim EIC on their individual income tax returns.

Enter the amount of the advance earned income credit (EIC) payments that you made to your employees. Eligible employees may choose to receive part of the EIC as an advance payment. Those who expect to have a qualifying child must give you a completed Form W-5 stating they expect to qualify for the EIC. Once the employee gives you

a signed and completed Form W-5, you must make the advance EIC payments starting with the employee's next wage payment. Advance EIC payments are generally made from withheld federal income tax and employee and employer social security and Medicare taxes. See section 10 of Pub. 15 (Circular E) and Pub. 596.

If line 8 is more than line 7, you may claim a refund of the overpayment or elect to have the credit applied to your return for the next year. Attach a statement to Form 944 identifying the amount of excess payment and the pay periods in which you paid it.

9. Total taxes after adjustment for advance EIC

Calculate your total taxes as shown below.

$$\begin{array}{r} \text{line 7} \\ - \text{line 8} \\ \hline \text{line 9} \end{array}$$

- If line 9 is less than \$2,500, you may pay the amount with Form 944 because you were not required to deposit. See section 11 of Pub. 15 (Circular E) for information about federal tax deposits.
- If line 9 is \$2,500 or more, you generally must deposit your tax liabilities using EFTPS or at an authorized financial institution with Form 8109. However, if you deposited all taxes accumulated in the first three quarters of the year and your fourth quarter liability is less than \$2,500, you may pay taxes accumulated during the fourth quarter on Form 944. The amount shown on line 9 **must** equal the amount shown on line 15m.



The IRS has issued proposed regulations under section 6302 which provide that beginning January 1, 2011, you must deposit all depository taxes (such as employment tax, excise tax, and corporate income tax) electronically using the Electronic Federal Tax Payment System (EFTPS). Under these proposed regulations, which are expected to be finalized by December 31, 2010, Forms 8109 and 8109-B, Federal Tax Deposit Coupon, cannot be used after December 31, 2010. For more information about EFTPS or to enroll in EFTPS, visit the EFTPS website at www.eftps.gov or call 1-800-555-4477. You can also get Pub. 966, The Secure Way to Pay Your Federal Taxes.

10. Total deposits for this year. . .

Enter your deposits for this year, including any overpayment that you applied from filing Form 944-X or Form 941-X in the current year. Also include in the amount shown any overpayment from a previous period that you applied to this return.

11a. COBRA premium assistance payments

Report on this line 65% of the COBRA premiums for assistance eligible individuals. Take the COBRA premium assistance credit on this line only after the assistance eligible individual's 35% share of the premium has been paid. For COBRA coverage provided under a self-insured plan, COBRA premium assistance is treated as having been made for each assistance eligible individual who pays 35% of the COBRA premium. Do not include the assistance eligible individual's 35% of the premium in the amount entered on this line. For more information on the COBRA premium subsidy, visit IRS.gov and enter the keyword **COBRA**.



The amount reported on line 11a is treated as a deposit of taxes on the first day of the return period and must not be used to adjust line 15 or Form 945-A.

11b. Number of individuals provided COBRA premium assistance on line 11a

Enter the total number of assistance eligible individuals provided COBRA premium assistance reported on line 11a. Count each assistance eligible individual who paid a reduced COBRA premium in the year as one individual, whether or not the reduced premium was for insurance that covered more than one assistance eligible individual. For example, if the reduced COBRA premium was for coverage for a former employee, spouse, and two children, you would include one individual in the number entered on line 11b for the premium assistance. Further, each individual is reported only once per year. For example, an assistance eligible individual who made monthly premium payments during the year would only be reported as one individual.

11c. Number of qualified employees paid exempt wages/tips March 19–31

Enter on line 11c the number of qualified employees paid exempt wages/tips from March 19, 2010, through March 31, 2010. Include only qualified employees for whom you are claiming the social security tax exemption. For the definition of qualified employee, see the instructions for line 5a on page 6.

11d. Exempt wages/tips paid to qualified employees March 19–31

Enter the amount of exempt wages/tips paid March 19, 2010, through March 31, 2010, to all qualified employees reported on line 11c. For the definition of exempt wages/tips, see the instructions for line 5a on page 6.

11e. Social security tax exemption for March 19-31

Multiply the amount of exempt wages/tips reported on line 11d by 6.2% (.062) and enter the result on line 11e.



The amount reported on line 11e is treated as a deposit of taxes on April 1, 2010, and must not be used to adjust line 15 or Form 945-A.

12. Total deposits and COBRA credit

Add lines 10, 11a, and 11e.

13. Balance due

If line 9 is more than line 12, write the difference on line 13. Otherwise, see *Overpayment* on page 8.

You do not have to pay if line 13 is less than \$1. Generally, you should have a balance due only if your total taxes after adjustment for advance EIC (line 9) are less than \$2,500. See *If line 9 is \$2,500 or more* above for an exception.

If line 13 is:

- Less than \$1, you do not have to pay it.
- Between \$1 and \$2,500, you can pay the amount owed with your return. Make your check or money order payable to the *United States Treasury* and write your EIN, *Form 944*, and *2010* on the check or money order. Complete Form 944-V, Payment Voucher, and enclose it with your return.
- \$2,500 or more, you must deposit your tax. See *Must You Deposit Your Taxes?* on page 4.

You may pay the amount shown on line 13 using EFTPS, a credit or debit card, or electronic funds withdrawal (EFW). **Do not** use a credit or debit card or EFW to pay taxes that were required to be deposited. For more information on electronic payment options, visit the IRS website at www.irs.gov/e-pay.

If you pay by EFTPS or credit or debit card, file your return using the "Without a payment" address under *Where Should You File?* on page 5 and **do not** file Form 944-V.



If you are required to make deposits and, instead, pay the taxes with Form 944, you may be subject to a penalty.

14. Overpayment

If line 12 is more than line 9, enter the amount on line 14. **Never** make an entry on both lines 13 and 14.

If you deposited more than the correct amount for the year, you can choose to have the IRS either refund the overpayment or apply it to your next return. Check only one box in line 14. If you do not check either box or if you check both boxes, generally we will apply the overpayment to your account. We may apply your overpayment to any past due tax account that is shown in our records under your EIN.

If line 14 is less than \$1, we will send a refund or apply it to your next return only if you ask us in writing to do so.

Complete both pages.

You must complete both pages of Form 944 and sign on page 2. Failure to do so may delay processing of your return.

Part 2: Tell us about your tax liability for 2010.

15. Check one

If line 9 is less than \$2,500, check the first box in line 15 and go to line 17.

If line 9 is \$2,500 or more, check the second box on line 15. If you are a monthly schedule depositor, fill out your tax liability for each month and figure the total liability for the year. If you do not enter your tax liability for each month, the IRS will not know when you should have made deposits and may assess an "averaged" failure-to-deposit penalty. See section 11 of Pub. 15 (Circular E). If your tax liability for any month is negative (for example, if you are adjusting an overreported liability in a prior month), do not enter a negative amount for the month. Instead, enter zero for the month and subtract that negative amount from your tax liability for the next month.

Note. The amount shown on line 15m must equal the amount shown on line 9.

If you are a semiweekly schedule depositor or if you accumulate \$100,000 or more in tax liability on any day in a deposit period, you must complete Form 945-A and file it with Form 944. See the *\$100,000 Next Day Deposit Rule* in section 11 of Pub. 15 (Circular E). Do not complete lines 15a–15m if you file Form 945-A.

Adjusting tax liability for employer's social security tax exemption reported on line 5c. Monthly schedule depositors and semiweekly schedule depositors must account for the employer's social security tax exemption (line 5c) when reporting their tax liabilities on line 15 or Form 945-A. The total liability for the year must equal the amount reported on line 9. Failure to account for the social security tax exemption on line 15 or Form 945-A may cause line 9 to be less than the total tax liability reported on line 15 or Form 945-A. Do not reduce the tax liability reported on line 15 or Form 945-A below zero.

16. State abbreviation

If you made deposits of taxes reported on Form 944, write the two-letter United States Postal Service abbreviation for the state where you deposit your taxes. The IRS uses the

state shown to determine banking days for purposes of deposit due dates. Official state holidays for the state shown are not counted as banking days. If you deposit in multiple states, enter "MU" in the spaces provided.

When you deposit in multiple states, the IRS cannot determine what portion of your liability was affected by a state holiday and may propose a deposit penalty for one or more of the states where you made deposits. If you receive a notice and your deposit due date was extended because of a state bank holiday, respond to the notice citing the state holiday and applicable deposit amount.

Part 3: Tell us about your business.

In Part 3, answer question 17 only if it applies to your business. If it does not apply, leave it blank and go to Part 4.

17. If your business has closed or you stopped paying wages...

If you go out of business or stop paying wages, you must file a **final return**. To notify the IRS that a particular Form 944 is your final return, check the box on line 17 and enter the date you last paid wages in the space provided.

Part 4: May we speak with your third-party designee?

If you want to allow an employee, a paid tax preparer, or another person to discuss your Form 944 with the IRS, check the "Yes" box in Part 4. Enter the name, phone number, and the 5-digit personal identification number (PIN) of the specific person to contact—not the name of the firm who prepared your tax return. The designee may choose any numbers as his or her PIN.

By checking "Yes," you authorize the IRS to talk to the person you named (your designee) about any questions we may have while we process your return. You also authorize your designee to do all of the following.

- Give us any information that is missing from your return.
- Call us for information about processing your return.
- Respond to certain IRS notices that you have shared with your designee about math errors and return preparation. The IRS will not send notices to your designee.

You are not authorizing your designee to bind you to anything (including additional tax liability) or to otherwise represent you before the IRS. If you want to expand your designee's authorization, see Pub. 947, *Practice Before the IRS and Power of Attorney*.

The authorization will automatically expire 1 year after the due date (without regard to extensions) for filing Form 944. If you or your designee want to terminate the authorization, write to the IRS office for your locality using the "Without a payment" address under *Where Should You File?* on page 5.

Part 5: Sign here.

Complete all information in Part 5 and sign Form 944 as follows.

- **Sole proprietorship**— The individual who owns the business.
- **Corporation (including a limited liability company (LLC) treated as a corporation)**— The president, vice president, or other principal officer duly authorized to sign.
- **Partnership (including an LLC treated as a partnership) or unincorporated organization**— A responsible and duly authorized member or officer having knowledge of its affairs.

• **Single member LLC treated as a disregarded entity for federal income tax purposes**— The owner of the LLC or a principal officer duly authorized to sign.

• **Trust or estate**— The fiduciary.

If you have filed a valid power of attorney, your duly authorized agent may also sign Form 944.

Alternative signature method. Corporate officers or duly authorized agents may sign Form 944 by rubber stamp, mechanical device, or computer software program. For details and required documentation, see Rev. Proc. 2005-39, 2005-28 I.R.B. 82, available at www.irs.gov/irb/2005-28_IRB/ar16.html.

Paid Preparer Use Only

A paid preparer must sign Form 944 and provide the information in the *Paid preparer use only* section of Part 5 if the preparer was paid to prepare Form 944 and is not an employee of the filing entity. Paid preparers must sign paper returns with a manual signature. The preparer must give you a copy of the return in addition to the copy to be filed with the IRS.

If you are a paid preparer, enter your PTIN (Preparer Tax Identification Number) in the space provided. Include your complete address. If you work for a firm, enter the firm's name and the EIN of the firm. You can apply for a PTIN online or by filing Form W-12, IRS Paid Preparer Tax Identification Number (PTIN) Application. For more information about applying for a PTIN online, visit the IRS website at www.irs.gov/taxpros. You cannot use your PTIN in place of the EIN of the tax preparation firm.

Generally, do not complete this section if you are filing the return as a reporting agent and have a valid Form 8655, Reporting Agent Authorization, on file with the IRS. However, a reporting agent must complete this section if the reporting agent offered legal advice, for example, advising the client on determining whether its workers are employees or independent contractors for Federal tax purposes.

How to Order Forms and Publications from the IRS



Call 1-800-829-3676.



Visit IRS.gov.

Other IRS Products You May Need

- Form SS-4, Application for Employer Identification Number
- Form W-2, Wage and Tax Statement
- Form W-2c, Corrected Wage and Tax Statement
- Form W-3, Transmittal of Wage and Tax Statements
- Form W-3c, Transmittal of Corrected Wage and Tax Statements
- Form W-4, Employee's Withholding Allowance Certificate
- Form W-5, Earned Income Credit Advance Payment Certificate
- Form W-11, Hiring Incentives to Restore Employment (HIRE) Act Employee Affidavit
- Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return
- Form 941, Employer's QUARTERLY Federal Tax Return
- Form 941-X, Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund
- Form 943, Employer's Annual Federal Tax Return for Agricultural Employees
- Form 944-X, Adjusted Employer's ANNUAL Federal Tax Return or Claim for Refund
- Form 945-A, Annual Record of Federal Tax Liability
- Form 4070, Employee's Report of Tips to Employer
- Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips
- Form 8655, Reporting Agent Authorization
- Notice 797, Possible Federal Tax Refund Due to the Earned Income Credit (EIC)
- Pub. 15 (Circular E), Employer's Tax Guide
- Pub. 15-A, Employer's Supplemental Tax Guide
- Pub. 15-B, Employer's Tax Guide to Fringe Benefits
- Pub. 51 (Circular A), Agricultural Employer's Tax Guide
- Pub. 596, Earned Income Credit
- Pub. 926, Household Employer's Tax Guide
- Pub. 947, Practice Before the IRS and Power of Attorney
- Schedule H (Form 1040), Household Employment Taxes