

2010 – 2011 Payroll Reference Manual



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Section I - Year End Preparation

- Year End Checklist
- Year End Balancing/Reconciliations
 - Annual Reconciliation Worksheet

Year End Checklist

- Confirm that employee names and Social Security numbers are correct.

- Determine that all voided or reversed paychecks have been entered.

- Determine that all bonuses have been entered in the payroll system.

- Confirm that all manual checks written during the year have been entered.

- Ensure that other special tax items have been calculated and entered. These may include Other Compensation, Third-Party Sick Pay, Employee Business Expense Reimbursements, Taxable Fringe Benefits, Tip Allocation Information, and Dependent Care Benefits.

- Verify that withholding and reporting has been done properly for taxable fringe benefits –
 - These may include:
 - ___ Group-term life insurance in excess of \$50,000;
 - ___ Third-party sick pay (is the third party issuing a W-2?);
 - ___ Personal use of company vehicle;
 - ___ Non-qualified moving expenses;
 - ___ Non-cash payments; and/or
 - ___ 2% shareholder health insurance

- Determine what code should be placed on the W-2 for retirement plan and which employees should have the retirement plan box checked.

- Test the reasonableness of Social Security withholding and Medicare withholding by multiplying by the applicable rates.

Year End Checklist (cont.)

- Verify the Federal and state unemployment tax rate and taxable wage limit for each state and check with reports filed.
- Confirm that payroll register totals match Form W-3 totals.
- Confirm that monthly/quarterly reported amounts sum to annual totals on W-2's.
- Confirm that Forms W-2 coincide with state and local report totals.
- Confirm that the reported taxes from Form W-3 equal tax deposits.
- Confirm that contributions to and distributions from childcare and medical plans covered under Section 125 match.

Before First Payroll of the New Year

- Remind employees to fill out a new Form W-4 if their situation has changed.
- Obtain new W-5 Forms for Advanced Earned Income Credit for the new year.
- Review compliance with Form I-9 requirements.
- Check the "purge" coding of any terminated employees who should be removed from the database.
- Verify the employer's current year state unemployment tax rate and taxable wage limit for each state.
- Verify that employee requests for fringe benefit deduction changes for the new year have been applied.

Year End Balancing/Reconciliations

Here are a few basic tips to follow to confirm that your quarterly reports are in balance with your annual reports. Use these tips along with the Annual Reconciliation Worksheet on the following page.

Wages, tips and other compensation

- Quarter to date amounts - Form 941, line 2
- Employee level year to date amount - Form W-2, box 1
- Company total year to date amounts - Form W-3, box 1

The sum of line 2 for the four quarters on Form 941 should balance to the amount appearing in Box 1 of Form W-3.

Federal income tax withheld

- Quarter to date amounts - Form 941, line 3
- Employee level year to date amount - Form W-2, box 2
- Company total year to date amounts - Form W-3, box 2

The sum of line 3 for the four quarters on Form 941 should balance to the amount appearing in Box 2 of Form W-3.

Social Security Wages

- Quarter to date amounts - Form 941, line 5a
- Employee level year to date amount - Form W-2, box 3
- Company total year to date amounts - Form W-3, box 3

The sum of line 5a for the four quarters on Form 941 should balance to the amount appearing in Box 3 of Form W-3.

Medicare Wages

- Quarter to date amounts - Form 941, line 5c
- Employee level year to date amount - Form W-2, box 5
- Company total year to date amounts - Form W-3, box 5

The sum of line 5c for the four quarters on Form 941 should balance to the amount appearing in Box 5 of Form W-3.

Annual Reconciliation of Payroll Tax Returns

Federal and Indiana

Item	Form/Line	(a) Form 941/Form UC-1					(b)	(c)	Difference
		1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Total	Form W-3	Form 940	
Taxable Wages	Form 941, line 2 Form W-3, box 1							N/A	(a) - (b)
Federal Income Tax Withheld	Form 941, line 3 Form W-3, box 2							N/A	(a) - (b)
Social Security Wages	Form 941, line 5a Form W-3, box 3							N/A	(a) - (b)
Medicare Wages	Form 941, line 5c Form W-3, box 5							N/A	(a) - (b)
Social Security Tax Withheld	Form W-3, box 4	Form W-3, box 3 multiplied by current SS rate (6.2%)						N/A	(a) - (b)
Medicare Tax Withheld	Form W-3, box 6	Form W-3, box 5 multiplied by current Medicare rate (1.45%)						N/A	(a) - (b)
Gross Unemployment Wages	Form 940, line 1 Form W-3, box 5 Form UC-1, line 2								(a) - (b) - (c)
Taxable Unemployment Wages	Form 940, line 5 Form UC-1, line 4						N/A		(a) - (c)

Item	Form/Line	Form WH-3	Form W-3	Difference
Indiana Income Tax Withheld	Form WH-3, line 1 Form W-3, box 17			
Indiana Local Income Tax Withheld	Form WH-3, line 2 Form W-3, box 19			

Section II - Annual Changes

- Social Security Wage Base and Tax Rate
- Medicare Tax Rate
- Social Security Earnings Limit
- Pension Plan Changes
- Federal Per Diem Allowances

2011 Social Security Changes

Monthly Social Security and Supplemental Security Income (SSI) benefits will not automatically increase in 2011 as there was no increase in the Consumer Price Index (CPI-W) from the third quarter of 2008 to the third quarter of 2010. Other important 2011 Social Security information is as follows:

Tax Rate	2010	2011
Employee	7.65%	7.65%
Self-Employed	15.30%	15.30%
NOTE: The 7.65% tax rate is the combined rate for Social Security and Medicare. The Social Security portion (OASDI) is 6.20% on earnings up to the applicable taxable maximum amount (see below). The Medicare portion (HI) is 1.45% on all earnings.		

Maximum Earnings Taxable:	2010	2011
Social Security (OASDI only)	\$106,800	\$106,800
Medicare (HI only)	No Limit	

Quarter of Coverage:	2010	2011
Earnings required	\$1,120	\$1,120

Retirement Earnings Test Exempt Amounts:	2010	2011
Under full retirement age NOTE: One dollar in benefits will be withheld for every \$2 in earnings above the limit.	\$14,160/yr. (\$1,180/mo.)	\$14,160/yr. (\$1,180/mo.)
The year an individual reaches <u>full retirement age</u> NOTE: Applies only to earnings for months prior to attaining full retirement age. One dollar in benefits will be withheld for every \$3 in earnings above the limit.	\$37,680/yr. (\$3,140/mo)	\$37,680/yr. (\$3,140/mo.)
There is no limit on earnings beginning the month an individual attains full retirement age.		

2011 Pension Plan Changes

	2010	2011
401(k) and 403(b) Deferral Limit	\$16,500	\$16,500
401(k), 403(b), 457 Catch-up Contribution Limit	\$5,500	\$5,500
Simple Deferral Limit	\$11,500	\$11,500
Simple 401(k) and IRA Catch-up Contribution Limit	\$2,500	\$2,500
Annual Compensation limit	\$245,000	\$245,000
DB 415 Limit	\$195,000	\$195,000
DC 415 Limit	\$49,000	\$ 49,000
Dollar Limit for HCE	\$110,000	\$110,000
Dollar Limit for Key Employee	\$160,000	\$160,000
Comp Limit for SEP Eligibility	\$550	\$550
457 Deferral Limit	\$16,500	\$16,500

Federal Per Diem Allowances

The maximum rates listed below are prescribed for reimbursement of per diem expenses incurred during official travel within CONUS (the continental United States).

The amounts shown in column (a) are the maximums that will be reimbursed for lodging expenses excluding taxes.

The M&IE rates shown in column (b) are fixed amounts allowed for meals and incidental expenses covered by per diem. The per diem payment calculated for lodging expenses plus the M&IE rate may not exceed the maximum per diem rate shown in column (c).

The maximum per diem rate for all Standard CONUS destinations will be \$123 (\$77 for lodging and \$46 for M&IE) effective October 1, 2010.

The following chart is for Indiana only. The complete listing for all states is located at www.qsa.gov/perdiem.

Per Diem rates for INDIANA						
Effective October 1, 2010						
Per diem locality (Cities not listed or located in listed counties have a Standard CONUS rate of \$77 Lodging & \$46 M&IE for FY 2011)		Maximum lodging (excludes taxes) (a)	+	M & IE rate (b)	=	Maximum per diem rate (4) (c)
Key city (1)	County and/or other defined location (2, 3)					
Bloomington	Monroe	91		56		147
Carmel	Hamilton	91		61		152
Ft. Wayne	Allen	81		56		137
Indianapolis	Hamilton, Marion, Fort Benjamin Harrison	91		61		152
Lafayette	Tippecanoe	80		51		131

Federal Per Diem Allowances (cont.)

Per Diem rates for INDIANA Effective October 1, 2010						
Per diem locality <small>(Cities not listed or located in listed counties have a Standard CONUS rate of \$77 Lodging & \$46 M&IE for FY 2011)</small>		Maximum lodging (excludes taxes) (a)	+	M & IE rate (b)	=	Maximum per diem rate (4) (c)
Key city (1)	County and/or other defined location (2, 3)					
South Bend	St. Joseph	87		56		143
Valparaiso/Burlington Beach	Porter	79		51		130

Footnotes for Per Diem tables:

1. Unless otherwise specified, the per diem locality is defined as "all locations within, or entirely surrounded by, the corporate limits of the key city, including independent entities located within those boundaries."
2. Per diem localities with county definitions shall include "all locations within, or entirely surrounded by, the corporate limits of the key city as well as the boundaries of the listed counties, including independent entities located within the boundaries of the key city and the listed counties (unless otherwise listed separately)."
3. When a military installation or Government-related facility (whether or not specifically named) is located partially within more than one city or county boundary, the applicable per diem rate for the entire installation or facility is the higher of the two rates which apply to the cities and/or counties, even though part(s) of such activities may be located outside the defined per diem locality.
4. Federal agencies may submit a request to GSA for review of the costs covered by per diem in a particular city or area where the standard CONUS rate applies when travel to that location is repetitive or on a continuing basis and travelers' experiences indicate that the prescribed rate is inadequate.

Federal Per Diem Allowances (cont.)

Special M&IE rate for transportation industry

A special rate applies to:

- (1) an employer that pays a per diem allowance only for M&IE to an employee in the transportation industry; and
- (2) a self-employed individual or employee in the transportation industry who computes the amount allowable as a deduction for meal and incidental expenses for travel away from home using the federal M&IE rate.

Effective October 1, 2010, these taxpayers may treat \$59 as the federal M&IE rate for any CONUS locality and \$65 for any OCONUS locality.

If a payor uses either or both of these special rates for an employee, then these special rates must be used for all such M&IE per diem allowances paid to that employee during the calendar year.

Similarly, an employee or self-employed individual that uses either or both of these special rates must use the special rate or rates for all M&IE amounts computed during the calendar year.

The employee or self-employed individual must substantiate the elements of time, place, and business purpose. Furthermore, the food and beverage deduction limitation under Code Sec. 274(n) applies to these amounts computed by an employee or self-employed individual in the transportation industry.

An employer paying travel expenses for an employee in the transportation industry may compute the amount of the employee's expenses that is deemed substantiated under the M&IE per diem method periodically (not less frequently than monthly) rather than compute the amount deemed substantiated daily. The payor may do so by comparing the total per diem allowance paid for the period to the sum of the amounts computed at the federal M&IE rate(s) for the localities of travel for the days or partial days the employee is away from home during the period.

Example:

Frederick Kelley, an employee in the transportation industry, travels away from home within CONUS for 17 days (including partial days) during the month of November and receives a per diem allowance for M&IE only. The amount deemed substantiated for November is equal to the lesser of the total per diem allowance paid for the month of November or \$1,003 (17 days at \$59 per day).

Section III - Year End Reporting and Taxation of Fringe Benefits

- Taxable Fringe Benefits
 - Withholding on Fringe Benefits
 - Depositing Taxes on Fringe Benefits
 - Special Accounting Rule

- Supplemental Wages
 - Federal Supplemental Wage Definitions
 - Federal Supplemental Tax Rate
 - State Supplemental Tax Rates

- Moving Expenses

- Personal Use of Company Cars

- Life Insurance
 - Group-term Life

- Health Insurance
 - S Corporation Shareholder
 - C Corporation Shareholder

- Employer Paid Benefits
 - Gifts, Awards, and Incentives
 - Qualified Transportation Fringes
 - Educational Assistance
 - Stock Options
 - Cafeteria Plans and Flexible Benefit Plans
 - Dependent Care Benefits
 - Adoption Assistance
 - Business Expense Reimbursements
 - Supplemental Military Pay

- Year End Reporting Issues
 - Third-Party Sick Pay Reporting
 - Corrections, Adjustments and Refunds

Taxable Fringe Benefits

Any fringe benefit that you provide is taxable and must be included in the recipient's pay unless the law specifically excludes it. Any benefit not excluded is taxable.

Including taxable benefits in pay. You must include in a recipient's pay the amount by which the value of a fringe benefit is more than the **sum** of the following amounts.

- Any amount the law excludes from pay.
- Any amount the recipient paid for the benefit.

If the recipient of a taxable fringe benefit is your employee, the benefit is subject to employment taxes and must be reported on **Form W-2**, Wage and Tax Statement. However, you can use special rules to withhold, deposit, and report the employment taxes.

If the recipient of a taxable fringe benefit is not your employee, the benefit is not subject to employment taxes. However, you may have to report the benefit on one of the following information returns.

If the recipient

receives the benefit as:

Use:

An independent contractor

Form 1099-MISC

A partner

Schedule K-1 (Form 1065)

An S corporation shareholder

Schedule K-1 (Form 1120S)

Rules for Withholding, Depositing, and Reporting

Use the following guidelines for withholding, depositing, and reporting taxable noncash fringe benefits.

Valuation of fringe benefits. Generally, you must determine the value of noncash fringe benefits no later than January 31 of the next year. Before January 31, you may reasonably estimate the value of the fringe benefits for purposes of withholding and depositing on time.

Choice of period for withholding, depositing, and reporting. For employment tax and withholding purposes, you can treat fringe benefits (including personal use of employer-provided vehicles) as paid on a pay period, quarter, semiannual, annual, or other basis. But the benefits must be treated as paid no less frequently than annually. You do not have to choose the same period for all employees. You can withhold more frequently for some employees than for others. You can change the period as often as you like as long as you treat all of the benefits provided in a calendar year as paid no later than December 31 of the calendar year.

Taxable Fringe Benefits (cont.)

Transfer of property. The above choice for reporting and withholding does not apply to a fringe benefit that is a transfer of tangible or intangible personal property of a kind normally held for investment, or a transfer of real property. For this kind of fringe benefit, you must use the actual date the property was transferred to the employee.

Withholding and depositing taxes. You can add the value of fringe benefits to regular wages for a payroll period and figure income tax withholding on the total. Or you can withhold Federal income tax on the value of fringe benefits at the flat 25% rate applicable to supplemental wages.

You must withhold the applicable income, social security, and Medicare taxes on the date or dates you chose to treat the benefits as paid.

Amount of deposit. To estimate the amount of income tax withholding and employment taxes and to deposit them on time, make a reasonable estimate of the value of the fringe benefits provided on the date or dates you chose to treat the benefits as paid. Determine the estimated deposit by figuring the amount that you would have had to deposit if you had paid cash wages equal to the estimated value of the fringe benefits and withheld taxes from those cash wages. Even if you do not know which employee will receive the fringe benefit on the date the deposit is due, you should follow this procedure.

If you underestimate the value of the fringe benefits and deposit less than the amount that you would have had to deposit if the applicable taxes had been withheld, you may be subject to a penalty.

If you overestimate the value of the fringe benefit and over deposit, you can either claim a refund or have the overpayment applied to your next Form 941.

If you deposited the required amount of taxes but withheld a lesser amount from the employee, you can recover from the employee the social security, Medicare, or income taxes that you deposited on the employee's behalf and included on the employee's Form W-2. However, you must recover the income taxes before April 1 of the following year.

Paying your employee's share of social security and Medicare taxes. If you choose to pay your employee's social security and Medicare taxes on fringe benefits without deducting them from his or her pay, you must include the amount of the payments in the employee's income. Also, if your employee leaves your employment and you have unpaid and uncollected taxes for noncash benefits, you are still liable for those taxes. You must add the uncollected employee share of social security and Medicare tax to the employee's wages.

Taxable Fringe Benefits (cont.)

Special accounting rule. You can treat the value of benefits provided during the last 2 months of the calendar year, or any shorter period within the last 2 months, as paid in the next year. Thus, the value of benefits actually provided in the last 2 months of 2010 would be treated as provided in 2011 together with the value of benefits provided in the first 10 months of 2011. This does not mean that all benefits treated as paid during the last 2 months of a calendar year can be deferred until the next year. Only the value of benefits actually provided during the last 2 months of the calendar year can be treated as paid in the next calendar year.

Limitation. The special accounting rule cannot be used, however, for a fringe benefit that is a transfer of tangible or intangible personal property of a kind normally held for investment, or a transfer of real property.

Conformity rules. Use of the special accounting rule is optional. You can use the rule for some fringe benefits but not others. The period of use need not be the same for each fringe benefit. However, if you use the rule for a particular fringe benefit, you must use it for all employees who receive that benefit. If you use the special accounting rule, your employee also must use it for the same period that you use it. But your employee cannot use the special accounting rule unless you do.

You do not have to notify the IRS if you use the special accounting rule. You may also, for appropriate reasons, change the period for which you use the rule without notifying the IRS. But you must report the income and deposit the withheld taxes as required for the changed period.

Amount to report on Forms 941 and W-2. The actual value of fringe benefits provided during a calendar year must be determined by January 31 of the following year. You must report the actual value on Forms 941 and W-2. If you choose, you can use a separate Form W-2 for fringe benefits and any other benefit information.

Include the value of the fringe benefit in box 1 of Form W-2. Also include it in boxes 3 and 5, if applicable. You may show the total value of the fringe benefits provided in the calendar year or other period in box 14 of Form W-2. However, if you provided your employee with the use of a vehicle and included 100% of its annual lease value in the employee's income, you must also report it separately in box 14 or provide it in a separate statement to the employee so that the employee can compute the value of any business use of the vehicle.

If you use the special accounting rule, you must notify the affected employees of the period in which you used it. You must give this notice at or near the date that you give the Form W-2 but not earlier than with the employee's last paycheck of the calendar year.

Taxable Fringe Benefits (cont.)

Supplemental Wages

Supplemental wages are compensation paid in addition to an employee's regular wages. They include, but are not limited to, bonuses, commissions, overtime pay, payments for accumulated sick leave, severance pay, awards, prizes, back pay and retroactive pay increases for current employees, and payments for nondeductible moving expenses. Other payments subject to the supplemental wage rules include taxable fringe benefits and expense allowances paid under a nonaccountable plan. How you withhold on supplemental wages depends on whether the supplemental payment is identified as a separate payment from regular wages.

Withholding on supplemental wages when an employee receives more than \$1,000,000 of supplemental wages from you during the calendar year.

Special rules apply to the extent that supplemental wages paid to any one employee during the calendar year exceed \$1,000,000. If a supplemental wage payment, together with other supplemental wage payments made to the employee during the calendar year, exceeds \$1,000,000, the excess is subject to withholding at 35 percent (or the highest rate of income tax for the year). Withhold using the 35% rate without regard to the employee's Form W-4. In determining supplemental wages paid to the employee during the year, include payments from all businesses under common control.

Withholding on supplemental wage payments to an employee who does not receive \$1,000,000 of supplemental wages during the calendar year.

If the supplemental wages paid to the employee during the calendar year are less than or equal to \$1,000,000, the following rules apply in determining the amount of income tax to be withheld.

Supplemental wages combined with regular wages. If you pay supplemental wages with regular wages but do not specify the amount of each, withhold federal income tax as if the total were a single payment for a regular payroll period.

Supplemental wages identified separately from regular wages. If you pay supplemental wages separately (or combine them in a single payment and specify the amount of each), the federal income tax withholding method depends partly on whether you withhold income tax from your employee's regular wages.

Taxable Fringe Benefits (cont.)

- 1) If you withheld income tax from an employee's regular wages, you can use one of the following methods for supplemental wages.
 - a) Withhold a flat 25% (no other percentage allowed)
 - b) Add the supplemental and regular wages for the most recent payroll period this year. Then figure the income tax withholding as if the total was a single payment. Subtract the tax already withheld from the regular wages. Withhold the remaining tax from the supplemental wages.
- 2) If you did not withhold income tax from the employee's regular wages, use method 1b above. This would occur, for example, when the value of the employee's withholding allowances claimed on Form W-4 is more than the wages

Regardless of the method that you use to withhold income tax on supplemental wages, they are subject to social security, Medicare, and FUTA taxes.

State Supplemental Tax Rates

Indiana	3.4%
Ohio	3.5%
Michigan	4.35%
Illinois	3.0%

Moving Expenses



Payments for an employee's moving expenses are treated as excludable fringe benefits if (1) the expenses would have been deductible by the employee if the employee paid them, (2) the employee did not deduct the expenses in a prior year, and (3) payments are made under an "accountable plan". These payments should not be included in taxable wages for income taxes or social security and Medicare taxes. Instead, report them in box 12 using code P. These payments are not subject to withholding.

To be an accountable plan, the employer's reimbursement arrangement must require the employee to meet all three of the following rules:

Employee expenses must be deductible moving expenses,
Employee must adequately account to employer for these expenses within a reasonable period of time, and
Employee must return any excess reimbursement or allowance within a reasonable period of time.

Deductible moving expenses are described as:

Moving your household goods and personal effects (including in-transit or foreign-move storage expenses) and
Traveling (including lodging) to your new home.

The employee cannot deduct any part of these expenses for meals.

If the employee uses their car to take themselves, members of the household, or belongings to the new home, figure the expenses by deducting either:

- The actual expenses, such as gas and oil for the car, if an accurate record of each expense is documented
- cents per mile (16.5 cents for 2010, and 19 cents for 2011)

The employee can also deduct parking fees and tolls paid in moving. The employee cannot deduct any part of general repairs, maintenance, insurance or depreciation on the car.

Moving Expenses (cont.)

The employee cannot deduct the following expenses as moving expenses:

- Pre-move house hunting expenses,
- Temporary living expenses,
- Meal expenses,
- Expenses of buying or selling a home (including real estate commissions),
- Expenses of getting or breaking a lease,
- Security deposits (including any given up due to the move),
- Home improvements to help sell the home,
- Loss on the sale of the home,
- Mortgage penalties,
- Losses from disposing of memberships in clubs,
- Any part of the purchase price of your new home,
- Real estate taxes,
- Car licenses fees,
- Driver's license,
- Refitting carpets and draperies, and
- Storage charges except those incurred in-transit and foreign moves.

If the employer reimburses the employee for any nondeductible moving expenses, or for expenses that the employee has already deducted in a previous year, the reimbursements must be included in the employee's income. The employer must withhold income tax, social security tax and Medicare tax. Taxable wages to the employee would also include any amounts reimbursed to the employee that exceed the employee's deductible expenses that are not returned to the employer.

Reporting requirements of the employer

Reimbursements to employee treated as nontaxable – report on Form W-2, box 12, code P.

Qualified moving expenses paid to a third-party (e.g. a moving company) on behalf of an employee should no longer be reported on the W-2, box 12, code P.

Reimbursements to employee treated as taxable – include as taxable wages subject to all withholding taxes; include in taxable wages in Form W-2, boxes 1, 3, and 5.

Personal Use of Automobile

1. **Employee owns automobile** - Subject to all withholdings
 - A. Employer reimburses employee for business miles driven at a flat mileage rate. The reimbursement amount is deductible on the employer's tax return and not included on the employee's tax return.
 - B. Employer reimburses employee for the business percentage of actual expenses paid by the employee: insurance, licensing, lease payments, depreciation, gas, oil, tires, maintenance, routine repairs.
 - C. If the employer does not reimburse employee, employee can deduct expenses on 1040, but only as an itemized deduction subject to a 2% of AGI floor.
 - D. Flat car allowances with no substantiation of expenses are totally taxable to the employee.

Note that A and B are only allowable if business miles and expenses are substantiated by the employee and if the employer has an accountable plan. Otherwise, any reimbursements are treated as taxable wages.

- The mileage rate effective January 1, 2010 was 50 cents per mile.
- Effective January 1, 2011 the mileage rate will be 51 cents per mile.

2. **Employer owns automobile** - Subject to all withholdings
 - A. **Annual lease value method:**

Fair market value at the time it is provided to employee is used to determine the annual lease value. The annual lease value is multiplied by personal usage multiplied by the portion of the year the vehicle was available. If the employer paid for gas, total personal miles are multiplied by 5.5 cents, and this amount is included as well. The total of the above calculations are included on the employee's W-2 and are subject to FICA (calculation worksheet and annual lease value table on following pages). Note that the fair market value of the vehicle is not re-evaluated until the fifth year after the employee begins using the vehicle. If the vehicle is leased by the employer, the FMV may be determined by the retail value as reported by a nationally recognized pricing source (e.g., blue book), www.kbb.com, the manufacturer's suggested retailed price less 8%, or the dealer's invoice price plus 4%.

Personal Use of Automobile (cont.)

- B. **Cents-per-mile Rule.** Under the cents-per-mile method, the standard mileage rate (as previously noted) is multiplied by the total number of miles driven for personal use. This method may only be used if the employer expects the vehicle to be regularly used for business throughout the calendar year, the vehicle is driven over 10,000 miles for business and personal use combined, the vehicle is primarily used by employees, and the FMV of the vehicle does not exceed \$15,300 in 2010. This value is indexed annually.

Cents-per-mile valuation limits.

For vehicles first placed in service:	Limit:
1-1-05 to 12-31-05	\$14,800
1-1-06 to 12-31-06	\$15,000
1-1-07 to 12-31-07	\$15,100
1-1-08 to 12-31-08	\$15,000
1-1-09 to 12-31-09	\$15,000
1-1-10 to 12-31-10	\$15,300

If the employer does not provide fuel, it may reduce the cents-per-mile rate by 5.5 cents.

Either A or B must be chosen when the vehicle is given to the employee to use. This election cannot be changed later.

- C. **Commuting Rule.** You determine the value of a vehicle you provide to an employee for commuting use by multiplying each one-way commute (that is, from home to work or from work to home) by \$1.50. If more than one employee commutes in the vehicle, this value applies to each employee.

The valuation rule may be used if:

- (1) the vehicle is owned or leased by the employer and provided to one or more employees for use in the employer's trade or business;
- (2) the employer, for bona fide business reasons, requires employees to commute to and from work in the vehicle (e.g., the need to respond to emergency service calls);

Personal Use of Automobile (cont.)

- (3) the employer has established a written policy under which the transportation is not provided for the employee's personal purposes;
- (4) the transportation is not used for any personal reason other than commuting due to unsafe conditions; and
- (5) the commuter receiving the transportation is not a control employee of the employer.

A control employee for 2010 is any employee who was:

- (1) a board- or shareholder-appointed, confirmed, or elected officer of the employer whose pay for the year was \$95,000 or more,
- (2) was a director of the employer,
- (3) received pay for the year of \$195,000 or more from the employer, or
- (4) owned 1% or more equity, capital, or profit interest in the employer.

You may elect to treat all highly compensated employees as control employees for the commuting valuation rule. Under this option, all employees who are not highly compensated are not control employees, regardless of their position. Further, for the exception to apply, there must be evidence that would enable the IRS to determine whether the use of the vehicle meets the conditions listed above.

Unsafe conditions

Employer-provided transportation for commuting solely because of unsafe conditions, furnished to employees who would otherwise walk to work or use public transportation, must be valued at \$1.50 per one-way commute. Unsafe conditions exist if a reasonable person would consider it unsafe to walk to or from home, or to walk or use public transportation, at the time of day the employee must commute. You must have a written policy stating that the transportation is not provided for personal use other than commuting due to unsafe conditions. The valuation is only available for employees paid on an hourly basis and who are nonexempt under the FLSA.

**EMPLOYER PROVIDED AUTOMOBILE
FRINGE BENEFIT CALCULATION
2010**

TO BE COMPLETED BY EMPLOYEE

Employee Name _____

Description of Vehicle _____

Dates Available for Use During 2010 _____

Business mileage _____ (A)
 Commuting mileage _____ (B)
 Other personal mileage _____ (C)
 Total mileage _____ (D)

	<u>Yes</u>	<u>No</u>
I have written documentation to support the above mileage figures.	_____	_____
Was the vehicle available for personal use during off-duty hours?	_____	_____
Do you have another vehicle available for personal use?	_____	_____
Was the vehicle available for commuting?	_____	_____
Are you an officer or 5% or more owner of the employer?	_____	_____
Average daily round trip commuting distance: _____	_____	_____

Notice: The Company has chosen not to withhold from employee paychecks income taxes payable on the value of personal use of Company automobiles during 2010. Since personal car use increases taxable income, affected employees may wish to submit to the Company a new Form W-4 to adjust the amount withheld from paychecks for income taxes. This could help you avoid penalties, as well as additional taxes, at the end of the year. FICA taxes will be withheld where applicable.

I have adequate records or sufficient corroborative evidence to support the above data.

Signed _____ Date _____

TO BE COMPLETED BY EMPLOYER

Company Name _____

Fair Market Value of Vehicle _____

Annual lease value per table _____ (1)

Nonbusiness mileage (B) _____ (C) _____ = _____ (2)

Percent of personal use (2) _____ / (D) _____ = _____ (3)

Total days available for use during the calendar year _____ (4)

Proration of availability (4) _____ / 365 = _____ (5)

Lease value (1) _____ x (3) _____ x (5) _____ = _____ (6)

Fuel cost (if paid by employer) (2) _____ x \$0.055 = \$ _____ (7)

Reimbursement to employer from employee _____ (8)

Income to employee (6) _____ + (7) _____ - (8) _____ = \$ _____

NOTE: Actual fuel cost may be used in lieu of the 5.5 cents per mile standard rate.

Annual Lease Value Table

For use in calculating employer provided automobile fringe benefit

Automobile fair market value	Annual lease value
\$0 to \$999	\$ 600
\$1,000 to \$1,999	850
\$2,000 to \$2,999	1,100
\$3,000 to \$3,999	1,350
\$4,000 to \$4,999	1,600
\$5,000 to \$5,999	1,850
\$6,000 to \$6,999	2,100
\$7,000 to \$7,999	2,350
\$8,000 to \$8,999	2,600
\$9,000 to \$9,999	2,850
\$10,000 to \$10,999	3,100
\$11,000 to \$11,999	3,350
\$12,000 to \$12,999	3,600
\$13,000 to \$13,999	3,850
\$14,000 to \$14,999	4,100
\$15,000 to \$15,999	4,350
\$16,000 to \$16,999	4,600
\$17,000 to \$17,999	4,850
\$18,000 to \$18,999	5,100
\$19,000 to \$19,999	5,350
\$20,000 to \$20,999	5,600
\$21,000 to \$21,999	5,580
\$22,000 to \$22,999	6,100
\$23,000 to \$23,999	6,350
\$24,000 to \$24,999	6,600
\$25,000 to \$25,999	6,850
\$26,000 to \$27,999	7,250
\$28,000 to \$29,999	7,750
\$30,000 to \$31,999	8,250
\$32,000 to \$33,999	8,750
\$34,000 to \$35,999	9,250
\$36,000 to \$37,999	9,750
\$38,000 to \$39,999	10,250
\$40,000 to \$41,999	10,750
\$42,000 to \$43,999	11,250
\$44,000 to \$45,999	11,750
\$46,000 to \$47,999	12,250
\$48,000 to \$49,999	12,750
\$50,000 to \$51,999	13,250
\$52,000 to \$53,999	13,750
\$54,000 to \$55,999	14,250
\$56,000 to \$57,999	14,750
\$58,000 to \$59,999	15,250

For vehicles having a fair market value in excess of \$59,999, the Annual Lease Value is equal to: (25% X the fair market value of the automobile) + \$500.

Group-Term Life Insurance



Include in wages for income, social security and Medicare tax purposes, the cost of group-term life insurance you provided to an employee for coverage over \$50,000, or for coverage that discriminated in favor of the employee. This amount is subject to withholding for social security and Medicare, but not income tax.

Figure the monthly cost of the insurance to include in the employee's wages by multiplying the number of thousands of dollars of insurance coverage over \$50,000 by the cost shown in the following table. You must prorate the cost from the table if less than a full month of coverage is involved.

Cost Per \$1,000 of Protection for One Month:

Age	Cost
Under 25	\$.05
25 through 2906
30 through 3408
35 through 3909
40 through 4410
45 through 4915
50 through 5423
55 through 5943
60 through 6466
65 through 69	1.27
70 and older	2.06

Sample calculation of fringe benefit for 2010:

X Corporation pays a premium on a \$70,000 group term life insurance policy on the life of its president, John. John is 50 years old. The cost of the policy includable in John's gross income is computed as follows:

\$70,000	Total insurance coverage
<u>(50,000)</u>	Tax-free insurance coverage
20,000	Insurance coverage subject to tax
<u>1,000</u>	Divide by 1,000
20	
<u>.23</u>	Rate per \$1,000
4.60	Cost per month
<u>x 12</u>	Multiply by 12 months
<u>\$ 55.20</u>	Cost for coverage

Health Insurance

Employer contributions to accident and health plans are not income. Contributions by an employer to accident and health plans to provide compensation (through insurance or otherwise) for employees in case of personal injury or sickness are exempt from federal income taxation and, thus, are not subject to federal income tax withholding.

This is true regardless of whether individual or group policies are involved, and regardless of whether the employer payment is made directly to an insurer or indirectly through an insurance fund. Employer contributions to maintain group health plans for reservists called to active duty and their families will continue to be excludable from the reservists' gross income. The exclusion from taxation applies to employer payments of supplementary medical insurance premiums under Medicare.

The exclusion, however, does not apply to shareholders who own more than 2% of the shares outstanding in an S corporation. Such shareholders are considered partners in a partnership. Consequently, any accident and health insurance premiums paid by the S corporation on behalf of its 2% shareholders are considered "wages" subject to income withholding. Such payments may be excluded from FICA tax if the payments were made under a plan for employees and their dependents or for a particular class of employees and their dependents. Employees that are children of a 2% shareholder should be treated the same for purposes of health insurance paid by the S Corporation.

2% S Corp. Shareholder Health Insurance

- Include as income taxable wages on W-2, boxes 1, 16 and 18
- Not subject to FICA or Medicare taxes (do not include on W-2 boxes 3 and 5)
- 100% deduction from AGI on Shareholder Individual tax return

Further guidance from IRS

Notice 2008-1, I.R.B. 2007-2, December 13, 2007. [Code Secs. 162 and 1372]

Deductions: Insurance premiums: S corporation: Two-percent shareholder.

The IRS has released special rules regarding the deduction by two-percent shareholder-employees of S corporations of health insurance premiums that are paid by or reimbursed by the S corporations and included in the shareholders' income. A two-percent shareholder-employee may deduct amounts paid for insurance under Code Sec. 162(l) if the insurance plan was established by the S corporation. A plan is

Health Insurance (cont.)

considered to be established by the S corporation if the S corporation makes the premium payments in the current tax year or the two-percent shareholder makes the premium payments and is, then, reimbursed by the S corporation in the current tax year. Payments, whether made directly by the S corporation or reimbursed by the S corporation, must be included in the shareholder's wages and reported on the shareholder's Form W-2, Wage and Tax Statement.

NOTE: C Corporation Shareholder Health Insurance is excluded from taxable wages.

Employer Paid Fringe Benefits

Gifts, Awards, and Incentives

The following are six general rules on the taxation of gifts, awards, and incentives given to employees:

- Monetary prizes, awards, bonuses and gift certificates, including achievement awards, are generally considered taxable compensation subject to federal and state income tax withholding, unemployment tax, and FICA taxes.
- Prizes, bonuses, awards that involve goods or services, such as a vacation trip for meeting a sales goal, also generally result in taxable income.
- "Tangible personal property" awarded to employees to recognize the employees' length of service or safety achievement is *not* taxable. However, there are strict rules to follow for tax-free treatment that we'll describe later.
- The term "tangible personal property" does *not* mean cash or gift certificates. Although the definition of "tangible personal property," is unclear, most tax advisers take the position that certificates and other types of awards redeemable for merchandise — such as points and cards with point values — are taxable. *One exception:* If the merchandise is given as an employee achievement award and meets IRS rules.
- Awards and gifts of minimal value, such as a holiday turkey, generally fall under the IRS's *de minimis* rule and are not taxable. That rule says if an employer provides an employee with a product or service that costs so little that it would be unreasonable for the employer to account for it, the value is not taxable income. (Cash awards and gift certificates redeemable for cash are not included under the *de minimis* rule.)
What's considered minimal? Most tax advisers say \$25 to \$75 to an employee in a year. Consult with your tax adviser on the *de minimis* amount to use in your situation.
- The value of holiday gifts, such as merchandise or tickets to sporting events, in excess of the *de minimis* amount is taxable income.



Tax-Free Employee Achievement Awards

In some cases, the value of employee achievement awards can be excluded from taxable income. However, the award must involve something other than cash, a gift certificate, or other cash-equivalent item, and must be given for length-of-service or safety achievement. The amount that the employee can receive tax free is limited to the employer's cost and cannot exceed \$1,600 (\$400 for awards that are not qualified plan awards) for all awards the employee receives during the year.

Employer Paid Fringe Benefits (cont.)

In addition, the employer must make the award as part of a meaningful presentation. The tax-free employee achievement award exception does NOT apply if:

- The length-of-service award is for less than five years of service or if the employee received another length-of-service award during the year or the previous four years.
- The safety achievement award is given to a manager, administrator, clerical employee, or other professional employee.
- More than 10 percent of eligible employees previously received safety achievement awards during the year.

Employee. For this exclusion, treat the following individuals as employees.

- A current employee.
- A former common-law employee that you maintain coverage for in consideration of or based on an agreement relating to prior service as an employee.
- A leased employee who has provided services to you on a substantially full-time basis for at least a year if the services are performed under your primary direction or control.

Exception for S corporation shareholders. Do **not** treat a 2% shareholder of an S corporation as an employee of the corporation. A 2% shareholder is someone who directly or indirectly owns (at any time during the year) **more than** 2% of the corporation's stock or stock with **more than** 2% of the voting power.

Exclusion from wages. You can generally exclude the value of achievement awards that you give to an employee from the employee's wages if their cost is not more than the amount that you can deduct as a business expense for the year.

Employer Paid Fringe Benefits (cont.)

Qualified Transportation Benefits

This exclusion applies to the following benefits.

- A ride in a commuter highway vehicle between the employee's home and work place.
- A transit pass.
- Qualified parking.
- Bicycle commuters.

The exclusion applies whether you provide only one or a combination of these benefits to your employees.

Qualified transportation benefits can be provided directly by you or through a bona fide reimbursement arrangement. However, cash reimbursements for transit passes qualify only if a voucher or a similar item that the employee can exchange only for a transit pass is not readily available for direct distribution by you to your employee. A voucher is readily available for direct distribution only if an employee can obtain it from a voucher provider that does not impose fare media charges or other restrictions that effectively prevent the employer from obtaining vouchers.

Commuter highway vehicle. A commuter highway vehicle is any highway vehicle that seats at least 6 adults (not including the driver). In addition, you must reasonably expect that at least 80% of the vehicle mileage will be for transporting employees between their homes and work place with employees occupying at least one-half of the vehicle's seats (not including the driver's).

Transit pass. A transit pass is any pass, token, farecard, voucher, or similar item entitling a person to ride, free of charge or at a reduced rate, one of the following:

- On mass transit.
- In a vehicle that seats at least 6 adults (not including the driver) if a person in the business of transporting persons for pay or hire operates it.
- Mass transit may be publicly or privately operated and includes bus, rail, or ferry.

Qualified parking. Qualified parking is parking that you provide to your employees on or near your business premises. It includes parking on or near the location from which your employees commute to work using mass transit, commuter highway vehicles, or carpools. It does not include parking at or near your employee's home.

Employer Paid Fringe Benefits (cont.)

Bicycle commuters. The Emergency Economic Stabilization Act of 2008 changed transportation fringe benefits. Effective with respect to taxable years beginning after December 31, 2008, a “qualified bicycle commuting reimbursement” is added as a qualified transportation fringe benefit under IRC §132. This benefit is defined as any employer reimbursement of an employee for reasonable expenses incurred by the employee for the purchase and repair of a bicycle, bicycle improvements, and bicycle storage, provided that the bicycle is regularly used for travel between the employee’s residence and place of employment.

Employee. For this exclusion, treat the following individuals as employees.

- A current employee.
- A leased employee who has provided services to you on a substantially full-time basis for at least a year if the services are performed under your primary direction or control.

Exception for S corporation shareholders. Do **not** treat a 2% shareholder of an S corporation as an employee of the corporation. A 2% shareholder is someone who directly or indirectly owns (at any time during the year) **more than** 2% of the corporation's stock or stock with **more than** 2% of the voting power.

Relation to other fringe benefits. You **cannot** exclude a qualified transportation benefit that you provide to an employee under the de minimis or working condition benefit rules. However, if you provide a local transportation benefit other than by transit pass or commuter highway vehicle, or to a person other than an employee, you may be able to exclude all or part of the benefit under other fringe benefit rules (de minimis, working condition, etc.).

Exclusion from wages. You **can** generally exclude the value of transportation benefits that you provide to an employee during 2010 from the employee's wages up to the following limits.

- combined commuter highway vehicle transportation and transit passes - \$230 per month
- qualified parking - \$230 per month
- bicycle commuters - \$20 per month

Benefits more than the limit. If the value of a benefit for any month is more than its limit, include in the employee's wages the amount over the limit minus any amount the employee paid for the benefit. You **cannot** exclude the excess from the employee's wages as a de minimis transportation benefit.

Employer Paid Fringe Benefits (cont.)

Educational Assistance

This exclusion applies to educational assistance that you provide to employees under an educational assistance program. The exclusion also applies to graduate level courses.

Educational assistance means amounts that you pay or incur for your employees' education expenses. These expenses generally include the cost of books, equipment, fees, supplies, and tuition. However, these expenses do not include the cost of a course or other education involving sports, games, or hobbies, unless the education:

- Has a reasonable relationship to your business, or
- Is required as part of a degree program.

Education expenses do not include the cost of tools or supplies (other than textbooks) that your employee is allowed to keep at the end of the course. Nor do they include the cost of lodging, meals, or transportation.

Educational assistance program. An educational assistance program is a separate written plan that provides educational assistance only to your employees. The program qualifies only if **all** of the following tests are met.

- The program benefits employees who qualify under rules set up by you that do not favor highly compensated employees. To determine whether your program meets this test, do not consider employees excluded from your program who are covered by a collective bargaining agreement if there is evidence that educational assistance was a subject of good-faith bargaining.
- The program does not provide more than 5% of its benefits during the year for shareholders or owners. A shareholder or owner is someone who owns (on any day of the year) more than 5% of the stock or of the capital or profits interest of your business.
- The program does not allow employees to choose to receive cash or other benefits that must be included in gross income instead of educational assistance.
- You give reasonable notice of the program to eligible employees.

Your program can cover former employees if their employment is the reason for the coverage.

Employer Paid Fringe Benefits (cont.)

For this exclusion, a highly compensated employee for 2010 is an employee who meets either of the following tests.

- 1) The employee was a 5% owner at any time during the year or the preceding year.
- 2) The employee received more than \$110,000 in pay for the preceding year.

You can choose to ignore test (2) if the employee was not also in the top 20% of employees when ranked by pay for the preceding year.

Employee. For this exclusion, treat the following individuals as employees.

- A current employee.
- A former employee who retired, left on disability, or was laid off.
- A leased employee who has provided services to you on a substantially full-time basis for at least a year if the services are performed under your primary direction or control.
- Yourself (if you are a sole proprietor).
- A partner who performs services for a partnership.

Exclusion from wages. You can exclude up to \$5,250 of educational assistance you provide to an employee under an educational assistance program from the employee's wages each year.

Assistance over \$5,250. If you do not have an educational assistance plan, or you provide an employee with assistance exceeding \$5,250, you can exclude the value of these benefits from wages if they are working condition benefits. Property or a service provided is a working condition benefit to the extent that if the employee paid for it, the amount paid would have been deductible as a business or depreciation expense.

Employer Paid Fringe Benefits (cont.)

Employee Stock Options

There are three classes of stock options--incentive stock options, employee stock purchase plan options, and nonstatutory (nonqualified) stock options.

Generally, for income tax purposes, incentive stock options and employee stock purchase plan options are excluded from wages both when the options are granted and when they are exercised (unless the stock is disposed of in a disqualifying disposition).

However, the spread (between the exercise price and fair market value of the stock at the time of exercise) is included in wages subject to social security, Medicare, and Federal unemployment (FUTA) taxes when the options are exercised. Income tax withholding is not required at the time of exercise.

The spread on nonstatutory options normally is included in wages for income tax purposes when the options are exercised. The spread on nonstatutory options is also subject to social security, Medicare, and FUTA taxes, and income tax withholding at the time of exercise.

The IRS will not enforce the application of social security, Medicare, and FUTA taxes at the time of exercise on the spread on incentive stock options and employee stock purchase plan options until further guidance is issued.

In addition, if stock acquired pursuant to the exercise of an incentive stock option or employee stock purchase plan option is subsequently sold in a disqualifying disposition, the income is not subject to income tax withholding. (However, the income should be reported to the employee or former employee, generally in box 1 of Form W-2.)

An employee who transfers his or her interest in nonstatutory stock options to the employee's former spouse incident to a divorce is not required to include an amount in gross income upon the transfer. The former spouse, rather than the employee, is required to include an amount in gross income when the former spouse exercises the stock options.

Employer Paid Fringe Benefits (cont.)

Cafeteria Plans

Federal Income Tax Withholding Treatment: No withholding if qualified benefit is chosen. Subject to withholding if cash is chosen.

Federal Insurance Contributions Act Treatment: Not subject to FICA if qualified benefit is chosen. Subject to FICA if cash is chosen. FICA applies to 401(k) deferrals and to group-term life insurance coverage in excess of \$50,000.

Federal Unemployment Tax Act Treatment: Not subject to FUTA if qualified benefit is chosen. Subject to FUTA if cash is chosen. FUTA applies to 401(k) deferrals.

What is a cafeteria plan?

Cafeteria plans or flexible benefit plans are employee benefit plans, authorized by Code Sec. 125, under which employees may choose from among two or more benefits consisting of cash and qualified benefits offered by an employer. The cafeteria plan must be in writing. All participants must be employees or full-time life insurance salespersons (to the extent that they are otherwise permitted to exclude the elected benefit from income). No special permission is required from the IRS to implement a cafeteria plan.

Why offer cafeteria plans?

Cafeteria plans give employees greater responsibility for planning their choice of benefits while saving benefit costs for the employer. There are also some immediate tax benefits. All of the before-tax deductions of the employees are exempt from federal income tax, FICA, and, in some states, are exempt from state withholding. Most states exclude any contributions to before-tax plans from income taxes. Before-tax plans provide many employees with their only opportunity to take a tax deduction for medical expenses, since few employees meet the percentage of income test required to deduct medical expenses on individual tax returns.

Employers can save on FICA by instituting a cafeteria plan. Annual FICA savings may actually exceed the administration costs involved in implementing and maintaining a plan.

Employer Paid Fringe Benefits (cont.)

What benefits may be offered in a cafeteria plan?

Qualified benefits that can be offered include accident and health insurance, dependent care assistance, group legal services, group-term life insurance, short-term or long-term disability coverage, elective contributions to a qualified CODA (401(k)), additional vacation days that can be purchased by employees, flexible spending accounts, adoption assistance benefits, and health savings accounts.

The exclusion of the premium value of any insurance-type protection against legal expenses for any individual in a taxable year is limited to \$70 annually. This limit applies to the premium value of a plan (whether insured or self-insured), but not to the reimbursement or services provided under the plan.

Employees of educational organizations are allowed to elect post-retirement life insurance coverage.

Cafeteria plans may use an automatic enrollment process under which an employee's salary is reduced each year to pay for a portion of the group health coverage under the plan. A cafeteria plan's use of an automatic enrollment process that reduces an employee's salary each year to pay for a portion of the coverage does not require inclusion of an employer's contributions in gross income unless the employee affirmatively elects cash.

A cafeteria plan can allow employees the option of buying additional vacation days with before-tax contributions. Employees must take company-provided vacation time before taking purchased elective vacation days. If an employee cannot use the purchased vacation days, they can be sold back to the plan. The money received becomes taxable income. Purchased vacation days cannot be rolled over into another plan year because that would be considered to be deferral of compensation.

What benefits cannot be included in a cafeteria plan?

A cafeteria plan cannot offer employees an option to defer compensation, except through a qualified cash or deferred arrangement under a 401(k) plan. Generally, a plan that permits employees to carry over unused benefits or contributions from one plan year to a subsequent plan year enables an employee to defer the receipt of compensation.

Several other benefits cannot be included in a cafeteria plan because they are already tax-exempt under other parts of the Code. These benefits include: educational assistance plans, scholarships, fellowships, rides in commuter vans, *de minimis* fringe benefits, no-additional-cost services, employee discounts, working condition fringe benefits, medical savings accounts, and long-term care insurance.

Employer Paid Fringe Benefits (cont.)

The plan cannot discriminate in favor of highly compensated employees.

Exclusion of tax-free benefits under a cafeteria plan is not available to **highly compensated employees, highly compensated participants or key employees** if the plan discriminates in their favor. However, the exclusion from income remains available to participants who are not highly compensated, without regard to whether or not the plan is discriminatory. Thus, even if the plan is discriminatory, participants who are not highly compensated are required to include in income employer contributions only to the extent that they elect taxable benefits.

Highly compensated employees include

- officers,
- more-than-5 percent shareholders,
- employees within the highest-paid group of employees.

The spouses and dependents of any of the foregoing, are included in the highly compensated participant or employee category. If the plan is discriminatory, the highly compensated employee is subject to tax on the combination of the taxable benefits with the greatest aggregate value that could have been selected for the plan year.

A **key employee** is any participant in an employer plan who, at any time during the plan year or any of the four preceding plan years, is:

1. An officer of the employer having an annual compensation greater than \$160,000 for 2010. This definition is limited to up to the greater of three officers or 10 percent of all employees, but, if there are more than 500 employees, a maximum of 50 officers will come under this category;
2. A 5% owner of the employer; or
3. A 1% owner of the employer having an annual compensation of more than \$150,000.

Key employees who fall within the categories described above and who receive more than 25% of total nontaxable benefits will be taxed as though they received all available taxable benefits under the plan in the tax year in which the plan year ends.

Employer Paid Fringe Benefits (cont.)

Flexible Spending Accounts

Federal Income Tax Withholding: No withholding.

Federal Insurance Contributions Act: Not subject to FICA

Federal Unemployment Tax Act: Not subject to FUTA.

Flexible spending accounts fund health care coverage and dependent care assistance with employee contributions

Flexible spending accounts (FSAs) may be established to allow employees to fund health care benefits and dependent care assistance on a pretax basis. Employee contributions to flexible spending accounts are a form of cafeteria plan that are not subject to employment taxes. Employees contribute money to accounts on a pretax basis to fund reimbursed expenses under a health plan or dependent care plan. Employees must enroll in the plan at the beginning of the year and tell the employer how much money will be contributed to each account. Each pay period, deductions are made from employee wages to fund the account.

Employees must establish contribution amounts each year. Employees must determine how much will be contributed to a health account or dependent care account at the start of each year. This requires the employee to essentially estimate how much he will spend in the coming year for each benefit.

Employees can contribute up to \$5,000 per year to dependent care accounts.

There is no cap on the amount that may be contributed to a health care spending account. Limits do exist on the amount that can be contributed to a dependent care account. Employees can set aside up to \$5,000 per tax return to fund a dependent care account. If an employee is married and files separate returns, the employee is limited to \$2,500. If the employee is married and files a joint return or single the maximum contribution to a dependent care account is \$5,000.

Use-it-or-lose-it applies to employee contributions. Unused flexible spending account balances left over at the end of a plan year must be forfeited under the so-called "use it or lose it" rule. The employer *cannot* return the unused money to the employee. This risk requires employees to be careful in allocating dollars to a flexible spending account at enrollment time. However, a plan may provide for a "grace period" of up to 2 ½ months after the close of the plan year for employees to make claims. This means employees on a calendar year plan (if election to plan made) can use their 2010 FSA contributions for expenses incurred as late as March 15, 2011.

Employer Paid Fringe Benefits (cont.)

You must decide what to do with forfeited contributions.

You have a couple of options for handling the excess contributions forfeited by employees:

1. reallocate all forfeited funds equally among all active plan participants;
2. use the money as reimbursement for the cost of administering the plan; or
3. use the money to reimburse the employer for claims paid that are not reimbursed through employee contributions.

You can elect to treat forfeited funds differently each year.

You must reimburse health FSA claims even if there are insufficient contributions in the account to pay for a claim. You must pay health FSA claims when submitted (up to the amount of reimbursement selected by the employee), even if an employee does not have sufficient funds in a flexible spending account to cover the cost of the claim. If an employee terminates before sufficient funds are contributed to cover the cost of a health claim, you cannot recover that money.

Example

Camille elects to contribute \$2,600 each year in equal biweekly installments to fund the cost of a health plan deductible and copayment. In February, Camille becomes ill and incurs \$1,500 in medical costs. Even though she has contributed only \$400 to the flexible spending account, Camille can submit a claim for the entire \$1,500. The employer is required to reimburse the full amount (the employer must reimburse up to the full \$2,600 at any time). If Camille becomes too ill to return to work, the employer is responsible for the unfunded \$1,100 of medical expenses. However, the employer can use funds forfeited by other employees to reimburse itself.

Employee plan elections are usually binding for the entire year. An employee's flexible plan contribution election is usually binding for the entire plan year. An employee can make changes in plan elections in two situations:

1. if there is a third-party health provider such as an HMO, employees can make election changes if there is an increase or decrease in premiums or if the HMO goes out of business; or
2. if there is a change in family status.

Employer Paid Fringe Benefits (cont.)

Health Savings Accounts

Federal income tax withholding: Subject to withholding (unless provided under Sec 125 Cafeteria Plan)

Federal Insurance Contributions Act: Subject to FICA (unless provided under Sec 125 Cafeteria Plan)

Federal Unemployment Tax Act: Subject to FUTA (unless provided under Sec 125 Cafeteria Plan)

Health Savings Accounts (HSAs) provide tax-favored treatment for current medical expenses as well as the ability to save on a tax-favored basis for future medical expenses. These accounts are designed to supplement high-deductible health insurance plans and are created exclusively to pay for the qualified medical expenses of the account holder and his or her spouse and dependants. The accounts are subject to rules similar to those applicable to individual retirement arrangements (IRAs).

An employer may set up health savings accounts for its employees and may make contributions to the accounts in addition to any employee contributions. Combined employer and employee contributions may not exceed the limits for account contributions (generally \$3,050 for an individual with self-only coverage and \$6,150 for an individual with family coverage – 2010 amounts; adjusted annually for inflation).

The Act provides the following rules governing employer contributions to health savings accounts:

- income exclusions applicable to employer contributions to health savings accounts,
- employment tax exclusions applicable to employer contributions to health savings accounts,
- nondiscrimination rules applicable to employer contributions to health savings accounts,
- a penalty tax on excess contributions to health savings accounts,
- a penalty tax on prohibited transactions involving health savings accounts,
- a penalty for failure to provide reports on health savings accounts,
- an exception from capitalization of policy acquisition costs, and
- the ability to offer health savings accounts under cafeteria plans.

Employer Paid Fringe Benefits (cont.)

Employer contributions to health savings accounts excluded from employee's taxable income. Health savings account contributions are generally excluded from wages for purposes of determining income and employment taxes. Also, the amount contributed to the health savings account of an employee or the employee's spouse must be shown on the employee's W-2 form in Box 12 code W.

Generally, employer contributions are often made through salary reduction contributions deducted from the employee's paycheck.

Employer contributions to any health savings account of an eligible employee are treated as excludable employer-provided coverage for medical expenses under an accident or health plan. However, the exclusion applies only to the extent such amounts do not exceed the employee's health savings account dollar "limitations" for the tax year. The contribution limits are determined without regard to these income exclusion and penalty rules.

Rules similar to the MSA contribution rules apply. Thus, no amount is included in the gross income of any employee solely because the employee can choose between the contributions made to a health savings account and employer contributions to another health plan of the employer. Also, any employer contributions to a health savings account, if otherwise allowable as a deduction, are allowed only for the tax year in which paid. Moreover, every individual required to file an income tax return for the tax year must include on such return the aggregate amount contributed by employers to the health savings accounts of such individual or such individual's spouse for such tax year. Finally, HSA contributions are not part of COBRA.

Employer contributions excluded from employment taxes. In addition to being excludable from income, HSA contributions are also excludable from wages for purposes of computing employment taxes. When determining railroad retirement taxes, the term compensation does not include any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude that payment from income under the exclusion. Similarly, for purposes of determining unemployment taxes, any payment made to or for the benefit of an employee is excluded from wages if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under the exclusion for health savings account contributions. Finally, for purposes of determining wages for withholding taxes, any payment made to or for the benefit of an employee is excludable if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under the exclusion.

Employer Paid Fringe Benefits (cont.)

Nondiscrimination rules governing employer contributions to HSAs. An employer is penalized if it fails to make comparable HSA contributions on behalf of all employees with comparable coverage during the same period.

Preventive care. Preventive care HSAs can be established only by eligible individuals covered by an HDHP. In general, the HDHP is barred from providing benefits prior to satisfaction of the deductible; however, an exception applies to benefits for preventive care. Thus, an HDHP may provide preventive care benefits without a deductible or with a deductible below the minimum annual deductible. A safe harbor list of benefits that may be provided by an HDHP makes it clear that such traditional preventive care benefits as annual physicals, immunizations, and screening services qualify as preventive care for HSA purposes. Preventive care, which also covers routine prenatal and well-child care, tobacco cessation programs, and obesity weight-loss programs, does not include the treatment of existing conditions. The determination of whether health care that is mandated under state law to be provided by an HDHP without regard to a deductible is preventive is to be based on IRS guidelines, rather than how that care is characterized by state law.

Double coverage. The IRS has ruled that an individual who is covered by both an HDHP that does not apply to prescription drugs and by a separate prescription drug plan or rider that provides benefits before the minimum annual HDHP deductible has been satisfied does not qualify as a Code Sec. 223(c)(1)(A) "eligible individual" and cannot make HSA contributions. The same result occurs if the prescription drug benefit is provided as a benefit under a health plan or as a benefit for the individual under a spouse's plan. However, if no benefits are provided under the separate prescription drug plan or rider until the minimum annual HDHP deductible has been satisfied, or the prescription drug plan is part of an HDHP and is subject to the minimum annual deductible, the party will qualify as an eligible individual.

Employer Paid Fringe Benefits (cont.)

Dependent Care Assistance Programs



Federal Income Tax Withholding: No withholding.

Federal Insurance Contributions Act: Not subject to FICA.

Federal Unemployment Tax Act: Not subject to FUTA.

Up to \$5,000 of dependent care assistance paid under a qualified plan is excludable from an employee's gross income.

Amounts paid or incurred by an employer for dependent care assistance provided to an employee are excluded from the employee's gross income if the assistance is furnished under a qualified plan. The maximum amount that may be excluded from an employee's gross income for dependent care assistance payments made by an employer is \$5,000 (\$2,500 in the case of a married person filing separately). In cases where a child care facility is provided on the employer's premises, the amount excluded will be based on the utilization of the facility and the value of the services provided.

An employee is entitled to exclude the full amount of the expense in the year it is incurred, even if full reimbursement is not received in that year. In addition, the amount reimbursed in the following year is not counted toward the employee's new limit for that year. If, at the time the payments are made or benefits furnished under the plan, you reasonably believe that an employee will be allowed to exclude the payments or benefits from gross income, the payments or benefits will be excluded from wages for FICA, FUTA and federal income tax withholding purposes.

Which dependent care assistance can be excluded from income?

Dependent care assistance means the payment incurred for those services which, if paid for by the employee, would be considered employment-related expenses for the household and dependent care tax credit.

You must report the amount of dependent care assistance.

You must provide a written statement to each employee receiving dependent care showing the amount of assistance provided each year. This statement must be provided by January 31 of the following year. The requirement is satisfied by reporting the amount of assistance on Form W-2, Wage and Tax Statement (Box 10).

Employer Paid Fringe Benefits (cont.)

Adoption Assistance

Federal Income Tax Withholding Treatment: Excluded from employee gross income.

Federal Insurance Contributions Act Treatment: Subject to FICA.

Federal Unemployment Tax Act Treatment: Subject to FUTA.

Employer-provided adoption assistance is not included in an employee's gross income. Amounts paid or expenses incurred by an employer on behalf of an employee for qualified adoption expenses are not included in an employee's gross income if paid pursuant to an adoption assistance program. Such expenses are not subject to federal income tax withholding, but are subject to FICA and FUTA withholding.

Employee. For this exclusion, do **not** treat a 2% shareholder of an S corporation as an employee of the corporation. A 2% shareholder is someone who directly or indirectly owns (at any time during the year) more than 2% of the corporation's stock or stock with more than 2% of the voting power.

Expenses must be paid as part of an adoption assistance program. An adoption assistance program must be a separate written plan and must meet the same plan requirements as educational assistance plans.

Qualified adoption expenses include reasonable and necessary adoption fees, court costs, attorney fees, travel expenses, and any other expenses directly related to and for the principal purpose of a legal adoption. An employee receiving payments under a program must provide the employer reasonable substantiation that payments under the program constitute qualified adoption expenses.

The exclusion is available only in connection with the adoption of individuals who are under 18 years of age or those who are physically or mentally unable to care for themselves.

The exclusion for 2010 is limited to \$13,170 (\$13,360 for 2011), per child. The limit for children with special needs is also \$13,170 for 2010. The limitation is with respect to the adoption of each child and is cumulative over all taxable years (rather than an annual limitation). The exclusion is phased out for those with adjusted gross income over \$222,520 (for 2010). The limits are adjusted for inflation and rounded to the nearest multiple of \$10.

Adoption assistance may be offered through a cafeteria plan. Adoption expenses are a qualified benefit for cafeteria plan purposes.

Employer Paid Fringe Benefits (cont.)

Business Expense Reimbursements

Federal Income Tax Withholding Treatment: No withholding if under an accountable plan.

Federal Insurance Contributions Act Treatment: Not subject to FICA if under an accountable plan.

Federal Unemployment Tax Act Treatment: Not subject to FUTA if under an accountable plan.

Reimbursements under accountable plans are not taxable. Reimbursements of employee business expenses made under accountable plans can be excluded from an employee's gross income and are not subject to federal employment taxes. Reimbursements of employee business expenses made under nonaccountable plans are taxable wages, even if the business expenses are otherwise deductible. Also, reimbursements provided under accountable plans that are in excess of substantiated expenses are taxable wages if the excess is not returned within a reasonable time. Employers may make payments to an employee under both an accountable plan and a nonaccountable plan.

Reimbursements under an accountable plan must be identified either by making the payments separately from regular wage payments, or by specifically identifying the amount that is a reimbursement payment if reimbursements are combined with regular wages in a single payment.

Types of reimbursements include:

1. For use of employees auto (Mileage, Tolls, Parking)
2. Travel (Airfare, Cabs)
3. Meals, Lodging
4. Computers
5. Uniforms
6. CPE

Employer Paid Fringe Benefits (cont.)

What are the elements of an accountable plan?

An accountable plan must have the following elements:

- The plan must have a business connection by providing advances, allowances or reimbursements for deductible business expenses that are incurred by an employee in connection with the performance of services for the employer;
- The plan must require the employee to substantiate reimbursed expenses within a reasonable time; and
- The plan must require employees to return reimbursements in excess of substantiated expenses within a reasonable period of time.

Business connection defined

The business connection requirement is met if the plan provides payments for business expenses to be incurred by an employee in connection with the performance of services as an employee. If a reimbursement plan provides payments to an employee for deductible employee business expenses as well as for other expenses that are not deductible business expenses, the employer will be treated as maintaining an accountable plan and a nonaccountable plan. Payments provided to an employee for nondeductible expenses do not meet the business connection requirement, and all amounts paid under the nonaccountable plan are subject to all three employment taxes.

Example

An employer reimburses employees for lodging and meal expenses incurred while traveling away from home under a program that meets all accountable plan requirements. For its own convenience, the employer also separately pays employees a \$25 monthly allowance to cover the cost of office supply expenses. Employees are not required to substantiate the office supply expenses and the employer does not require employees to return excess amounts by which the payment exceeds office expenses. The monthly allowance is a nonaccountable plan that is treated as separate from the accountable travel plan. The employer must report the monthly office supply allowances as wages or other compensation on the employees' Forms W-2 and must withhold and pay employment taxes on the monthly allowances when paid.

Employer Paid Fringe Benefits (cont.)

Substantiation within a reasonable period of time

An employee must substantiate reimbursed expenses within a reasonable period of time. This requirement is met by submitting sufficient information to enable the employer to identify the specific business nature of each expense and to conclude that the expense is attributable to business activities. Each element of an expenditure or use must be substantiated. It is not sufficient for the employee to merely aggregate expenses into broad categories such as "travel" or to report individual expenses through the use of vague nondescriptive terms such as "miscellaneous business expenses."

An employee may substantiate business expenses by furnishing the employer with documentary evidence such as receipts. Under the "adequate accounting" rules, employers must maintain the documentary evidence and produce it if requested by the IRS. Employers may take a deduction on business expenditures of \$75 or more only if it is substantiated by receipts or other documentary evidence

Excess amounts must be returned within a reasonable time.

An accountable plan must require an employee to return within a reasonable time any amount paid in excess of the expenses substantiated by the employee. If an employee does not return amounts paid in excess of substantiated expenses, employers must withhold and pay employment taxes on the excess amount on the first payroll period after which the expenses are substantiated.

Electronic receipts are acceptable. The IRS has ruled that an employer's expense reimbursement arrangement for deductible travel and entertainment expenses, which included new procedures for the use of electronic receipts and expense reports, qualified as an accountable plan. To facilitate the reimbursement of business-related travel and entertainment expenses incurred by its employees, the employer arranged to have a credit card company issue business credit cards to applicable employees. Users of those cards received monthly billing statements from the credit card company and were personally liable for all charges billed to the card, including late fees. Also, on a daily basis, the employer was provided by the credit card company with electronic receipts for all expenses billed to employees' business credit cards.

Employer Paid Fringe Benefits (cont.)

Advances for reimbursement must match anticipated expenses.

When money is advanced under an accountable plan, the requirement that excess amounts be returned will be satisfied if the advance:

- is reasonably calculated not to exceed the amount of anticipated expenditures;
- is made within a reasonable period of time before the expenses are incurred; and
- requires the return of any excess over substantiated expenses within a reasonable time period after the advance is received.

Withholding on excess reimbursement amounts may be at supplemental rates.

Employers may add any excess reimbursement payments that are subject to federal income tax withholding to an employee's regular wages for a payroll period and compute the tax to withhold based on that total. Alternatively, employers may withhold income tax from the reimbursement at the flat 25% rate applicable to supplemental wages if the reimbursement or allowance is paid separately or separately noted if wages and reimbursements are combined.

Non Accountable vs. Accountable

	<u>Non-Acct.</u>	<u>Acct.</u>
Expense Allowance	\$ 3,600	\$ 3,600
Amount Substantiated	<u>0</u>	<u>2,400</u>
W-2 Amount	\$ 3,600	\$ 1,200

NOTE: W-2 amount subject to FICA, Medicare, and Income Taxes

Employer Paid Fringe Benefits (cont.)

Military Pay

Federal Income Tax Withholding: Subject to withholding for temporary assignments.

Federal Insurance Contributions Act: Subject to FICA for temporary assignments.

Federal Unemployment Tax Act: Subject to FUTA for temporary assignments.

Payments to employees on temporary military assignments are wages. Payments made by an employer to an employee who is on leave to serve in a state National Guard or receive Reserve training are wages for FICA and FUTA purposes, as well as for federal income tax withholding. The payments can either be full salary continuation or the difference between regular salary and the amount of military pay. The employment relationship continues even though the employee is temporarily called up for duty. If regular payments are made and the service member has no effective withholding exemption certificate in force with the employer, no exemptions may be granted.

Payments to employees on full time active duty are not wages.

The employment relationship is considered to be terminated when an employee enters full-time active military duty. If the employer makes up the difference between the ex-employee's former salary and the amount he receives from the U. S. Government or the state, the amount paid is not wages and the payments are not subject to federal income tax withholding, FICA or FUTA taxes. However, if the employer pays a flat amount, for example, \$100 or a month's pay, the payment is subject to withholding.

Holiday payments to any ex-employees in the armed forces are subject to withholding, but the employer may take the responsibility for granting a withholding exemption based on the employee's family status.

Payments to dependents of ex-employees in the armed forces (the payments constituting the difference between a portion of the employee's former salary and amounts received from the government) are deemed to be constructively received by the ex-employees and are taxable for federal income tax purposes. You must report the amounts paid on information returns (Forms 1096 and 1099) if they total \$600 or more during the calendar year. Since these amounts are not to be reported on Form W-2, they are presumably not subject to withholding.

Year End Reporting Issues

Third-Party Sick Pay Reporting

Report third-party sick-pay wages if a third-party payer transfers the social security and medicare tax liability to you.

The sick-pay wages should be included on Line 2 and in the amounts on Line 5a and Line 5c. Once the taxes have been calculated and included in Line 5d, the employee portion of the social security and medicare taxes withheld and deposited by the third party is subtracted on Line 7b.

The third party must file Form 941 with the IRS to show the employee's portion of the social security and medicare taxes that it withheld.

Although the third party is required to file Form 941 showing the employer's portion of FICA taxes withheld, the third party should not include any wages paid as a third party on Line 2. Line 5a should show the total amount of wages the third party paid subject to social security. This amount should include both wages paid to its own employees and wages paid as a third party. Line 5c should be completed in a similar manner. Line 7b should be used to deduct the share of the social security and medicare taxes required to be paid by the employer.

The Form 941 prepared by the third party will show the amount of sick pay paid to the insured employee(s) on Line 2. This amount should also be included on Lines 5a and 5c as wages for social security and medicare tax computation purposes.

If a third-party payer does not transfer the FICA tax liability to you, report only the wages you paid the employees on Form 941.

Line 2 should not include the sick-pay amount paid to the employees by the third party. Likewise, Lines 5a and 5c should show only the amount of employer-paid wages for social security and medicare tax computation purposes. The lines should not include sick-pay payments from the third-party payer.

Year End Reporting Issues (cont.)

Corrections, Adjustments, and Refunds

If you withhold too much or too little from an employee's wages, it is important to know what steps to take to make repayment of the amount due or to claim a refund of moneys overpaid.

Procedures have been developed for incorrect withholding or payment of taxes.

Procedures have been established for those who withhold more or less than the correct amount of federal income tax from employees' wages and who pay over too much or too little to the government. Which procedure to follow depends on whether

(1) an undercollection or an overcollection is involved and

(2) the error is discovered before or after Form 941 has been filed for the period in which the error occurred.

Using a method that results in withholding more tax than another method is *not* considered overcollection.

Withholding more tax by using one withholding method than you would have if you had chosen another method does *not* mean that you have overcollected. You may choose whatever method of withholding you prefer and, if your computation is correct according to the method selected, there is no overcollection. Similarly, if an employee does not file an exemption certificate so that more tax is withheld than would have been withheld if the employee had claimed the exemptions to which he was entitled, there is also no overcollection and no repayments to the employee would be authorized.

Overwithheld amounts can be repaid to the employee before Form 941 is filed.

If you withhold more than the proper amount of tax during a quarter and before Form 941 is filed, you need not report the excess on Form 941 if you:

- repay the amount of the overcollection to the employee before filing Form 941 for the quarter and before the end of the calendar year, and
- secure a written receipt from the employee showing the date and amount of the repayment. The receipt must be retained as part of your records.

If you meet these requirements, simply exclude the amount of the overcollection from the amounts you report on Form 941. If the overcollection is not repaid and receipted, it must be reported and paid over to the IRS.

Year End Reporting Issues (cont.)

Repayment of an overcollection may be shown on Form 941X if Form 941 has already been filed.

If the overwithheld amount is repaid to the employee, you must obtain a *written* receipt from the employee showing the date and amount of repayment. Retain the receipt as part of your records. You may then make an adjustment by filing form 941X.

If you do not repay an overcollection, the employee's only remedy lies in claiming credit for the amount of the overcollection against his income tax liability for the year at the time he files his personal income tax return or, if the credit exceeds his liability, in claiming a refund.

If an employee gives you a new withholding exemption certificate, you may not repay or reimburse the employee for income taxes collected during the year before the effective date of the new certificate. You may, however, repay or reimburse the employee for income taxes overcollected on or after the effective date if you failed to take the new certificate into effect.

How to handle overcollection or overpayment of income or FICA taxes

If you withhold and pay over too much income or FICA tax, you are *not* entitled to claim a refund of the excess. Your remedy is to repay the amount to your employees and claim the amount of repayment, if any, as an adjustment on your quarterly tax return. If you collect and pay over more than the correct amount of employee tax but do not reimburse the employee for the overwithholding, the employee may:

- claim reimbursement through a credit or refund on his income tax return;
- authorize you to file a claim and receive a refund or credit; or
- file a claim for refund of the overpayment on Claim Form 843.

If, however, for some reason you collect the proper amount of income or FICA tax but pay over more than you have collected, you will be entitled to a refund or credit of the excess. Claims for refund should be filed on Form 843. *If a return was filed*, a claim for credit or refund must be filed within three years after the return was filed or within two years after the tax was paid, whichever period expires later. *If no return was filed*, the claim for credit or refund must be filed within two years from the time the tax was paid. Claims not filed within the prescribed period will not be honored.

Year End Reporting Issues (cont.)

Several examples illustrate the FICA refund procedure

Example (1) --

Employer responsibilities --A department store that mistakenly treated sick-leave payments as wages and then claimed a refund of overpaid FICA taxes could not collect its refund without having sought refunds or repayments for employees who were simultaneously overtaxed. A court ruled that the department store had to adjust the corresponding overpayment made on behalf of its employees before filing its own claim. The court found that existing statutes and regulations clearly imply an obligation on the part of the employer to claim a refund or credit on behalf of those employees for whom the employer can reasonably adjust its overpayment. The court pointed out that, since it is the employer's responsibility to collect FICA taxes from its employees, the employer is usually at fault when an overpayment is made and is in a better position to discover and remedy any such mistake. Any costs involved in adjusting the overpayment should be borne by the guilty party

Example (2) --

Independent contractors --Similarly, an employer who erroneously treated independent contractors as employees and withheld and paid FICA taxes on commissions was required to comply with the employment tax regulations before it could receive a refund of the erroneously paid FICA taxes. In that case, the employer had to secure the written consent of each person erroneously treated as an employee for whom it filed a claim for refund, along with a statement from each that no refund or credit of the amount of the overcollection had been claimed or, if such a claim had been made, that it was rejected, and that no such claim would be made in the future. In addition, the employer had to request that each affected individual submit to it, for each year in question, a partially completed Form 1040X, Amended Individual Income Tax Return, and a completed Schedule SE in the case of an independent contractor. Form 1040X should contain taxpayer identification information and signature, including a spouse's social security number if a joint return was filed, and information about other taxes required on the form. Upon receipt of such information, the employer was to subtract the amount of any outstanding self-employment tax liability from the corresponding amount of overpaid employee FICA taxes and file a claim for refund of the difference on behalf of the individual. The Forms 1040X and Schedules SE should all be submitted, even if some of the individuals are not entitled to refunds, so that the Social Security Administration may credit their self-employment accounts where necessary.

Year End Reporting Issues (cont.)

Underwithholding does not excuse you from paying the employment tax due on Form 941.

You must pay over the correct amount of tax to the IRS even if you fail to withhold any tax, or if you withhold too little. If the employee thereafter pays the tax, you will not be liable for it. However, payment by the employee will **not** relieve you from liability for penalties or additions to the tax stemming from your failure to withhold. You may apply for relief from withholding on Form 4670, which must be accompanied by signed Forms 4669 on which the employees involved have asserted that the taxes due on wages reflected on the 4669s have been paid in full.

If underwithholding is discovered before you file Form 941 for the quarterly period involved, you must nevertheless reflect the correct amount of tax due on the return.

If you do not discover the error that resulted in the undercollection until after Form 941 has been filed for the period, you can escape any penalty or interest by reporting and paying any additional amount of tax due:

- (1) with the return for the return period in which the error was discovered, or
- (2) with the return for the next return period.

Any underwithholding error must be reported in the same calendar year in which the wages were paid.

The additional amount of tax due should be reported as an adjustment on Form 941, which must be accompanied by a statement explaining the adjustment. If the undercollection is reported and paid at a date later than provided in (1) or (2) above, it will not be considered an adjustment and, therefore, will be subject to interest.

If you discover that you have underwithheld the income tax due from an employee, you must deduct any amount undercollected from any remuneration (including non-wage remuneration) payable to the employee that comes under your control during the remainder of the calendar year in which the undercollection occurred. If the undercollection cannot be remedied by such a deduction --for example, because no further remuneration is payable to the employee during the year --the matter of collecting the remaining amount that should have been withheld should be settled between you and your employee.

Section IV – Legislative Developments

- COBRA Subsidy Program Update for Employers
- Federal Regulations Eliminate Paper Tax Deposits
- Hiring Incentives to Restore Employment (HIRE) Act
 - Social Security Tax ‘Holiday’
 - Business Tax Credit
- W-2 Reporting of Cost of Employer-Provided Health Coverage
- Medical Benefits for Adult Children Expanded, Excluded From Income
- Change in Definition of ‘Medical Expenses’
- New Indiana Businesses Must Use INtax
- Indiana WH-3 & W-2 Efile Mandate
- Unemployment Tax Changes
 - Federal – Indiana, Michigan & South Carolina are Credit Reduction States for 2010 Form 940
 - State – Indiana Wage Base Increase for 2011

Legislative Developments

COBRA Subsidy Program Update for Employers

On Feb. 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009. This law allows an individual who is involuntarily separated from employment between September 1, 2008, and January 1, 2010, to elect to pay 35 percent of his/her COBRA coverage and have it treated as paying the full amount. Multiple Acts signed in 2010 extended the deadline for involuntary terminations to May 31, 2010.

The former employer will be required to pay the remaining 65 percent but, in effect, will be reimbursed by taking the subsidy amount as a credit on its quarterly employment tax return, Form 941. The employer may only take the credit after it has received the 35 percent premium payment from the individual.

Changes to Form 941. The following changes have been made to the 2009 & 2010 Form 941 for the COBRA subsidy program:

- Line 12a asks for the COBRA premium assistance payments. Report on this line 65% of the COBRA premiums for assistance eligible individuals.
- Line 12b asks for the number of individuals provided COBRA premium assistance reported on Line 12a.

Count each assistance-eligible individual who paid a reduced COBRA premium in the quarter as one individual, whether or not the reduced premium was for insurance that covered more than one assistance-eligible individual (e.g., family coverage). 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 12b.

An Alternative Option. As an alternative option to claiming the full amount of COBRA assistance payments for the quarter on Form 941, the employer can decide to offset its payroll tax deposits throughout the quarter. The amount of the COBRA subsidy the employer provides during the quarter will be treated as having been deposited on the first day of the quarter and applied against the employer's deposit requirements. Therefore, timely deposits up to the amount of the subsidy will be deemed to have been made during the quarter, regardless of the applicable due dates for deposits.

According to the IRS, no additional information relating to the COBRA subsidy is to be submitted with the Form 941. However, those claiming the credit must maintain supporting documentation for the credit claimed. Such documentation includes:

Legislative Developments (cont.)

COBRA Subsidy Program Update for Employers (cont.)

- Information on the receipt, including dates and amounts, of the assistance eligible individuals' 35% share of the premium.
- In the case of an insured plan, copy of invoice or other supporting statement from the insurance carrier and proof of timely payment of the full premium to the insurance carrier required under COBRA.
- In the case of a self-insured plan, proof of the premium amount and proof of the coverage provided to the assistance eligible individuals.
- Attestation of involuntary termination, including the date of the involuntary termination (which must be during the period from September 1, 2008, to May 31, 2010), for each covered employee whose involuntary termination is the basis for eligibility for the subsidy.
- Proof of each assistance eligible individual's eligibility for COBRA coverage at any time during the period from September 1, 2008, to May 31, 2010, and election of COBRA coverage.
- A record of the SSN's of all covered employees, the amount of the subsidy reimbursed with respect to each covered employee, and whether the subsidy was for one individual or two or more individuals.

Federal Regulations Eliminate Paper Tax Deposits

On December 7, 2010, the IRS issued temporary and final regulations requiring all Federal tax deposits to be made using the Electronic Federal Tax Deposit System (EFTPS) beginning January 1, 2011. The regulations note that the Treasury Department will no longer maintain the paper deposit coupon system after 2010.

The regulations do not change the deposit requirements or thresholds. Taxpayers who owe minimal amounts and are not subject to the tax rules will continue to be permitted to make payment with the filed tax return. For example, Form 941 filers with a deposit liability of less than \$2,500 for a return may continue to submit payment with the return.

Depositing electronically offers many advantages over the paper coupon system. It allows deposits to be made at any time, from a computer or telephone, and to schedule deposits in advance. The system also greatly reduces the possibility of errors and eliminates the need to order and retain coupons.

For more information, visit www.eftps.gov or www.irs.gov.

Legislative Developments (cont.)

Hiring Incentives to Restore Employment Act

On March 18, 2010, President Obama signed the Hiring Incentives to Restore Employment (HIRE) Act. The HIRE Act creates:

- a limited social security tax “holiday” for the employer share of social security tax on wages paid to a previously unemployed new hire, and
- a separate business tax credit of up to \$1,000 if the employee is employed for at least 52 weeks.

Social Security Tax ‘Holiday’

The Act provides relief from the employer share of social security tax, which is 6.2% of covered wages up to \$106,800, on wages paid by a “qualified employer” to a “qualified individual” from March 19 (the day after the Act was enacted) through December 31, 2010. The relief from the employer share of social security tax applies to services performed in a trade or business of a qualified employer or for a nonprofit entity. The social security tax relief does not apply to services performed by household employees because such employees are not working in the employer’s trade or business.

Qualified employer defined. A qualified employer is broadly defined as any employer other than the United States, a state or local government, or any government instrumentality. However, public colleges and universities can be qualified employers.

Qualified individual defined. A qualified individual (employee) is any employee who:

- begins employment with a qualified employer after February 3, 2010, and before January 1, 2011,
- certifies in a signed affidavit (e.g., new IRS Form W-11), under penalties of perjury, that the employee has not been employed for more than 40 hours during the 60-day period ending on the day the individual begins work for the qualified employer,
- is not employed by the qualified employer to replace another employee unless the other employee left employment voluntarily or was terminated for cause, and
- is not related to the qualified employer or to anyone owning 50% or more of the stock or other capital of the employer.

Form W-11. The IRS developed Form W-11, Hiring Incentives to Restore Employment (HIRE) Act Employee Affidavit, for employers to use in having qualified employees certify that they have not been employed for more than 40 hours during the 60-day period ending on the date the employee begins work for the employer claiming the social security tax relief. The form does not have to be notarized. Employers do not send the forms to the IRS or provide them to their reporting agent, if they use one for tax filing.

Legislative Developments (cont.)

Social Security Tax 'Holiday' (cont.)

Below are some examples of qualified employees cited by the IRS:

- Rehired employees – An employee who was previously laid off and then rehired by the same or a related employer after a 60-day period can be a qualified employee.
- New employees replacing those laid off – If an employer lays off employees because of lack of work and later hires new employees when work picks up again, the new employees can be qualified individuals if they meet the other qualifications.
- Recent graduates and current students – New employees who have been in school for some or all of the 60 days before beginning employment can be qualified employees. It is not necessary that such employees have been previously employed and lost their jobs.
- Employees filling new positions – The employer can claim the social security tax relief even if the employer never laid off any employees, as long as it is filling new positions with qualified employees.
- Employees of a new business – An employer starting a new business can use the social security tax relief for qualified employees it hires.
- No minimum age – There is no minimum age requirement to be a qualified employee; high school summer employees and interns can qualify.
- No minimum work time requirements – Employees do not have to be employed for a certain length of time or for a certain number of hours per week to be qualified.
- New employees who had been self-employed – Only work performed as an employee counts in determining whether an individual has been employed for 40 hours or less during the 60-day period. Therefore, individuals who were independent contractors and working for themselves can be qualified employees.
- New employees who were getting severance pay – Individuals who received severance pay while they were unemployed during the 60-day period before beginning employment can be qualified employees, although the IRS indicated it would look closer at a situation where the individual was rehired after being terminated and receiving severance pay from the same employer.

Depositing & Reporting Requirements - Special rule for 1st quarter wages. In order to make implementation of the social security tax relief somewhat more feasible, the Act states that instead of immediately stopping payment of the employer share of social security tax on the day after the Act is signed into law (March 19), employers will treat the employer share of social security tax on qualified individuals' wages paid from March 19-31 as a payment against the employer's payroll taxes due for the second quarter of 2010. The payment will be treated as made on the first day of the second quarter – April 1.

Legislative Developments (cont.)

Social Security Tax 'Holiday' (cont.)

Therefore, the employer must:

- deposit the full employer share of social security tax for wages paid in the first quarter,
- report it on the first quarter Form 941, Employer's Quarterly Federal Tax Return, and
- then treat the amount that would have qualified for the social security tax reduction under the HIRE Act as a payment in the second quarter, which allows the employer to reduce its payroll tax payments for that quarter.

This payment is reflected in the second quarter on the revised Form 941.

Tax deposits in the 2nd-4th quarters. The employer may reduce its payroll tax deposits for the second quarter by the amount of the employer share of social security tax that would have qualified for HIRE Act relief for wages paid from March 19-31. For wages paid from April 1 – December 31, 2010 that qualify for HIRE Act social security tax relief, the employer's payroll tax liability is reduced, so it will not deposit the employer share of social security tax on wages paid to qualified individuals up to the social security wage base. The employer will continue to deposit the employer share of social security tax on wages paid to employees who are not qualified individuals, as well as its other payroll taxes – the employer share of Medicare tax on all covered wages, the employee share of social security and Medicare taxes withheld from all covered wages, and federal income tax withheld from wages.

Form 941 reporting changes. The IRS has revised Form 941, Employer's Quarterly Federal Tax Return, beginning with the second quarter of 2010. A copy of the revised form includes the following new lines:

- **Line 6a** – Number of qualified employees first paid exempt wages/tips this quarter. Report here the number of qualified employees you have hired who were paid wages or tips that are exempt from the employer share of social security tax under the HIRE Act for the first time in the quarter being reported. Do not include on Line 6a qualified employees who are included on Line 12c.
- **Line 6b** – Number of qualified employees paid exempt wages/tips this quarter. Report here the total number of qualified employees who were paid wages or tips that are exempt from the employer share of social security tax under the HIRE Act in the quarter being reported, whether or not they were paid exempt wages or tips in a prior quarter. Qualified employees included on Line 6a will also be included on Line 6b. Qualified employees included on Line 12c will also be included on Line 6b if they were paid exempt wages or tips in the quarter being reported.
- **Line 6c** – Exempt wages/tips paid to qualified employees this quarter. Report here the total wages and tips paid to qualified employees reported on Line 6b during the quarter being reported that are exempt from the employer share of social security tax under the HIRE Act.

Legislative Developments (cont.)

Social Security Tax 'Holiday' (cont.)

- **Line 12c** – Number of qualified employees paid wages/tips March 19 – March 31. Report here the number of qualified employees who were paid wages or tips from March 19-31 that are exempt from the employer share of social security tax under the HIRE Act. Include only those employees for whom you are claiming the social security tax exemption.
- **Line 12d** – Exempt wages/tips paid to qualified employees March 19 – March 31. Report here the total wages and tips paid to qualified employees from March 19-31 that are exempt from the employer share of social security tax under the HIRE Act.
- **Line 12e** – Social security tax exemption for March 19-31. Line 12d amount X .062
Example: If an employer hires 30 qualified employees in March, 30 in April, 30 in May, and 30 in June and applies the payroll tax exemption with respect to wages paid to all of the qualified employees in the second quarter, Line 6b would show 120 employees on the second quarter return.

Complete New Lines 12c-12e Only on 2nd Quarter 941. The new Lines 12c-12e on Form 941 were added so employers could take a credit for the employer social security tax it paid in the first quarter that would have qualified for social security tax relief under the HIRE Act from March 19-31. The employer can take the credit only as a payment during the second quarter, so Lines 12c-12e should not be used for the remainder of the year.

Employers must apply the social security tax exemption on the Form 941 for the quarter in which they paid the related wages. Therefore, if an employer is unable to determine whether the exemption applies to wages paid in a quarter before filing Form 941 for that quarter, it must file Form 941-X to correct the Form 941 in order to claim the exemption.

Employers must use revised Form 941. Even if employers are not taking advantage of the HIRE Act's social security tax relief, they must use the revised Form 941 beginning with the second quarter of 2010. They cannot use the previous 2010 form because the IRS has reset its systems to process only the revised form.

Seasonal employers that want to claim the exemption for first quarter wages must file a second quarter Form 941 to do so even if they don't pay wages in the second quarter.

W-2 reporting is required. Employers are required to report wages and tips that are exempt from the employer share of social security on an employee's Form W-2 in Box 12 with new Code CC. Form W-3 has been revised to add new Box 12b to report the total of the amounts reported on Forms W-2, Box 12, Code CC. This includes exempt wages and tips for the first quarter for which the social security tax relief was not taken until the second quarter. Form W-3c has also been revised to add new Box 12b to report the total of all amounts reported on Forms W-2c in Box 12 with Code CC.

Legislative Developments (cont.)

Social Security Tax 'Holiday' (cont.)

No Double-Dipping With WOTC. An employer may not receive the Work Opportunity Tax Credit (WOTC) on any wages paid to a qualified employee during the one-year period beginning when the employee was hired, unless the employer elects not to have the social security tax relief apply for such employee.

Business Tax Credit

A different provision of the HIRE Act gives an employer a maximum \$1,000 credit against its business income taxes for each qualified individual:

- who meets the qualified individual definition per the social security tax holiday rule
- who is employed by the employer for at least 52 consecutive weeks, and
- whose wages during the second 26 weeks of this period are at least 80% of the wages during the first 26 weeks of the period.

Employees are considered continuously employed while they are on vacation or out sick, as well as if they are on FMLA leave.

The amount of the credit is the lesser of \$1,000 or 6.2% of the wages paid to the qualified individual during the year. Therefore, if the employer pays the employee:

- \$16,129 or more in wages during the 52-week period, the business tax credit is \$1,000;
- less than \$16,129, the business tax credit is 6.2% of the wages paid.

The business tax credit and the social security tax relief are separate, and employers can claim both of them for the same employees. They can also claim the business tax credit for an employee who starts late in 2010 and isn't paid until 2011, which means they have no wages for which the employer can claim the social security tax relief.

WOTC and Business Tax Credit are OK Together. An employer may claim the WOTC on the wages paid during the one-year period after hire to an employee for whom it is claiming the business tax credit under the HIRE Act, as long as it is not also claiming the social security tax "holiday" under the HIRE Act on any wages paid to that employee.

Legislative Developments (cont.)

W-2 Reporting of Cost of Employer-Provided Health Coverage

Employers will have to report the total cost of employer-provided health coverage on employees' Forms W-2, effective for tax years beginning after 2011 (i.e., Forms W-2 for 2012 filed in 2013). Reporting on the 2011 W-2 filed in 2012 will be optional. For example, if an employee enrolls in employer-sponsored health insurance coverage under a major medical plan, a dental plan, and a vision plan, the employer must report the total value of the combination of all of these health-related insurance policies. This total will include both the employer-paid and employee-paid shares of the cost.

The cost of coverage will be determined by calculating the applicable premiums under the rules for COBRA continuation coverage. But if the plan provides for the same COBRA premium for individual and family coverage, the plan will have to calculate separate premiums for this purpose. Note: This requirement does not apply to the amount of salary reduction contributions to a health Flexible Spending Arrangement (FSA) under a cafeteria plan or to amounts contributed to an Archer Medical Savings Account (MSA) or Health Savings Account (HSA).

Medical Benefits for Adult Children Expanded, Excluded From Income

Effective for plan years beginning on or after September 23, 2010, the Patient Protection and Affordable Care Act (PPACA) requires health plans that offer medical coverage of dependent children to continue to make such coverage available until the child turns 26 years old.

Effective March 30, 2010, the Health Care and Education Reconciliation Act of 2010 (HCERA) extends the general exclusion from income for medical expense reimbursements under an employer-provided accident or health plan to any child of an employee who has not attained age 27 as of the end of the taxable year. This change also applies to the exclusion for employer-provided health coverage for injuries or sickness for such a child.

Factors that cannot be used for defining "dependent" for purposes of eligibility (or continued eligibility) include financial dependency on the participant, student status, employment, eligibility for other coverage, or any combination of these. The interim final regulations also provide that the terms of the plan or policy for dependent coverage cannot vary based on the age of a child, except for children age 26 or older.

The interim final regulations provide that plans and issuers may not limit dependent care coverage based on whether a child is married. However, a plan or issuer is not required to cover the spouse of an eligible child. Nor is a plan or issuer required to make coverage available for a child of a child receiving dependent coverage.

Legislative Developments (cont.)

Change in Definition of ‘Medical Expenses’

Beginning in 2011, the definition of “medical expense” with respect to medicines, for purposes of health FSAs, Health Reimbursement Arrangements (HRAs), Health Savings Accounts (HSAs), and Archer MSAs, is conformed to the definition used in determining the itemized deduction for medical expenses, except that “prescribed drug” is determined without regard to whether the drug is available without a prescription. This means that only the cost of medicine prescribed by a doctor and insulin can be reimbursed through a health FSA or HRA or on a tax-free basis through an HSA or Archer MSA.

This changes the current rule allowing such reimbursements for nonprescription drugs if the plan provides for it. This change only affects over-the-counter medicines, not other medical products, such as bandages, braces, etc., which can still be reimbursed on a tax-free basis.

Watch Out During Grace Period. Many FSAs provide a “grace period” that allows employees to claim reimbursement for medical expenses incurred up to 2½ months after the end of the plan year (e.g., up to March 15 of the following year for plans with a plan year that is a calendar year). For FSAs with a plan year of January 1-December 31, 2010 and a 2½-month grace period ending March 15, 2011, employers should be careful not to reimburse employees for medicine purchased from January 1-March 15, 2011, that does not fit the new definition of “medical expense.”

New Indiana Businesses Must Use INtax

Effective January 1, 2010, new businesses that register with the Indiana Department of Revenue to collect sales and withholding taxes will be required to electronically file and pay these taxes using the Department’s online tax filing program, INtax. To find out more about INtax, visit www.intax.in.gov/.

Indiana WH-3 & W-2 Efile Mandate

Effective July 1, 2010, any employer that files more than 25 withholding statements in a calendar year is required to file the annual WH-3 and its employees’ W-2s electronically. This new law (IC 6-3-4-16.5) applies to withholding statements filed after Dec. 31, 2010.

There are several ways you can electronically file your WH-3 and W-2s:

Legislative Developments (cont.)

INtax - You can use INtax to manage your Indiana sales and withholding taxes online. It gives you 24/7 access to your business tax records and lets you file and pay online right up to the last minute. To register, please visit <http://www.intax.in.gov/>.

Bulk File Upload - The bulk file upload is a system for uploading electronic files containing tax return data to the Department of Revenue's systems. Bulk file upload submitters must be preregistered and certified to use the system. This is the Department's preferred method of electronic filing if a company has 500 or more employees.

For more information, please visit www.in.gov/dor/4002.htm. You may also contact the Department at (317) 233-5656 or IDORB2BSupport@dor.IN.gov.

Unemployment Tax Changes

Federal Changes – Credit Reduction States

A state that has not repaid money it borrowed from the federal government to pay unemployment benefits is a "credit reduction state." The Department of Labor determines these states. If an employer pays wages that are subject to the unemployment tax laws of a credit reduction state, that employer must pay additional federal unemployment tax when filing its Form 940.

For 2010, Indiana, Michigan, and South Carolina are credit reduction states. If an employer paid any wages that are subject to the unemployment compensation laws of the state of Indiana or South Carolina, they are not allowed .003 of the regular .054 credit; if an employer paid any wages that are subject to the unemployment compensation laws of the state of Michigan, they are not allowed .006 of the regular .054 credit. Use Schedule A (Form 940), Part 2, to figure the Federal Unemployment tax for these states.

What this means: When an Indiana and South Carolina employer file their 2010 Form 940 (due January 31, 2011), the effective federal unemployment tax rate will be 1.1% on the first \$7,000 in wages, per employee. Employers that make tax deposits throughout the year will need to catch up their unemployment tax deposits from the 0.8% rate to the 1.1% rate by January 31, 2011. Employers in the state of Michigan will have an effective tax rate of 1.4% on their 2010 Form 940. Michigan was also a credit reduction state in 2009, paying 1.1% on the 2009 Form 940.

State Changes – Indiana Unemployment Wage Base Increases in 2011

Effective January 1, 2011, the Indiana unemployment wage base will increase to \$9,500 per employee, per year. In years 2010 and prior, the wage base was \$7,000.

Section V - Forms Review and Revisions

- Form W-2 and W-3.
 - Retirement Plan Checkbox on Form W-2

- Form W-2c and W-3c
 - How to File Correction Forms

- Form 941

- Form 941X


- Form 944

- Form 945

- Form 940

- Form 1099-MISC

- Filing Corrected Information Returns

		a Employee's social security number		OMB No. 1545-0008		Safe, accurate, FAST! Use				Visit the IRS website at www.irs.gov/efile		
b Employer identification number (EIN)				1 Wages, tips, other compensation		2 Federal income tax withheld						
c Employer's name, address, and ZIP code				3 Social security wages		4 Social security tax withheld						
				5 Medicare wages and tips		6 Medicare tax withheld						
				7 Social security tips		8 Allocated tips						
d Control number				9 Advance EIC payment		10 Dependent care benefits						
e Employee's first name and initial		Last name		Suff.		11 Nonqualified plans		12a See instructions for box 12				
						13 Statutory employee <input type="checkbox"/> Retirement plan <input type="checkbox"/> Third-party sick pay <input type="checkbox"/>		12b				
						14 Other		12c				
f Employee's address and ZIP code								12d				
15 State		Employer's state ID number		16 State wages, tips, etc.		17 State income tax		18 Local wages, tips, etc.		19 Local income tax		20 Locality name
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Form **W-2** Wage and Tax Statement

2010

Department of the Treasury—Internal Revenue Service

Copy B—To Be Filed With Employee's FEDERAL Tax Return.
This information is being furnished to the Internal Revenue Service.

Form W-2 Reference Guide for Box 12 Codes (See the box 12 instructions.)

A Uncollected social security or RRTA tax on tips

B Uncollected Medicare tax on tips

C Taxable cost of group-term life insurance over \$50,000

D Elective deferrals under a section 401(k) cash or deferred arrangement plan (including a SIMPLE 401(k) arrangement)

E Elective deferrals under a section 403(b) salary reduction agreement

F Elective deferrals under a section 408(k)(6) salary reduction SEP

G Elective deferrals and employer contributions (including nonelective deferrals) to a section 457(b) deferred compensation plan

H Elective deferrals under a section 501(c)(18)(D) tax-exempt organization plan

J Nontaxable sick pay

K 20% excise tax on excess golden parachute payments

L Substantiated employee business expense reimbursements

M Uncollected social security or RRTA tax on taxable cost of group-term life insurance over \$50,000 (for former employees)

N Uncollected Medicare tax on taxable cost of group-term life insurance over \$50,000 (for former employees)

P Excludable moving expense reimbursements paid directly to employee

Q Nontaxable combat pay

R Employer contributions to an Archer MSA

S Employee salary reduction contributions under a section 408(p) SIMPLE

T Adoption benefits

V Income from exercise of nonstatutory stock option(s)

W Employer contributions (including employee contributions through a cafeteria plan) to an employee's health savings account (HSA)

Y Deferrals under a section 409A nonqualified deferred compensation plan

Z Income under section 409A on a nonqualified deferred compensation plan

AA Designated Roth contributions under a section 401(k) plan

BB Designated Roth contributions under a section 403(b) plan

CC HIRE exempt wages and tips

Retirement Plan Checkbox on Form W-2

Mark the Retirement Plan checkbox in Box 13 of Form W-2 if the employee was an active participant (for any part of the year) in any of the following:

1. A qualified pension, profit-sharing, or stock bonus plan described in section 401(a) (including a 401(k) plan).
2. An annuity plan described in section 403(a).
3. An annuity contract or custodial account described in section 403(b).
4. A simplified employee pension (SEP) plan described in section 408(k).
5. A SIMPLE retirement account described in section 408(p).
6. A trust described in section 501(c)(18).
7. A plan for federal, state, or local government employees or by an agency instrumentality thereof (other than a section 457 plan).

Do not mark this checkbox for contributions made to a nonqualified deferred compensation/pension or section 457 plan.

In determining when an individual is an active participant in a qualified retirement plan for a taxable year, different rules are applied, depending upon whether the retirement plan is a defined benefit or a defined contribution plan.

Retirement Plan Checkbox Decision Chart

Type of Plan	Conditions	Check Retirement Box?
Defined benefit plan (i.e., traditional pension plan)	Employee qualifies for employer funding into the plan, due to age/years of service – even though the employee may not be vested or ever collect benefits	Check the box
Defined contribution plan (i.e., 401(k), 403(b), etc. – but not 457 plans)	Employee is eligible to contribute but does not elect to contribute any money in this tax year	Do not check the box
Defined contribution plan (i.e., 401(k), 403(b), etc. – but not 457 plans) & Roth 401(k) or 403(b) accounts	Employee is eligible to contribute and elects to contribute money in this tax year*	Check the box

Retirement Plan Checkbox on Form W-2 (cont.)

Type of Plan	Conditions	Check Retirement Box?
Defined contribution plan (i.e., 401(k), 403(b), etc. – but not 457 plans) & Roth 401(k) or 403(b) accounts	Employee is eligible to contribute but does not elect to contribute any money in this tax year, but the employer does contribute funds	Check the box
Defined contribution plan (i.e., 401(k), 403(b), etc. – but not 457 plans) & Roth 401(k) or 403(b) accounts	Employee contributed in past years but not during the current tax year under report	Do not check the box (even if the account value grows due to gains in the investments)
Profit sharing plan	Plan includes a grace period after the close of the plan year when profit sharing can be added to the participant's account	Check the box

*Employer match to a Roth is not included in Box 1 of Form W-2 but it is taxed, along with its share of earnings, upon distribution from the plan.

DO NOT STAPLE

33333		a Control number		For Official Use Only ▶ OMB No. 1545-0008		
b Kind of Payer ▶	941 <input type="checkbox"/>	Military <input type="checkbox"/>	943 <input type="checkbox"/>	944 <input type="checkbox"/>	1 Wages, tips, other compensation	2 Federal income tax withheld
	CT-1 <input type="checkbox"/>	Hshld. emp. <input type="checkbox"/>	Medicare govt. emp. <input type="checkbox"/>	Third-party sick pay <input type="checkbox"/>	3 Social security wages	4 Social security tax withheld
c Total number of Forms W-2		d Establishment number		5 Medicare wages and tips	6 Medicare tax withheld	
e Employer identification number (EIN)				7 Social security tips	8 Allocated tips	
f Employer's name				9 Advance EIC payments	10 Dependent care benefits	
g Employer's address and ZIP code				11 Nonqualified plans	12a Deferred compensation	
				13 For third-party sick pay use only	12b HIRE exempt wages and tips	
h Other EIN used this year				14 Income tax withheld by payer of third-party sick pay		
15 State	Employer's state ID number			16 State wages, tips, etc.	17 State income tax	
Contact person				Telephone number ()	For Official Use Only	
				Email address		

Under penalties of perjury, I declare that I have examined this return and accompanying documents, and, to the best of my knowledge and belief, they are true, correct, and complete.

Signature ▶

Title ▶

Date ▶

Form **W-3** Transmittal of Wage and Tax Statements **2010**

Department of the Treasury
Internal Revenue Service

Send this entire page with the entire Copy A page of Form(s) W-2 to the Social Security Administration.

Do not send any payment (cash, checks, money orders, etc.) with Forms W-2 and W-3.

Reminder

Separate instructions. See the 2010 Instructions for Forms W-2 and W-3 for information on completing this form.

Purpose of Form

A Form W-3 Transmittal is completed only when paper Copy A of Form(s) W-2, Wage and Tax Statement, are being filed. Do not file Form W-3 alone. Do not file Form W-3 for Form(s) W-2 that were submitted electronically to the Social Security Administration (see below). All paper forms **must** comply with IRS standards and be machine readable. Photocopies are **not** acceptable. Use a Form W-3 even if only one paper Form W-2 is being filed. Make sure both the Form W-3 and Form(s) W-2 show the correct tax year and Employer Identification Number (EIN). Make a copy of this form and keep it with Copy D (For Employer) of Form(s) W-2 for your records.

Electronic Filing

The Social Security Administration (SSA) strongly suggests employers report Form W-3 and W-2 Copy A electronically instead of on paper. SSA provides two free options on its Business Services Online (BSO) website:

- **W-2 Online.** Use fill-in forms to create, save, print, and submit up to 20 Forms W-2 to SSA.

- **File Upload.** Upload wage files to SSA that you have created using payroll or tax software that formats the files according to SSA's *Specifications for Filing Form W-2 Electronically (EFW2)*.

For more information, go to www.socialsecurity.gov/employer and select "First Time Filers" or "Returning Filers" under "BEFORE YOU FILE."

When To File

Mail any paper Forms W-2 under cover of this Form W-3 Transmittal by February 28, 2011. Electronic fill-in forms or uploads are filed through SSA's Business Services Online (BSO) Internet site and will be on time if submitted by March 31, 2011.

Where To File Paper Forms

Send this entire page with the entire Copy A page of Form(s) W-2 to:

**Social Security Administration
Data Operations Center
Wilkes-Barre, PA 18769-0001**

Note. If you use "Certified Mail" to file, change the ZIP code to "18769-0002." If you use an IRS-approved private delivery service, add "ATTN: W-2 Process, 1150 E. Mountain Dr." to the address and change the ZIP code to "18702-7997." See Publication 15 (Circular E), Employer's Tax Guide, for a list of IRS-approved private delivery services.

DO NOT CUT, FOLD, OR STAPLE THIS FORM

44444	For Official Use Only ▶ OMB No. 1545-0008		
a Employer's name, address, and ZIP code	c Tax year/Form corrected	d Employee's correct SSN	
	/W2		
	e Corrected SSN and/or name (Check this box and complete boxes f and/or g if incorrect on form previously filed.) <input type="checkbox"/>		
	Complete boxes f and/or g only if incorrect on form previously filed ▶		
	f Employee's previously reported SSN		
b Employer's Federal EIN	g Employee's previously reported name		
	h Employee's first name and initial		Last name
			Suff.
Note: Only complete money fields that are being corrected (exception: for corrections involving MQGE, see the Instructions for Forms W-2c and W-3c, boxes 5 and 6).			
	i Employee's address and ZIP code		
	Previously reported	Correct information	Previously reported
	Correct information	Previously reported	Correct information
1 Wages, tips, other compensation	1 Wages, tips, other compensation	2 Federal income tax withheld	2 Federal income tax withheld
3 Social security wages	3 Social security wages	4 Social security tax withheld	4 Social security tax withheld
5 Medicare wages and tips	5 Medicare wages and tips	6 Medicare tax withheld	6 Medicare tax withheld
7 Social security tips	7 Social security tips	8 Allocated tips	8 Allocated tips
9 Advance EIC payment	9 Advance EIC payment	10 Dependent care benefits	10 Dependent care benefits
11 Nonqualified plans	11 Nonqualified plans	12a See instructions for box 12	12a See instructions for box 12
13 Statutory Employee <input type="checkbox"/> Retirement plan <input type="checkbox"/> Third-party sick pay <input type="checkbox"/>	13 Statutory Employee <input type="checkbox"/> Retirement plan <input type="checkbox"/> Third-party sick pay <input type="checkbox"/>	12b	12b
14 Other (see instructions)	14 Other (see instructions)	12c	12c
		12d	12d
State Correction Information			
	Previously reported	Correct information	Previously reported
	Correct information	Previously reported	Correct information
15 State	15 State	15 State	15 State
Employer's state ID number	Employer's state ID number	Employer's state ID number	Employer's state ID number
16 State wage, tips, etc.	16 State wage, tips, etc.	16 State wage, tips, etc.	16 State wage, tips, etc.
17 State income tax	17 State income tax	17 State income tax	17 State income tax
Locality Correction Information			
	Previously reported	Correct information	Previously reported
	Correct information	Previously reported	Correct information
18 Local wages, tips, etc.	18 Local wages, tips, etc.	18 Local wages, tips, etc.	18 Local wages, tips, etc.
19 Local income tax	19 Local income tax	19 Local income tax	19 Local income tax
20 Locality name	20 Locality name	20 Locality name	20 Locality name

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

Copy A -- For Social Security Administration

DO NOT CUT, FOLD, OR STAPLE

55555		a Tax year/Form corrected ----- / W- -----		For Official Use Only ▶ OMB No. 1545-0008										
b Employer's name, address, and ZIP code			<table style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="2" style="width:15%;">c Kind of Payer</td> <td style="width:15%; text-align: center;">941/941-SS <input type="checkbox"/></td> <td style="width:15%; text-align: center;">Military <input type="checkbox"/></td> <td style="width:15%; text-align: center;">943 <input type="checkbox"/></td> <td style="width:15%; text-align: center;">944/944-SS <input type="checkbox"/></td> </tr> <tr> <td style="text-align: center;">CT-1 <input type="checkbox"/></td> <td style="text-align: center;">Hshld. emp. <input type="checkbox"/></td> <td style="text-align: center;">Medicare govt. emp. <input type="checkbox"/></td> <td style="text-align: center;">Third-party sick pay <input type="checkbox"/></td> </tr> </table>			c Kind of Payer	941/941-SS <input type="checkbox"/>	Military <input type="checkbox"/>	943 <input type="checkbox"/>	944/944-SS <input type="checkbox"/>	CT-1 <input type="checkbox"/>	Hshld. emp. <input type="checkbox"/>	Medicare govt. emp. <input type="checkbox"/>	Third-party sick pay <input type="checkbox"/>
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	CT-1 <input type="checkbox"/>	Hshld. emp. <input type="checkbox"/>	Medicare govt. emp. <input type="checkbox"/>	Third-party sick pay <input type="checkbox"/>										
d Number of Forms W-2c	e Employer's Federal EIN	f Establishment number	g Employer's state ID number											
Complete boxes h, i, or j only if incorrect on last form filed.	h Employer's incorrect Federal EIN	i Incorrect establishment number	j Employer's incorrect state ID number											
Total of amounts previously reported as shown on enclosed Forms W-2c.	Total of corrected amounts as shown on enclosed Forms W-2c.	Total of amounts previously reported as shown on enclosed Forms W-2c.	Total of corrected amounts as shown on enclosed Forms W-2c.											
1 Wages, tips, other compensation	1 Wages, tips, other compensation	2 Federal income tax withheld	2 Federal income tax withheld											
3 Social security wages	3 Social security wages	4 Social security tax withheld	4 Social security tax withheld											
5 Medicare wages and tips	5 Medicare wages and tips	6 Medicare tax withheld	6 Medicare tax withheld											
7 Social security tips	7 Social security tips	8 Allocated tips	8 Allocated tips											
9 Advance EIC payments	9 Advance EIC payments	10 Dependent care benefits	10 Dependent care benefits											
11 Nonqualified plans	11 Nonqualified plans	12a Deferred compensation	12a Deferred compensation											
14 Inc. tax W/H by 3rd party sick pay payer	14 Inc. tax W/H by 3rd party sick pay payer	12b HIRE exempt wages and tips	12b HIRE exempt wages and tips											
16 State wages, tips, etc.	16 State wages, tips, etc.	17 State income tax	17 State income tax											
18 Local wages, tips, etc.	18 Local wages, tips, etc.	19 Local income tax	19 Local income tax											
Explain decreases here:														
Has an adjustment been made on an employment tax return filed with the Internal Revenue Service? <input type="checkbox"/> Yes <input type="checkbox"/> No														
If "Yes," give date the return was filed ▶														
Under penalties of perjury, I declare that I have examined this return, including accompanying documents, and, to the best of my knowledge and belief, it is true, correct, and complete.														
Signature ▶		Title ▶		Date ▶										
Contact person		Telephone number		For Official Use Only										
Email address		Fax number												

Form **W-3c** (Rev. 4-2010)

Transmittal of Corrected Wage and Tax Statements

Department of the Treasury
Internal Revenue Service

Purpose of Form

Use this form to transmit Copy A of **Form(s) W-2c**, Corrected Wage and Tax Statement (Rev. 2-2009). Make a copy of Form W-3c and keep it with Copy D (For Employer) of Forms W-2c for your records. File Form W-3c even if only one Form W-2c is being filed or if those Forms W-2c are being filed only to correct an employee's name and social security number (SSN), or the employer identification number (EIN). See the separate Instructions for Forms W-2c and W-3c for information on completing this form.

When To File

File this form and Copy A of Form(s) W-2c with the Social Security Administration as soon as possible after you discover an error on Forms W-2, W-2AS, W-2GU, W-2CM, W-2VI, or W-2c. Provide Copies B, C, and 2 of Form W-2c to your employees as soon as possible.

Where To File

If you use the U.S. Postal Service, send Forms W-2c and W-3c to the following address:

**Social Security Administration
Data Operations Center
P.O. Box 3333
Wilkes-Barre, PA 18767-3333**

If you use a carrier other than the U.S. Postal Service, send Forms W-2c and W-3c to the following address:

**Social Security Administration
Data Operations Center
Attn: W-2c Process
1150 E. Mountain Drive
Wilkes-Barre, PA 18702-7997**

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 10164R

How to File Correction Forms

To correct a previous Form W-2 submission, file a Form W-2c with a separate form for each year needing correction. File a Form W-3c whenever you file a Form W-2c with SSA, even if you are only filing Form W-2c to correct an employee's name or Social Security number (SSN).

Forms W-2c/W-3c can be obtained free of charge by calling the IRS at 1-800-TAX--FORM (1-800-829-3676). The following online forms are available for informational use only.

Here are a few hints to remember when preparing correction forms:

- File Forms W-2c and W-3c as soon as possible after you discover an error. Also provide Form W-2c to employees as soon as possible.
- If any item shows a dollar change and one of the amounts is zero, enter "-0-" Do not leave the box blank.
- Make sure your Employer's Identification Number (EIN) reported on Forms W-2c and W-3c is the same number issued by the IRS and used on all three types of forms. If your EIN was incorrectly reported, please file a W-3c to correct it.

(EIN) -

Employer identification number

Name (not your trade name)

Trade name (if any)

Address

Number Street Suite or room number

City State ZIP code

Report for this Quarter of 2010
 (Check one.)

1: January, February, March

2: April, May, June

3: July, August, September

4: October, November, December

Read the separate instructions before you complete Form 941. Type or print within the boxes.

Part 1: Answer these questions for this quarter.

1	Number of employees who received wages, tips, or other compensation for the pay period including: <i>Mar. 12</i> (Quarter 1), <i>June 12</i> (Quarter 2), <i>Sept. 12</i> (Quarter 3), or <i>Dec. 12</i> (Quarter 4)	1	<input type="text"/>
2	Wages, tips, and other compensation	2	<input type="text"/>
3	Income tax withheld from wages, tips, and other compensation	3	<input type="text"/>
4	If no wages, tips, and other compensation are subject to social security or Medicare tax	<input type="checkbox"/> Check and go to line 6e.	
	<i>Column 1</i>	<i>Column 2</i>	
5a	Taxable social security wages* <input type="text"/> × .124 =	<input type="text"/>	*Report wages/tips for this quarter, including those paid to qualified new employees, on lines 5a-5c. The social security tax exemption on wages/tips will be figured on lines 6c and 6d and will reduce the tax on line 6e.
5b	Taxable social security tips* <input type="text"/> × .124 =	<input type="text"/>	
5c	Taxable Medicare wages & tips* <input type="text"/> × .029 =	<input type="text"/>	
5d	Add <i>Column 2</i> line 5a, <i>Column 2</i> line 5b, and <i>Column 2</i> line 5c	5d	<input type="text"/>
6a	Number of qualified employees first paid exempt wages/tips this quarter	<input type="text"/>	See instructions for definitions of qualified employee and exempt wages/tips.
6b	Number of qualified employees paid exempt wages/tips this quarter	<input type="text"/>	
6c	Exempt wages/tips paid to qualified employees this quarter <input type="text"/> × .062 =	6d	<input type="text"/>
6e	Total taxes before adjustments (line 3 + line 5d - line 6d = line 6e)	6e	<input type="text"/>
7a	Current quarter's adjustment for fractions of cents	7a	<input type="text"/>
7b	Current quarter's adjustment for sick pay	7b	<input type="text"/>
7c	Current quarter's adjustments for tips and group-term life insurance	7c	<input type="text"/>
8	Total taxes after adjustments. Combine lines 6e through 7c	8	<input type="text"/>
9	Advance earned income credit (EIC) payments made to employees	9	<input type="text"/>
10	Total taxes after adjustment for advance EIC (line 8 - line 9 = line 10)	10	<input type="text"/>
11	Total deposits, including prior quarter overpayments	11	<input type="text"/>
12a	COBRA premium assistance payments (see instructions)	12a	<input type="text"/>
12b	Number of individuals provided COBRA premium assistance	<input type="text"/>	Complete lines 12c, 12d, and 12e only for the 2nd quarter of 2010.
12c	Number of qualified employees paid exempt wages/tips March 19-31	<input type="text"/>	
12d	Exempt wages/tips paid to qualified employees March 19-31 <input type="text"/> × .062 =	12e	<input type="text"/>
13	Add lines 11, 12a, and 12e	13	<input type="text"/>
14	Balance due. If line 10 is more than line 13, enter the difference and see instructions	14	<input type="text"/>
15	Overpayment. If line 13 is more than line 10, enter the difference <input type="text"/>	Check one: <input type="checkbox"/> Apply to next return. <input type="checkbox"/> Send a refund.	

Name (not your trade name)

Employer identification number (EIN)

Part 2: Tell us about your deposit schedule and tax liability for this quarter.

If you are unsure about whether you are a monthly schedule depositor or a semiweekly schedule depositor, see Pub. 15 (Circular E), section 11.

16 Write the state abbreviation for the state where you made your deposits OR write "MU" if you made your deposits in multiple states.

17 Check one: Line 10 on this return is less than \$2,500 or line 10 on the return for the preceding quarter was less than \$2,500, and you did not incur a \$100,000 next-day deposit obligation during the current quarter. Go to Part 3.

You were a monthly schedule depositor for the entire quarter. Enter your tax liability for each month and total liability for the quarter.

Tax liability: Month 1, Month 2, Month 3, Total liability for quarter

Total must equal line 10.

You were a semiweekly schedule depositor for any part of this quarter. Complete Schedule B (Form 941): Report of Tax Liability for Semiweekly Schedule Depositors, and attach it to Form 941.

Part 3: Tell us about your business. If a question does NOT apply to your business, leave it blank.

18 If your business has closed or you stopped paying wages Check here, and enter the final date you paid wages / / .

19 If you are a seasonal employer and you do not have to file a return for every quarter of the year Check here.

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

Do you want to allow an employee, a paid tax preparer, or another person to discuss this return with the IRS? See the instructions for details.

Yes. Designee's name and phone number

Select a 5-digit Personal Identification Number (PIN) to use when talking to the IRS.

No.

Part 5: Sign here. You MUST complete both pages of Form 941 and SIGN it.

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.



Sign your name here

Signature box

Print your name here

Print your title here

Date / /

Best daytime phone

Paid preparer use only

Check if you are self-employed

Preparer's name

PTIN

Preparer's signature

Date / /

Firm's name (or yours if self-employed)

EIN

Address

Phone

City

State

ZIP code

(EIN)
 Employer identification number -

Name (not your trade name)

Trade name (if any)

Address
Number Street Suite or room number

City State ZIP code

Read the instructions before completing this form. Use this form to correct errors you made on Form 941 or 941-SS for **one quarter only**. Type or print within the boxes. You **MUST** complete all three pages. Do not attach this form to Form 941 or 941-SS.

Part 1: Select ONLY one process.

- 1. Adjusted employment tax return.** Check this box if you underreported amounts. Also check this box if you overreported amounts and you would like to use the adjustment process to correct the errors. You must check this box if you are correcting both underreported and overreported amounts on this form. The amount shown on line 20, if less than zero, may only be applied as a credit to your Form 941, Form 941-SS, Form 944, or Form 944-SS for the tax period in which you are filing this form.
- 2. Claim.** Check this box if you overreported amounts only and you would like to use the claim process to ask for a refund or abatement of the amount shown on line 20. Do not check this box if you are correcting ANY underreported amounts on this form.

Return You Are Correcting ...
 Check the type of return you are correcting:

941
 941-SS

Check the ONE quarter you are correcting:

1: January, February, March
 2: April, May, June
 3: July, August, September
 4: October, November, December

Enter the calendar year of the quarter you are correcting:
 (YYYY)

Enter the date you discovered errors:
 / /
 (MM / DD / YYYY)

Part 2: Complete the certifications.

- 3. I certify that I have filed or will file Forms W-2, Wage and Tax Statement, or Forms W-2c, Corrected Wage and Tax Statement, as required.**

Note. If you are correcting underreported amounts only, go to Part 3 on page 2 and skip lines 4 and 5.

- 4. If you checked line 1 because you are adjusting overreported amounts, check all that apply.** You must check at least one box. I certify that:
 - a.** I repaid or reimbursed each affected employee for the overcollected federal income tax for the current year and the overcollected social security and Medicare tax for current and prior years. For adjustments of employee social security and Medicare tax overcollected in prior years, I have a written statement from each employee stating that he or she has not claimed (or the claim was rejected) and will not claim a refund or credit for the overcollection.
 - b.** The adjustment of social security tax and Medicare tax is for the employer's share only. I could not find the affected employees or each employee did not give me a written statement that he or she has not claimed (or the claim was rejected) and will not claim a refund or credit for the overcollection.
 - c.** The adjustment is for federal income tax, social security tax, and Medicare tax that I did not withhold from employee wages.
- 5. If you checked line 2 because you are claiming a refund or abatement of overreported employment taxes, check all that apply.** You must check at least one box. I certify that:
 - a.** I repaid or reimbursed each affected employee for the overcollected social security and Medicare tax. For claims of employee social security and Medicare tax overcollected in prior years, I have a written statement from each employee stating that he or she has not claimed (or the claim was rejected) and will not claim a refund or credit for the overcollection.
 - b.** I have a written consent from each affected employee stating that I may file this claim for the employee's share of social security and Medicare tax. For refunds of employee social security and Medicare tax overcollected in prior years, I also have a written statement from each employee stating that he or she has not claimed (or the claim was rejected) and will not claim a refund or credit for the overcollection.
 - c.** The claim for social security tax and Medicare tax is for the employer's share only. I could not find the affected employees; or each employee did not give me a written consent to file a claim for the employee's share of social security and Medicare tax; or each employee did not give me a written statement that he or she has not claimed (or the claim was rejected) and will not claim a refund or credit for the overcollection.
 - d.** The claim is for federal income tax, social security tax, and Medicare tax that I did not withhold from employee wages.

Next

Part 3: Enter the corrections for this quarter. If any line does not apply, leave it blank.

	Column 1 <i>Total corrected amount (for ALL employees)</i>	-	Column 2 <i>Amount originally reported or as previously corrected (for ALL employees)</i>	=	Column 3 <i>Difference (If this amount is a negative number, use a minus sign.)</i>		Column 4 <i>Tax correction</i>
6. Wages, tips and other compensation (from line 2 of Form 941)	<input style="width:100%;" type="text"/>	-	<input style="width:100%;" type="text"/>	=	<input style="width:100%;" type="text"/>	Use the amount in Column 1 when you prepare your Forms W-2 or Forms W-2c.	<input style="width:100%;" type="text"/>
7. Income tax withheld from wages, tips, and other compensation (from line 3 of Form 941)	<input style="width:100%;" type="text"/>	-	<input style="width:100%;" type="text"/>	=	<input style="width:100%;" type="text"/>	Copy Column 3 here ▶	<input style="width:100%;" type="text"/>
8. Taxable social security wages (from line 5a, Column 1 of Form 941 or Form 941-SS)	<input style="width:100%;" type="text"/>	-	<input style="width:100%;" type="text"/>	=	<input style="width:100%;" type="text"/>	× .124* =	<input style="width:100%;" type="text"/>
9. Taxable social security tips (from line 5b, Column 1 of Form 941 or Form 941-SS)	<input style="width:100%;" type="text"/>	-	<input style="width:100%;" type="text"/>	=	<input style="width:100%;" type="text"/>	× .124* =	<input style="width:100%;" type="text"/>
10. Taxable Medicare wages and tips (from line 5c, Column 1 of Form 941 or Form 941-SS)	<input style="width:100%;" type="text"/>	-	<input style="width:100%;" type="text"/>	=	<input style="width:100%;" type="text"/>	× .029* =	<input style="width:100%;" type="text"/>
11a. Number of qualified employees first paid exempt wages/tips this quarter (from line 6a of Form 941 or Form 941-SS)	<input style="width:100%;" type="text"/>	-	<input style="width:100%;" type="text"/>	=	<input style="width:100%;" type="text"/>		
11b. Number of qualified employees paid exempt wages/tips this quarter (from line 6b of Form 941 or Form 941-SS)	<input style="width:100%;" type="text"/>	-	<input style="width:100%;" type="text"/>	=	<input style="width:100%;" type="text"/>		
11c. Exempt wages/tips paid to qualified employees this quarter (from line 6c of Form 941 or Form 941-SS)	<input style="width:100%;" type="text"/>	-	<input style="width:100%;" type="text"/>	=	<input style="width:100%;" type="text"/>	× .062 =	<input style="width:100%;" type="text"/>
12. Tax adjustments (from lines 7a through 7c of Form 941 or Form 941-SS)	<input style="width:100%;" type="text"/>	-	<input style="width:100%;" type="text"/>	=	<input style="width:100%;" type="text"/>	Copy Column 3 here ▶	<input style="width:100%;" type="text"/>
13. Special addition to wages for federal income tax	<input style="width:100%;" type="text"/>	-	<input style="width:100%;" type="text"/>	=	<input style="width:100%;" type="text"/>	See instructions	<input style="width:100%;" type="text"/>
14. Special addition to wages for social security taxes	<input style="width:100%;" type="text"/>	-	<input style="width:100%;" type="text"/>	=	<input style="width:100%;" type="text"/>	See instructions	<input style="width:100%;" type="text"/>
15. Special addition to wages for Medicare taxes	<input style="width:100%;" type="text"/>	-	<input style="width:100%;" type="text"/>	=	<input style="width:100%;" type="text"/>	See instructions	<input style="width:100%;" type="text"/>
16. Combine the amounts on lines 7–15 of Column 4						<input style="width:100%;" type="text"/>
17. Advance earned income credit (EIC) payments made to employees (from Form 941, line 9)	<input style="width:100%;" type="text"/>	-	<input style="width:100%;" type="text"/>	=	<input style="width:100%;" type="text"/>	See instructions	<input style="width:100%;" type="text"/>
18a. COBRA premium assistance payments (from line 12a of Form 941 or Form 941-SS)	<input style="width:100%;" type="text"/>	-	<input style="width:100%;" type="text"/>	=	<input style="width:100%;" type="text"/>	See instructions	<input style="width:100%;" type="text"/>
18b. Number of individuals provided COBRA premium assistance (from line 12b of Form 941 or Form 941-SS)	<input style="width:100%;" type="text"/>	-	<input style="width:100%;" type="text"/>	=	<input style="width:100%;" type="text"/>		
18c. Number of qualified employees paid exempt wages/tips March 19–31 (from line 12c of Form 941 or Form 941-SS)	<input style="width:100%;" type="text"/>	-	<input style="width:100%;" type="text"/>	=	<input style="width:100%;" type="text"/>		
18d. Exempt wages/tips paid to qualified employees March 19–31 (from line 12d of Form 941 or Form 941-SS)	<input style="width:100%;" type="text"/>	-	<input style="width:100%;" type="text"/>	=	<input style="width:100%;" type="text"/>	× .062 =	<input style="width:100%;" type="text"/>
19. Total. Combine the amounts on lines 16–18d of Column 4. Continue on next page						<input style="width:100%;" type="text"/>

Form 941-X: Which process should you use?

Type of errors
you are
correcting

**Underreported
amounts
ONLY**

Use the adjustment process to correct underreported amounts.

- Check the box on line 1.
- Pay the amount you owe from line 20 when you file Form 941-X.

**Overreported
amounts
ONLY**

The process you
use depends on
when you file
Form 941-X.

**If you are filing Form 941-X
MORE THAN 90 days before
the period of limitations on
credit or refund for Form 941
or Form 941-SS expires ...**

Choose either process to correct the overreported amounts.

Choose the adjustment process if you want the amount shown on line 20 credited to your Form 941, Form 941-SS, Form 944, or Form 944-SS for the period in which you file Form 941-X. Check the box on line 1.

OR

Choose the claim process if you want the amount shown on line 20 refunded to you or abated. Check the box on line 2.

**If you are filing Form 941-X
WITHIN 90 days of the
expiration of the period of
limitations on credit or refund
for Form 941 or Form 941-SS ...**

You must use the **claim process** to correct the overreported amounts. Check the box on line 2.

**BOTH
underreported
and
overreported
amounts**

The process you
use depends on
when you file
Form 941-X.

**If you are filing Form 941-X
MORE THAN 90 days before
the period of limitations on
credit or refund for Form 941
or Form 941-SS expires ...**

Choose either the adjustment process or both the adjustment process and the claim process when you correct both underreported and overreported amounts.

Choose the adjustment process if combining your underreported amounts and overreported amounts results in a balance due or creates a credit that you want applied to Form 941, Form 941-SS, Form 944, or Form 944-SS.

- File one Form 941-X, and
- Check the box on line 1 and follow the instructions on line 20.

OR

Choose both the adjustment process and the claim process if you want the overreported amount refunded to you or abated.

File two separate forms.

1. For the adjustment process, file one Form 941-X to correct the underreported amounts. Check the box on line 1. Pay the amount you owe from line 20 when you file Form 941-X.

2. For the claim process, file a second Form 941-X to correct the overreported amounts. Check the box on line 2.

**If you are filing Form 941-X
WITHIN 90 days of the
expiration of the period of
limitations on credit or
refund for Form 941 or Form
941-SS ...**

You must use both the adjustment process and claim process.

File two separate forms.

1. For the adjustment process, file one Form 941-X to correct the underreported amounts. Check the box on line 1. Pay the amount you owe from line 20 when you file Form 941-X.

2. For the claim process, file a second Form 941-X to correct the overreported amounts. Check the box on line 2.

Form **944 for 2010: Employer's ANNUAL Federal Tax Return**

Department of the Treasury — Internal Revenue Service

OMB No. 1545-2007

Employer identification number (EIN) -

Name (not your trade name)

Trade name (if any)

Address

Number Street Suite or room number

City State ZIP code

Who Must File Form 944

You must file annual Form 944 instead of filing quarterly Forms 941 **only if the IRS notified you in writing.**

Read the separate instructions before you complete Form 944. Type or print within the boxes.

Part 1: Answer these questions for 2010.

1	Wages, tips, and other compensation	1	<input type="text"/>	■
2	Income tax withheld from wages, tips, and other compensation	2	<input type="text"/>	■
3	If no wages, tips, and other compensation are subject to social security or Medicare tax	3	<input type="checkbox"/>	Check and go to line 5d.
4	Taxable social security and Medicare wages and tips:			
		Column 1	Column 2	
4a	Taxable social security wages* <input type="text"/> ■ × .124 =	<input type="text"/>	■	*Report wages/tips for this year, including those paid to qualified new employees, on lines 4a–4c. 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* <input type="text"/> ■ × .124 =	<input type="text"/>	■	
4c	Taxable Medicare wages & tips* <input type="text"/> ■ × .029 =	<input type="text"/>	■	
4d	Add Column 2 line 4a, Column 2 line 4b, and Column 2 line 4c		<input type="text"/>	■
5a	Number of qualified employees paid exempt wages/tips after March 31	<input type="text"/>		See instructions for definitions of qualified employees and exempt wages/tips.
5b	Exempt wages/tips paid to qualified employees after March 31	<input type="text"/> ■ × .062 =	<input type="text"/>	■
5d	Total taxes before adjustments (lines 2 + 4d - line 5c = line 5d)		<input type="text"/>	■
6	Current year's adjustments (see instructions)		<input type="text"/>	■
7	Total taxes after adjustments. Combine lines 5d and 6.		<input type="text"/>	■
8	Advance earned income credit (EIC) payments made to employees		<input type="text"/>	■
9	Total taxes after adjustment for advance EIC (line 7 - line 8 = line 9)		<input type="text"/>	■
10	Total deposits for this year, including overpayment applied from a prior year and overpayment applied from Form 944-X or Form 941-X		<input type="text"/>	■
11a	COBRA premium assistance payments (see instructions)		<input type="text"/>	■
11b	Number of individuals provided COBRA premium assistance	<input type="text"/>		
11c	Number of qualified employees paid exempt wages/tips March 19–31	<input type="text"/>		
11d	Exempt wages/tips paid to qualified employees March 19–31	<input type="text"/> ■ × .062 =	<input type="text"/>	■
12	Add lines 10, 11a, and 11e		<input type="text"/>	■
13	Balance due. If line 9 is more than line 12, enter the difference and see instructions		<input type="text"/>	■
14	Overpayment. If line 12 is more than line 9, enter the difference <input type="text"/> ■	Check one:	<input type="checkbox"/>	Apply to next return. <input type="checkbox"/>
			<input type="checkbox"/>	Send a refund.

▶ You MUST complete both pages of Form 944 and SIGN it.

Next ▶

Name (not your trade name)

Employer identification number (EIN)

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

15 Check one: Line 9 is less than \$2,500. Go to Part 3.

Line 9 is \$2,500 or more. Enter your tax liability for each month. If you are a semiweekly depositor or you accumulate \$100,000 or more of liability on any day during a deposit period, you must complete Form 945-A instead of the boxes below.

	Jan.		Apr.		Jul.		Oct.
15a	<input type="text"/>	15d	<input type="text"/>	15g	<input type="text"/>	15j	<input type="text"/>
	Feb.		May		Aug.		Nov.
15b	<input type="text"/>	15e	<input type="text"/>	15h	<input type="text"/>	15k	<input type="text"/>
	Mar.		Jun.		Sep.		Dec.
15c	<input type="text"/>	15f	<input type="text"/>	15i	<input type="text"/>	15l	<input type="text"/>

Total liability for year. Add lines 15a through 15l. Total must equal line 9. 15m

16 If you made deposits of taxes reported on this form, write the state abbreviation for the state where you made your deposits OR write **MU** if you made your deposits in **multiple** states.

Part 3: Tell us about your business. If question 17 does NOT apply to your business, leave it blank.

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

Check here and enter the final date you paid wages.

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

Do you want to allow an employee, a paid tax preparer, or another person to discuss this return with the IRS? See the instructions for details.

Yes. Designee's name and phone number () -

Select a 5-digit Personal Identification Number (PIN) to use when talking to IRS.

No.

Part 5: Sign here. You MUST complete both pages of Form 944 and SIGN it.

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.



Sign your name here

Print your name here

Print your title here

Date

Best daytime phone () -

Paid preparer use only

Check if you are self-employed

Preparer's name

PTIN

Preparer's signature

Date

Firm's name (or yours if self-employed)

EIN

Address

Phone () -

City

State

ZIP code

Annual Return of Withheld Federal Income Tax

▶ **For withholding reported on Forms 1099 and W-2G.**
 ▶ **See separate instructions. For more information on income tax withholding, see Pub. 15 (Circ. E) and Pub. 15-A.**
Please type or print.

2010

Enter state code for state in which deposits were made **only** if different from state in address to the right ▶ (see the instructions).

Name (as distinguished from trade name)	Calendar year
Trade name, if any	Employer identification number (EIN)
Address (number and street)	City, state, and ZIP code

If address is different from prior return, check here. ▶

A If you **do not have to file** returns in the future, check here ▶ and enter date final payments made. ▶

1 Federal income tax withheld from pensions, annuities, IRAs, gambling winnings, etc.	1		
2 Backup withholding	2		
3 Total taxes. If \$2,500 or more, this must equal line 7M below or line M of Form 945-A	3		
4 Total deposits for 2010, including overpayment applied from a prior year and overpayment applied from Form 945-X	4		
5 Balance due. If line 3 is more than line 4, write the difference here. For information on how to pay, see the instructions	5		

6 Overpayment. If line 4 is more than line 3, enter overpayment here ▶ \$ _____ and check if to be:
 Applied to next return **or** Refunded.

- **All filers:** If line 3 is less than \$2,500, **do not** complete line 7 **or** Form 945-A.
- **Semiweekly schedule depositors:** Complete **Form 945-A** and check here ▶
- **Monthly schedule depositors:** Complete **line 7, entries A through M**, and check here ▶

7 Monthly Summary of Federal Tax Liability. (Do not complete if you were a semiweekly schedule depositor.)								
	Tax liability for month			Tax liability for month			Tax liability for month	
A January			F June			K November		
B February			G July			L December		
C March			H August			M Total liability for year (add lines A through L)		
D April			I September					
E May			J October					

Third-Party Designee Do you want to allow another person to discuss this return with the IRS (see the instructions)? **Yes.** Complete the following. **No.**

Designee's name ▶ Phone no. ▶ Personal identification number (PIN) ▶

Sign Here Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature ▶ Print Your Name and Title ▶ Date ▶

Paid Preparer Use Only

Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
Firm's name ▶	Firm's EIN ▶		Phone no.	
Firm's address ▶				

Form **940 for 2010: Employer's Annual Federal Unemployment (FUTA) Tax Return**

850110

Department of the Treasury — Internal Revenue Service

OMB No. 1545-0028

(EIN) -

Employer identification number

Name (not your trade name)

Trade name (if any)

Address

Number Street Suite or room number

City State ZIP code

Type of Return
(Check all that apply.)

a. Amended

b. Successor employer

c. No payments to employees in 2010

d. Final: Business closed or stopped paying wages

Read the separate instructions before you fill out this form. Please type or print within the boxes.

Part 1: Tell us about your return. If any line does NOT apply, leave it blank.

1 If you were required to pay your state unemployment tax in ...

1a One state only, write the state abbreviation **1a**

- OR -

1b More than one state (You are a multi-state employer) **1b** Check here. Fill out Schedule A.

2 If you paid wages in a state that is subject to CREDIT REDUCTION **2** Check here. Fill out Schedule A (Form 940), Part 2.

Part 2: Determine your FUTA tax before adjustments for 2010. If any line does NOT apply, leave it blank.

3 Total payments to all employees **3**

4 Payments exempt from FUTA tax **4**

Check all that apply: **4a** Fringe benefits **4c** Retirement/Pension **4e** Other
4b Group-term life insurance **4d** Dependent care

5 Total of payments made to each employee in excess of \$7,000 **5**

6 Subtotal (line 4 + line 5 = line 6) **6**

7 Total taxable FUTA wages (line 3 - line 6 = line 7) **7**

8 FUTA tax before adjustments (line 7 x .008 = line 8) **8**

Part 3: Determine your adjustments. If any line does NOT apply, leave it blank.

9 If ALL of the taxable FUTA wages you paid were excluded from state unemployment tax, multiply line 7 by .054 (line 7 x .054 = line 9). Then go to line 12 **9**

10 If SOME of the taxable FUTA wages you paid were excluded from state unemployment tax, OR you paid ANY state unemployment tax late (after the due date for filing Form 940), fill out the worksheet in the instructions. Enter the amount from line 7 of the worksheet **10**

11 If credit reduction applies, enter the amount from line 3 of Schedule A (Form 940) **11**

Part 4: Determine your FUTA tax and balance due or overpayment for 2010. If any line does NOT apply, leave it blank.

12 Total FUTA tax after adjustments (lines 8 + 9 + 10 + 11 = line 12) **12**

13 FUTA tax deposited for the year, including any overpayment applied from a prior year **13**

14 Balance due (If line 12 is more than line 13, enter the difference on line 14.)
• If line 14 is more than \$500, you must deposit your tax.
• If line 14 is \$500 or less, you may pay with this return. For more information on how to pay, see the separate instructions **14**

15 Overpayment (If line 13 is more than line 12, enter the difference on line 15 and check a box below.) **15**

▶ You **MUST** fill out both pages of this form and **SIGN** it.

Check one: Apply to next return.
 Send a refund.

Next ▶

Name (not your trade name)

Employer identification number (EIN)

Part 5: Report your FUTA tax liability by quarter only if line 12 is more than \$500. If not, go to Part 6.

16 Report the amount of your FUTA tax liability for each quarter; do NOT enter the amount you deposited. If you had no liability for a quarter, leave the line blank.

16a	1st quarter (January 1 – March 31)	16a	<input type="text"/>	▪
16b	2nd quarter (April 1 – June 30)	16b	<input type="text"/>	▪
16c	3rd quarter (July 1 – September 30)	16c	<input type="text"/>	▪
16d	4th quarter (October 1 – December 31)	16d	<input type="text"/>	▪
17	Total tax liability for the year (lines 16a + 16b + 16c + 16d = line 17) 17		<input type="text"/>	▪ Total must equal line 12.

Part 6: May we speak with your third-party designee?

Do you want to allow an employee, a paid tax preparer, or another person to discuss this return with the IRS? See the instructions for details.

Yes. Designee's name and phone number

Select a 5-digit Personal Identification Number (PIN) to use when talking to IRS

No.

Part 7: Sign here. You MUST fill out both pages of this form and SIGN it.

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete, and that no part of any payment made to a state unemployment fund claimed as a credit was, or is to be, deducted from the payments made to employees. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

X Sign your name here

Date / /

Print your name here

Print your title here

Best daytime phone

Paid preparer use only

Check if you are self-employed

Preparer's name	<input type="text"/>	PTIN	<input type="text"/>
Preparer's signature	<input type="text"/>	Date	<input type="text"/> / <input type="text"/> / <input type="text"/>
Firm's name (or yours if self-employed)	<input type="text"/>	EIN	<input type="text"/>
Address	<input type="text"/>	Phone	<input type="text"/>
City	<input type="text"/>	State	<input type="text"/>
		ZIP code	<input type="text"/>

Schedule A (Form 940) for 2010:

860310

Multi-State Employer and Credit Reduction Information

OMB No. 1545-0028

Department of the Treasury — Internal Revenue Service

Employer identification number (EIN)	<input style="width: 20px; height: 20px;" type="text"/> <input style="width: 20px; height: 20px;" type="text"/> - <input style="width: 20px; height: 20px;" type="text"/> <input style="width: 20px; height: 20px;" type="text"/> <input style="width: 20px; height: 20px;" type="text"/> <input style="width: 20px; height: 20px;" type="text"/> <input style="width: 20px; height: 20px;" type="text"/> <input style="width: 20px; height: 20px;" type="text"/> <input style="width: 20px; height: 20px;" type="text"/>
Name (not your trade name)	<input style="width: 95%; height: 20px;" type="text"/>

About this schedule:

- You must fill out Schedule A (Form 940) if you were required to pay your state unemployment tax in **more than one state** or if you paid wages in any state that is subject to **credit reduction**.
- File Schedule A (Form 940) as an attachment to your Form 940.

For more information, read the Instructions for Schedule A (Form 940) on the back.

Part 1: Fill out this part if you were required to pay state unemployment taxes in more than one state (including the District of Columbia, Puerto Rico, and the U.S. Virgin Islands). If any states do NOT apply to you, leave them blank.

1 Check the box for every state in which you were required to pay state unemployment tax this year. For a list of state names and their abbreviations, see the Instructions for Schedule A (Form 940).

<input type="checkbox"/> AK	<input type="checkbox"/> CO	<input type="checkbox"/> GA	<input type="checkbox"/> IN	<input type="checkbox"/> MD	<input type="checkbox"/> MS	<input type="checkbox"/> NH	<input type="checkbox"/> OH	<input type="checkbox"/> SC	<input type="checkbox"/> VA	<input type="checkbox"/> WY
<input type="checkbox"/> AL	<input type="checkbox"/> CT	<input type="checkbox"/> HI	<input type="checkbox"/> KS	<input type="checkbox"/> MI	<input type="checkbox"/> MT	<input type="checkbox"/> NJ	<input type="checkbox"/> OK	<input type="checkbox"/> SD	<input type="checkbox"/> VT	<input type="checkbox"/> PR
<input type="checkbox"/> AR	<input type="checkbox"/> DC	<input type="checkbox"/> IA	<input type="checkbox"/> KY	<input type="checkbox"/> MN	<input type="checkbox"/> NC	<input type="checkbox"/> NM	<input type="checkbox"/> OR	<input type="checkbox"/> TN	<input type="checkbox"/> WA	<input type="checkbox"/> VI
<input type="checkbox"/> AZ	<input type="checkbox"/> DE	<input type="checkbox"/> ID	<input type="checkbox"/> LA	<input type="checkbox"/> MO	<input type="checkbox"/> ND	<input type="checkbox"/> NV	<input type="checkbox"/> PA	<input type="checkbox"/> TX	<input type="checkbox"/> WI	
<input type="checkbox"/> CA	<input type="checkbox"/> FL	<input type="checkbox"/> IL	<input type="checkbox"/> MA	<input type="checkbox"/> ME	<input type="checkbox"/> NE	<input type="checkbox"/> NY	<input type="checkbox"/> RI	<input type="checkbox"/> UT	<input type="checkbox"/> WV	

Part 2: Fill out this part to tell us about wages you paid in any state (including the District of Columbia, Puerto Rico, and the U.S. Virgin Islands) that is subject to credit reduction. If any lines do NOT apply, leave them blank.

2 If you paid wages in any of these states...

2a-b Indiana. Total taxable FUTA wages paid in IN	2a	<input style="width: 90%; height: 20px;" type="text"/>	x .003 = line 2b	2b	<input style="width: 90%; height: 20px;" type="text"/>
2c-d Michigan. Total taxable FUTA wages paid in MI	2c	<input style="width: 90%; height: 20px;" type="text"/>	x .006 = line 2d	2d	<input style="width: 90%; height: 20px;" type="text"/>
2e-f South Carolina. Total taxable FUTA wages paid in SC	2e	<input style="width: 90%; height: 20px;" type="text"/>	x .003 = line 2f	2f	<input style="width: 90%; height: 20px;" type="text"/>

Do not complete lines 2g-2h through 2i-2j for 2010

3 Total credit reduction (Lines 2b + 2d + 2f = line 3)	3	<input style="width: 95%; height: 20px;" type="text"/>
---	----------	--

Enter the amount from line 3 onto line 11 of Form 940.

CORRECTED (if checked)

PAYER'S name, street address, city, state, ZIP code, and telephone no.		1 Rents	OMB No. 1545-0115 2010 Form 1099-MISC		Miscellaneous Income
		\$			
		2 Royalties			
		\$			Copy B For Recipient
		3 Other income	4 Federal income tax withheld		
		\$	\$		
PAYER'S federal identification number	RECIPIENT'S identification number	5 Fishing boat proceeds	6 Medical and health care payments		This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.
		\$	\$		
RECIPIENT'S name		7 Nonemployee compensation	8 Substitute payments in lieu of dividends or interest		
Street address (including apt. no.)		9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	10 Crop insurance proceeds		
City, state, and ZIP code		\$	\$		
Account number (see instructions)		11	12		
		13 Excess golden parachute payments	14 Gross proceeds paid to an attorney		
		\$	\$		
15a Section 409A deferrals	15b Section 409A income	16 State tax withheld	17 State/Payer's state no.	18 State income	
\$	\$	\$		\$	
		\$		\$	

Form **1099-MISC**

(keep for your records)

Department of the Treasury - Internal Revenue Service

Filing Corrected Return on Paper Forms

Identify the correction needed based on **Error Type 1 or 2**; then follow the steps to make the corrections and file the form(s).

Á

Error Type 1	Correction
<p>Incorrect money amount(s), code, or checkbox, or Incorrect address, or Incorrect payee name, or A return was filed when one should not have been filed.</p> <p>These errors require only one return to make the correction.</p> <p><i>Caution: If you must correct a TIN and/or a name and address, follow the instructions under Error 2.</i></p>	<p>A. Form 1098, 1099, 3921, 3922, 5498, or W-2G</p> <ol style="list-style-type: none"> 1. Prepare a new information return. 2. Enter an “X” in the “CORRECTED” box (and date (optional)) at the top of the form. 3. Correct any recipient information such as money amounts and address. Report other information as per original return. <p>B. Form 1096</p> <ol style="list-style-type: none"> 1. Prepare a new transmittal Form 1096. 2. Provide all requested information on the form as it applies to Part A, 1 and 2. 3. File Form 1096 and Copy A of the return with the appropriate service center. 4. Do not include a copy of the original return that was filed incorrectly.

Error Type 2	Correction
<p>No payee TIN (SSN, EIN, QI-EIN, or ITIN), or Incorrect payee TIN, or Incorrect name and address, or</p> <p>Original return filed using wrong type of return (for example, a Form 1099-DIV was filed when a Form 1099-INT should have been filed).</p> <p>Two separate returns are required to make the correction properly. Follow all instructions for both Steps 1 and 2.</p>	<p>Step 1. Identify incorrect return submitted.</p> <ol style="list-style-type: none"> 1. Prepare a new information return. 2. Enter an “X” in the “CORRECTED” box (and date (optional)) at the top of the form. 3. Enter the payer, recipient, and account number information exactly as it appeared on the original incorrect return; however, enter 0 (zero) for all money amounts. <hr/> <p>Step 2. Report correct information.</p> <p>A. Form 1098, 1099, 3921, 3922, 5498, or W-2G</p> <ol style="list-style-type: none"> 1. Prepare a new information return. 2. Do not enter an “X” in the “CORRECTED” box at the top of the form. Prepare the new return as though it is an original. 3. Include all the correct information on the form including the correct TIN, name, and address. <p>B. Form 1096</p> <ol style="list-style-type: none"> 1. Prepare a new transmittal Form 1096. 2. Enter the words “Filed To Correct TIN,” “Filed to Correct Name and Address,” or “Filed to Correct Return” in the bottom margin of the form. 3. Provide all requested information on the form as it applies to the returns prepared in Steps 1 and 2. 4. File Form 1096 and Copy A of the return with the appropriate service center. 5. Do not include a copy of the original return that was filed incorrectly.

Appendix

- Employee vs. Independent Contractor Rules
- Forms and Due Dates
- Payroll Tax Deposit Rules
- Penalties
- Federal Wage/Hour Record Keeping
- W-2 Taxable Wages Chart
- Special Rules for Various Types of Services and Payments
- Health Savings Accounts Deductibles/Tax Withholdings
- HSA/HRA/FSA Comparison Chart
- Guide to Information Returns
- Useful Web Sites

Employee vs. Independent Contractor

An employer must generally withhold income taxes, withhold and pay social security and Medicare taxes, and pay unemployment taxes on wages paid to an employee. An employer does not generally have to withhold or pay any taxes on payments to independent contractors.

To help determine whether an individual is an employee under the common-law rules, the IRS has identified 20 factors that are to be used as guidelines, but this is not the legal test.

1. **Instructions.** An employee must comply with instructions about when, where, and how to work. Even if no instructions are given, the control factor is present if the employer has the right to control how the work results are achieved.
2. **Training.** An employee may be trained to perform services in a particular manner. Independent contractors ordinarily use their own methods and receive no training from the purchasers of their services.
3. **Integration.** An employee's services are usually integrated into the business operations because the services are important to the success or continuation of the business. This shows that the employee is subject to direction and control.
4. **Services rendered personally.** An employee renders services personally. This shows that the employer is interested in the methods as well as the results.
5. **Hiring, supervising, and paying assistants.** An employee works for an employer who hires, supervises, and pays workers. An independent contractor can hire, supervise, and pay assistants under a contract that requires him or her to provide materials and labor and to be responsible only for the result.
6. **Regular and continuous relationship.** An employee generally has a continuing relationship with an employer. A continuing relationship may exist even if work is performed at recurring although irregular intervals.
7. **Set hours of work.** An employee usually has set hours of work established by an employer. An independent contractor generally can set his or her own work hours.
8. **Full-time required.** An employee may be required to work or be available full-time. This indicates control by the employer. An independent contractor can work when and for whom he or she chooses.

Employee vs. Independent Contractor (cont.)

9. Doing work on employer's premises. An employee usually works on the premises of an employer, or works on a route or at a location designated by an employer.
10. Order or sequence set. An employee may be required to perform services in the order or sequence set by an employer. This shows that the employee is subject to direction and control.
11. Oral or written reports. An employee may be required to submit reports to an employer. This shows that the employer maintains a degree of control.
12. Payments. An employee is generally paid by the hour, week, or month. An independent contractor is usually paid by the job or on a straight commission.
13. Expenses. An employee's business and travel expenses are generally paid by an employer. This shows that the employee is subject to regulation and control.
14. Furnish tools or equipment. An employee is normally furnished significant tools, materials, and other equipment by an employer.
15. Investment. An independent contractor has a significant investment in the facilities he or she uses in performing services for someone else.
16. Realization of profit or loss. An independent contractor can make a profit or suffer a loss.
17. Works for more than one person or firm. An independent contractor is generally free to provide his or her services to two or more unrelated persons or firms at the same time.
18. Offers services to general public. An independent contractor makes his or her services available to the general public.
19. Right to discharge. An employee can be fired by an employer. An independent contractor cannot be fired so long as he or she produces a result that meets the specifications of the contract.
20. Right to terminate. An employee can quit his or her job at any time without incurring liability. An independent contractor usually agrees to complete a specific job and is responsible for its satisfactory completion, or is legally obligated to make good for failure to complete it.

Employee vs. Independent Contractor (cont.)

Of these 20 factors, the courts tend to focus principally on seven as being the most important.

- The degree of control exercised by the principal over the details of the work
- Which party invests in the facilities used in the work
- The opportunity of the worker for profit or loss
- Whether the principal has the right to discharge the worker
- Whether the work is part of the principal's regular business
- The permanency of the relationship
- The type of relationship that the principal and worker believe they are creating

A person can have "dual status" and be both an employee and an independent contractor with respect to a single principal.

If you are unable to determine from the preceding guidelines whether a worker is your employee, you can file Form SS-8 (Determination of Employee Work Status for Purposes of Federal Employment taxes and Income Tax Withholding) with the District Director and the IRS will make that determination.

If payments to an independent contractor in aggregate are \$600 or more, an information return, Form 1099-MISC, must be filed with the IRS before February 28 of the following year. The payer must also provide the recipient with a copy by January 31 of the following year.

When completing the 1099 it is extremely important to correctly match the name reported with the identification number reported.

Forms and Due Dates

(Federal and Indiana)

- Form 941
 - 1st Quarter April 30
 - 2nd Quarter July 31
 - 3rd Quarter October 31
 - 4th Quarter January 31

- W-2 Forms
 - To employees January 31
 - Form W-3 with Form W-2 Copy A February 28

- Form 940 January 31

- Form 1099
 - To recipient January 31
 - Form 1096 with 1099 Copy A February 28

- Form UC-1
 - 1st Quarter April 30
 - 2nd Quarter July 31
 - 3rd Quarter October 31
 - 4th Quarter January 31

- Form WH-1
 - Filing frequency depends on average monthly withholding for the immediately preceding year
 - Average monthly withholding of:

Over \$1,000	Monthly – early – 20 days after end of month
\$75 - \$1000	Monthly – 30 days after end of month
\$25 - \$74	Quarterly – 30 days after end of quarter
\$10 - \$24	Semiannual – 7/31
Less than \$10	Annual – 1/31

- Form WH-3 with Form W-2 Copy 1 February 28

Copies of year-end forms must be kept for at least 4 years

Payroll Tax Deposit Rules

There are two deposit schedules – **monthly** or **semiweekly** - for determining when you deposit social security, Medicare and withheld income taxes. The deposit schedule you must use is based on the total tax liability you reported on Form 941 during a four-quarter lookback period.

The lookback period begins July 1 and ends June 30. For determining your 2011 deposit schedule, the lookback period is July 1, 2009 to June 30, 2010.

Monthly Depositor

- \$50,000 or less in 941 taxes during lookback period
- Deposit taxes on wages paid during a month by the 15th day of the following month

Semiweekly Depositor

- More than \$50,000 in 941 taxes during lookback period
- Paydays of Wed, Thurs, and/or Fri - deposit due the following Wednesday
- Paydays of Sat, Sun, Mon, and/or Tues- deposit due the following Friday

The IRS will notify the taxpayer each November as to the FICA and Federal withholding tax deposit liability schedule for the following year.

\$2,500 Rule - If an employer accumulates a payroll tax liability of less than \$2,500 in one quarter, no deposits are required and this liability may be paid with the Form 941 tax return for that period.

\$100,000 Rule - If an employer accumulates a payroll tax liability of \$100,000 or more on any day during a deposit period, you must deposit the tax by the next banking day.

New Employers are considered a monthly depositor for the first calendar year (unless the \$100,000 rule applies).

FUTA (Federal Unemployment) tax deposits are due quarterly, by the last day of the month after the quarter ends. The tax liability is .8% of the first \$7,000 paid per year, per employee.

Employers are required to make a quarterly deposit for unemployment taxes if the accumulated tax exceeds \$500.

NOTE: See Legislative Developments section for information on FUTA tax rate changes for Indiana, Michigan, and South Carolina employers for 2010.

Payroll Tax Deposit Rules (cont.)

SUTA (State Unemployment) tax deposits are due quarterly, by the last day of the month after the quarter ends. For Indiana employers, the liability is based on the first \$7,000 paid per year, per employee for years 2010 and prior. **Effective January 1, 2011, the liability will increase to the first \$9,500 paid per year, per employee.** The tax rate is determined by the Indiana Department of Workforce Development with annual notification. New employers are given a tax rate of 2.7%.

Table 2. Due Dates for Deposit of Taxes for 2011 Under the Semiweekly Rule

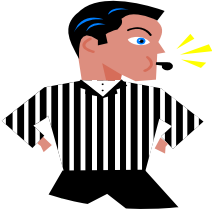
First Quarter:		Second Quarter:		Third Quarter:		Fourth Quarter:	
Payroll Date	Due Date	Payroll Date	Due Date	Payroll Date	Due Date	Payroll Date	Due Date
-	-	Apr 1	Apr 6	Jul 1	Jul 7	Oct 1-4	Oct 7
Jan 1-4	Jan 7	Apr 2-5	Apr 8	Jul 2-5	Jul 8	Oct 5-7	Oct 13
Jan 5-7	Jan 12	Apr 6-8	Apr 13	Jul 6-8	Jul 13	Oct 8-11	Oct 14
Jan 8-11	Jan 14	Apr 9-12	Apr 18	Jul 9-12	Jul 15	Oct 12-14	Oct 19
Jan 12-14	Jan 20	Apr 13-15	Apr 20	Jul 13-15	Jul 20	Oct 15-18	Oct 21
Jan 15-18	Jan 21	Apr 16-19	Apr 22	Jul 16-19	Jul 22	Oct 19-21	Oct 26
Jan 19-21	Jan 26	Apr 20-22	Apr 27	Jul 20-22	Jul 27	Oct 22-25	Oct 28
Jan 22-25	Jan 28	Apr 23-26	Apr 29	Jul 23-26	Jul 29	Oct 26-28	Nov 2
Jan 26-28	Feb 2	Apr 27-29	May 4	Jul 27-29	Aug 3	Oct 29-Nov 1	Nov 4
Jan 29-Feb 1	Feb 4	Apr 30-May 3	May 6	Jul 30-Aug 2	Aug 5	Nov 2-4	Nov 9
Feb 2-4	Feb 9	May 4-6	May 11	Aug 3-5	Aug 10	Nov 5-8	Nov 14
Feb 5-8	Feb 11	May 7-10	May 13	Aug 6-9	Aug 12	Nov 9-11	Nov 16
Feb 9-11	Feb 16	May 11-13	May 18	Aug 10-12	Aug 17	Nov 12-15	Nov 18
Feb 12-15	Feb 18	May 14-17	May 20	Aug 13-16	Aug 19	Nov 16-18	Nov 23
Feb 16-18	Feb 24	May 18-20	May 25	Aug 17-19	Aug 24	Nov 19-22	Nov 28
Feb 19-22	Feb 25	May 21-24	May 27	Aug 20-23	Aug 26	Nov 23-25	Nov 30
Feb 23-25	Mar 2	May 25-27	June 2	Aug 24-26	Aug 31	Nov 26-29	Dec 2
Feb 26-Mar 1	Mar 4	May 28-31	Jun 3	Aug 27-30	Sep 2	Nov 30-Dec 2	Dec 7
Mar 2-4	Mar 9	Jun 1-3	Jun 8	Aug 31-Sep 2	Sep 8	Dec 3-6	Dec 9
Mar 5-8	Mar 11	Jun 4-7	Jun 10	Sep 3-6	Sep 9	Dec 7-9	Dec 14
Mar 9-11	Mar 16	Jun 8-10	Jun 15	Sep 7-9	Sep 14	Dec 10-13	Dec 16
Mar 12-15	Mar 18	Jun 11-14	Jun 17	Sep 10-13	Sep 16	Dec 14-16	Dec 21
Mar 16-18	Mar 23	Jun 15-17	Jun 22	Sep 14-16	Sep 21	Dec 17-20	Dec 23
Mar 19-22	Mar 25	Jun 18-21	Jun 24	Sep 17-20	Sep 23	Dec 21-23	Dec 29
Mar 23-25	Mar 30	Jun 22-24	Jun 29	Sep 21-23	Sep 28	Dec 24-27	Dec 30
Mar 26-29	Apr 1	Jun 25-28	Jul 1	Sep 24-27	Sep 30	Dec 28-30	Jan 5
Mar 30-31	Apr 6	Jun 29-30	Jul 7	Sep 28-30	Oct 5	Dec 31	Jan 6

NOTE: This calendar reflects all federal holidays. A state legal holiday delays a due date if the office where you deposit your taxes is closed in observance of the state holiday.

Penalties

Late payment penalties:

FICA and FUTA – a fixed percentage of the amount of the underpayment; percentage depends on the period the payment remains late



- 2% - if 5 or fewer days after the due date
- 5% - if more than 5 but fewer than 16 days after the due date
- 10% - if more than 15 days after the due date but fewer than 10 days after the date of first delinquency notice
- 15% - if more than 10 days after the date of the first delinquency notice

Generally, tax deposits are applied first to any past due undeposited amount within the same return period, with the oldest liability satisfied first. However, you may designate the period to which the deposit applies if you receive a penalty notice. You must respond within 90 days of the date of the notice.

Failure to file penalties:

FICA and FUTA – 5% of the net amount of tax required to have been reported for each month or fraction of a month, not to exceed 25% in the aggregate

W-2 and 1099 – each failure is subject to a \$50 penalty with a maximum penalty of \$250,000

Incorrectly made deposits:

10% Penalty for:

- Deposits made at an unauthorized financial institution
- Paid directly to IRS
- Paid with your tax return (some exceptions)
- Amounts subject to electronic deposit requirements but not deposited using EFTPS

Deposits of all depository taxes (payroll, excise, corporate income) using the Electronic Federal Tax Payment System (EFTPS) are required for 2011 if:

- The total deposits of such taxes in 2009 were more than \$200,000 or
- You were required to use EFTPS in 2010

If you are not required to use EFTPS, you may participate voluntarily

- IRS Form 9779 - Business Enrollment Form for EFTPS
- EFTPS info line - 1-800-555-4477
- On-line - www.eftps.gov

Federal Wage/Hour Record Keeping

Employers must record and preserve specified information and records to show compliance with Fair Labor Standards Act (FLSA) provisions, relating to minimum wage, overtime, equal pay and child labor. The following record keeping requirements are for non-agricultural employees.

Required Information and Records	Retention Period
For each employee COVERED by FLSA:	3 Years
<ul style="list-style-type: none"> • Name, address • Date of birth • Gender, occupation • Workweek days • If paid O/T... regular pay rate and exclusions • Wage basis • Hours worked • Straight-time earnings • Weekly overtime pay • Deductions from and additions to wages • Pay period covered • Pay dates • Wages paid by pay period • Retroactive payment <p>Also, payroll certificates, union agreements and benefit plan documents.</p>	
Supplemental records:	2 Years
<ul style="list-style-type: none"> • Time cards • Wage rate tables • Work time schedules • Job evaluations, etc. 	

W-2 Taxable Wages

Pay Elements Used to Determine Taxable Wages

Responding to employee W-2 inquiries is much easier once you know the pay elements used to determine the taxable wages on the W-2. The explanation which follows reflects only the most common pay elements that determine taxable wages on the W-2.

Box 1: Wages, Tips and Other Compensation

Gross Earnings (Includes taxable fringe benefits and tips)	
minus	Federal Tax Exempt Wages
minus	Deferred Compensation
minus	Meals
minus	Cafeteria 125 Benefits (May vary based on the benefit)
plus	Group-Term Life Insurance (cost of coverage over \$50,000)
plus	Third-Party Sick pay
plus	Other Compensation

W-2 Taxable Wages (cont.)

Box 3: Social Security Wages

Gross Earnings (Includes taxable fringe benefits and tips)	
minus	Social Security Exempt Wages
minus	Meals
minus	Tips (Social Security Tips must print separately in Box 7)
minus	Cafeteria 125 Benefits (May vary based on the benefit)
plus	Group-Term Life Insurance (cost of coverage over \$50,000)
plus	Third-Party Sick pay

Box 5: Medicare Wages and Tips

Gross Earnings (Includes taxable fringe benefits and tips)	
minus	Medicare Exempt Wages
minus	Meals
minus	Cafeteria 125 Benefits (May vary based on the benefit)
plus	Group-Term Life Insurance (cost of coverage over \$50,000)
plus	Third-Party Sick pay

W-2 Taxable Wages (cont.)

Box 17: State Wages, Tips, Etc.

Gross Earnings (Includes taxable fringe benefits and tips)	
minus	State Exempt Wages
minus	Deferred Compensation (May vary by state)
minus	Meals (May vary by state)
minus	Cafeteria 125 Benefits (May vary based on the benefit and the state)
plus	Group-Term Life Insurance (cost of coverage over \$50,000)(May vary by state)
plus	Third-Party Sick pay (May vary by state)
plus	Other Compensation (May vary by state)

15. Special Rules for Various Types of Services and Payments

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

Special Classes of Employment and Special Types of Payments	Treatment Under Employment Taxes		
	Income Tax Withholding	Social Security and Medicare	Federal Unemployment
Aliens, nonresident.	See Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities, and Publication 519, U.S. Tax Guide for Aliens.		
Aliens, resident 1. Service performed in the U.S. 2. Service performed outside U.S.	Same as U.S. citizen. Withhold	Same as U.S. citizen. (Exempt if any part of service as crew member of foreign vessel or aircraft is performed outside U.S.) Taxable if (1) working for an American employer or (2) an American employer by agreement covers U.S. citizens and residents employed by its foreign affiliates.	Same as U.S. citizen. 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.
Cafeteria plan benefits under section 125.	If employee chooses cash, subject to all employment taxes. If employee chooses another benefit, the treatment is the same as if the benefit was provided outside the plan. See Publication 15-B for more information.		
Deceased worker: 1. Wages paid to beneficiary or estate in same calendar year as worker's death. See the Instructions for Forms W-2 and W-3 for details. 2. Wages paid to beneficiary or estate after calendar year of worker's death.	Exempt Exempt	Taxable Exempt	Taxable Exempt
Dependent care assistance programs.	Exempt to the extent it is reasonable to believe amounts are excludable from gross income under section 129.		
Disabled worker's wages paid after year in which worker became entitled to disability insurance benefits under the Social Security Act.	Withhold	Exempt, if worker did not perform any service for employer during period for which payment is made.	Taxable
Employee business expense reimbursement: 1. Accountable plan. a. Amounts not exceeding specified government rate for per diem or standard mileage. b. Amounts in excess of specified government rate for per diem or standard mileage. 2. Nonaccountable plan. See page 11 for details.	Exempt Withhold Withhold	Exempt Taxable Taxable	Exempt Taxable Taxable
Family employees: 1. Child employed by parent (or partnership in which each partner is a parent of the child). 2. Parent employed by child. 3. Spouse employed by spouse. See section 3 for more information.	Withhold Withhold Withhold	Exempt until age 18; age 21 for domestic service. Taxable if in course of the son's or daughter's business. For domestic services, see section 3 . Taxable if in course of spouse's business.	Exempt until age 21 Exempt Exempt
Fishing and related activities.	See Publication 334, Tax Guide for Small Business.		
Foreign governments and international organizations.	Exempt	Exempt	Exempt

Special Classes of Employment and Special Types of Payments	Treatment Under Employment Taxes		
	Income Tax Withholding	Social Security and Medicare	Federal Unemployment
Homeworkers (industrial, cottage industry): 1. Common law employees. 2. Statutory employees. See section 2 for details.	Withhold Exempt	Taxable Taxable if paid \$100 or more in cash in a year.	Taxable Exempt
Hospital employees: 1. Interns 2. Patients	Withhold Withhold	Taxable Taxable (Exempt for state or local government hospitals.)	Exempt Exempt
Household employees: 1. Domestic service in private homes. Farmers, see Publication 51 (Circular A). 2. Domestic service in college clubs, fraternities, and sororities.	Exempt (withhold if both employer and employee agree). Exempt (withhold if both employer and employee agree).	Taxable if paid \$1,700 or more in cash in 2010. Exempt if performed by an individual under age 18 during any portion of the calendar year and is not the principal occupation of the employee. 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 in any quarter in the current or preceding calendar year. Taxable if employer paid total cash wages of \$1,000 or more in any quarter in the current or preceding calendar year.
Insurance for employees: 1. Accident and health insurance premiums under a plan or system for employees and their dependents generally or for a class or classes of employees and their dependents. 2. Group-term life insurance costs. See Publication 15-B for details	Exempt (except 2% shareholder-employees of S corporations). Exempt	Exempt Exempt, except for the cost of group-term life insurance includible in the employee's gross income. Special rules apply for former employees.	Exempt Exempt
Insurance agents or solicitors: 1. Full-time life insurance salesperson. 2. Other salesperson of life, casualty, etc., insurance.	Withhold only if employee under common law. See section 2 . Withhold only if employee under common law.	Taxable Taxable only if employee under common law.	Taxable if (1) employee under common law and (2) not paid solely by commissions. Taxable if (1) employee under common law and (2) not paid solely by commissions.
Interest on loans with below-market interest rates (foregone interest and deemed original issue discount).	See Publication 15-A.		
Leave-sharing plans: Amounts paid to an employee under a leave-sharing plan.	Withhold	Taxable	Taxable
Newspaper carriers and vendors: Newspaper carriers under age 18; newspaper and magazine vendors buying at fixed prices and retaining receipts from sales to customers. See Publication 15-A for information on statutory nonemployee status.	Exempt (withhold if both employer and employee voluntarily agree).	Exempt	Exempt

Special Classes of Employment and Special Types of Payments	Treatment Under Employment Taxes		
	Income Tax Withholding	Social Security and Medicare	Federal Unemployment
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 (withhold if both employer and employee voluntarily agree). Optional with employer, except to the extent employee's supplemental wages during the year exceed \$1,000,000.	Exempt Taxable	Exempt Taxable
Nonprofit organizations.	See Publication 15-A.		
Officers or shareholders of an S Corporation. Distributions and other payments by an S corporation to a corporate officer or shareholder must be treated as wages to the extent the amounts are reasonable compensation for services to the corporation by an employee. See the Instructions for Form 1120S.	Withhold	Taxable	Taxable
Partners: Payments to general or limited partners of a partnership. See Publication 541, Partnerships, for partner reporting rules.	Exempt	Exempt	Exempt
Railroads: Payments subject to the Railroad Retirement Act. See Publication 915, Social Security and Equivalent Railroad Retirement Benefits, for more details.	Withhold	Exempt	Exempt
Religious exemptions.	See Publication 15-A and Publication 517, Social Security and Other Information for Members of the Clergy and Religious Workers.		
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. Employer contributions to individual retirement accounts under simplified employee pension plan (SEP). 4. Employer contributions to section 403(b) annuities. 5. Employee salary reduction contributions to a SIMPLE retirement account. 6. Distributions from qualified retirement and pension plans and section 403(b) annuities. See Publication 15-A for information on pensions, annuities, and employer contributions to nonqualified deferred compensation arrangements.	Exempt Generally exempt, but see section 402(g) for limitation. Generally exempt, but see section 402(g) for salary reduction SEP limitation. Generally exempt, but see section 402(g) for limitation. Exempt Withhold, but recipient may elect exemption on Form W-4P in certain cases; mandatory 20% withholding applies to an eligible rollover distribution that is not a direct rollover; exempt for direct rollover. See Publication 15-A.	Exempt Taxable Exempt, except for amounts contributed under a salary reduction SEP agreement. Taxable if paid through a salary reduction agreement (written or otherwise). Taxable Exempt	Exempt Taxable Taxable Exempt
Salespersons: 1. Common law employees. 2. Statutory employees. 3. Statutory nonemployees (qualified real estate agents, direct sellers, and certain companion sitters). See Publication 15-A for details.	Withhold Exempt Exempt	Taxable Taxable Exempt	Taxable Taxable, except for full-time life insurance sales agents. Exempt
Scholarships and fellowship grants: (includible in income under section 117(c)).	Withhold	Taxability depends on the nature of the employment and the status of the organization. See <i>Students, scholars, trainees, teachers, etc.</i> on next page.	
Severance or dismissal pay.	Withhold	Taxable	Taxable

Special Classes of Employment and Special Types of Payments	Treatment Under Employment Taxes		
	Income Tax Withholding	Social Security and Medicare	Federal Unemployment
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.	Withhold only if employee earns \$50 or more in cash in a quarter and works on 24 or more different days in that quarter or in the preceding quarter.	Taxable if employee receives \$100 or more in cash in a calendar year.	Taxable only if employee earns \$50 or more in cash in a quarter and works on 24 or more different days in that quarter or in the preceding quarter.
Sick pay. See Publication 15-A for more information.	Withhold	Exempt after end of 6 calendar months after the calendar month employee last worked for employer.	
Students, scholars, trainees, teachers, etc.:			
1. Student enrolled and regularly attending classes, performing services for:			
a. Private school, college, or university.	Withhold	Exempt	Exempt
b. Auxiliary nonprofit organization operated for and controlled by school, college, or university.	Withhold	Exempt unless services are covered by a section 218 (Social Security Act) agreement.	Exempt
c. Public school, college, or university.	Withhold	Exempt unless services are covered by a section 218 (Social Security Act) agreement.	Exempt
2. Full-time student performing service for academic credit, combining instruction with work experience as an integral part of the program.	Withhold	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.	Withhold	Exempt	Exempt
4. Student employed by organized camps.	Withhold	Taxable	Exempt
5. Student, scholar, trainee, teacher, etc., as nonimmigrant alien under section 101(a)(15)(F), (J), (M), or (Q) of Immigration and Nationality Act (that is, aliens holding F-1, J-1, M-1, or Q-1 visas).	Withhold unless excepted by regulations.	Exempt if service is performed for purpose specified in section 101(a)(15)(F), (J), (M), or (Q) of Immigration and Nationality Act. However, these taxes may apply if the employee becomes a resident alien. See the special residency tests for exempt individuals in chapter 1 of Publication 519.	
Supplemental unemployment compensation plan benefits.	Withhold	Exempt under certain conditions. See Publication 15-A.	
Tips:			
1. If \$20 or more in a month.	Withhold	Taxable	Taxable for all tips reported in writing to employer.
2. If less than \$20 in a month. See section 6 for more information.	Exempt	Exempt	Exempt
Worker's compensation.	Exempt	Exempt	Exempt

Health Savings Accounts

Health Savings Accounts	2010	2011
Annual Deductible - Individual	1,200	1,200
Annual Deductible - Family	2,400	2,400
Out of Pocket Expenses Limit - Individual	5,950	5,950
Out of Pocket Expenses Limit - Family	11,900	11,900
Maximum Annual Contribution - Individual	3,050	3,050
Maximum Annual Contribution - Family	6,150	6,150
Maximum Catch-Up Contribution	1,000	1,000

	Subject to Tax Withholdings					Deduction on	Deduction on	Reported in
	Federal	Soc Sec	Medicare	State	Local	Individual	Business	Box 12
						Return	Return	Code W
Employer Does NOT Have Sec 125 Cafeteria Plan in Place								
Employee deferrals from gross pay	YES	YES	YES	YES	YES	YES	NO	NO
Employer contributions to plan	NO	NO	NO	NO	NO	NO	YES	YES
Employer DOES Have Sec 125 Cafeteria Plan in Place								
Employee deferrals from gross pay	NO	NO	NO	NO	NO	NO	NO	YES
Employer contributions to plan	NO	NO	NO	NO	NO	NO	YES	YES
Special Rules for 2% S Corporation Shareholders								
Shareholder/Employee deferrals from gross pay	YES	YES	YES	YES	YES	YES	NO	NO
Employer contributions to plan	YES	NO	NO	YES	YES	NO	YES	NO
Special Rules for Partners/LLC Members								
Partnership contributions to plan								
Choice of treatment -								
(A) treat as distribution to partner	N/A	N/A	N/A	N/A	N/A	YES	NO	N/A
* not included in partner's s/e income								
(B) treat as guaranteed payment	N/A	N/A	N/A	N/A	N/A	YES	YES	N/A
* included in partner's s/e income								
* treated as partner's share of income on K-1								

Account Comparison

	Health Savings Account	Health Reimbursement Account	Flexible Spending Account
Account type	Trust or Custodial account	- General assets of employer - Trust	- General assets of employer - Trust
Description	A tax-exempt trust or custodial account established for the purpose of paying qualified medical expenses of the account beneficiary who is covered under a qualified high-deductible health plan (HDHP).	An arrangement in which employer funds are used to reimburse employees for eligible medical expenses.	An arrangement in which employer and/or employee funds are used to reimburse employees for eligible medical expenses.
Must be paired with a health plan	Yes. A qualified HDHP must be in force before an HSA can be established.	No	No
Who is eligible?	Individuals who meet all of the following requirements: (1) Covered under an HDHP on the first day of the month (2) Not covered by any other health plan that is not an HDHP (3) Not entitled to benefits under Medicare (4) Not claimed as a dependent on another person's tax return (5) There is no restriction on group size.	(1) Current and former employees, their spouses and tax dependents (2) Owners and officers of a C Corporation (3) A surviving spouse and dependents of a deceased employee may also be eligible (4) There is no restriction on group size.	(1) Current and former employees, their spouses and tax dependents (2) Owners and officers of a C Corporation (3) A surviving spouse and dependents of a deceased employee may also be eligible (4) There is no restriction on group size.
Ownership	Employee / Consumer	Employer	Employer
Portable	Yes	No. It is the employer's choice to continue reimbursing former employees.	No
Funding/contribution	Employee / Consumer and/or Employer	Employer	Employer and/or employee
Do funds roll over?	Yes	It is the employer's choice upon establishing an HRA to allow rollover and/or to cap the amount that may rollover from year to year.	No
Annual contribution limits*	Individual: \$3,050 Family: \$6,150	Determined by employer and are subject to non-discrimination rules	Determined by employer and are subject to non-discrimination rules
Annual out-of-pocket limits*	Individual: \$5,950 Family: \$11,900	N/A	N/A
Eligible medical expenses	Qualified medical expenses are defined in Section 213(d) of the Internal Revenue Code.	Qualified medical expenses are defined in Section 213(d) of the Internal Revenue Code. Employer can determine which expenses are qualified under their specific plan.	Qualified medical expenses are defined in Section 213(d) of the Internal Revenue Code. Employer can determine which expenses are qualified under their specific plan.
Non-eligible medical expenses	10% tax penalty and income tax prior to Medicare entitlement, funds can be withdrawn for non-medical expenses without tax penalty.	Funds cannot be used for non-medical expenses.	Funds cannot be used for non-medical expenses.
Tax advantages	Employee/Consumer: (1) Pre-tax or tax-deductible contributions (2) Tax-deferred growth (3) Tax-free distributions on qualified medical expenses. Employer: Contributions are tax-deductible	Employee: All reimbursements are tax-free. Employer: Reimbursements are tax-deductible.	Employee: All reimbursements are tax-free. Employer: Reimbursements/ expenditures are tax-deductible.
Effective date	1/1/2004	6/26/2002	3/7/1989
Subject to COBRA	No	Yes	Yes

* 2010 & 2011 Figures

Guide to Information Returns (If any date shown falls on a Saturday, Sunday, or legal holiday, the due date is the next business day.)

Form	Title	What to Report	Amounts to Report	Due Date		
				To IRS	To Recipient (unless indicated otherwise)	
1042-S	Foreign Person's U.S. Source Income Subject to Withholding	Income such as interest, dividends, royalties, pensions and annuities, etc., and amounts withheld under Chapter 3. Also, distributions of effectively connected income by publicly traded partnerships or nominees.	See form instructions	March 15	March 15	
1098	Mortgage Interest Statement	Mortgage interest (including points) and certain mortgage insurance premiums you received in the course of your trade or business from individuals and reimbursements of overpaid interest.	\$600 or more	February 28*	(To Payer/Borrower) January 31	
1098-C	Contributions of Motor Vehicles, Boats, and Airplanes	Information regarding a donated motor vehicle, boat, or airplane.	Gross proceeds of more than \$500	February 28*	(To Donor) 30 days from date of sale or contribution	
1098-E	Student Loan Interest Statement	Student loan interest received in the course of your trade or business.	\$600 or more	February 28*	January 31	
1098-T	Tuition Statement	Qualified tuition and related expenses, reimbursements or refunds, and scholarships or grants (optional).	See instructions	February 28*	January 31	
1099-A	Acquisition or Abandonment of Secured Property	Information about the acquisition or abandonment of property that is security for a debt for which you are the lender.	All amounts	February 28*	(To Borrower) January 31	
1099-B	Proceeds From Broker and Barter Exchange Transactions	Sales or redemptions of securities, futures transactions, commodities, and barter exchange transactions.	All amounts	February 28*	February 15**	
1099-C	Cancellation of Debt	Cancellation of a debt owed to a financial institution, the Federal Government, a credit union, RTC, FDIC, NCUA, a military department, the U.S. Postal Service, the Postal Rate Commission, or any organization having a significant trade or business of lending money.	\$600 or more	February 28*	January 31	
1099-CAP	Changes in Corporate Control and Capital Structure	Information about cash, stock, or other property from an acquisition of control or the substantial change in capital structure of a corporation.	Amounts of stock or property valued at \$100 million or more	February 28*	(To Shareholders) January 31	
1099-DIV	Dividends and Distributions	Distributions, such as dividends, capital gain distributions, or nontaxable distributions, that were paid on stock and liquidation distributions.	\$10 or more, except \$600 or more for liquidations	February 28*	January 31**	
1099-G	Certain Government Payments	Unemployment compensation, state and local income tax refunds, agricultural payments, and taxable grants.	\$10 or more for refunds and unemployment	February 28*	January 31	
1099-H	Health Coverage Tax Credit (HCTC) Advance Payments	Health insurance premiums paid on behalf of certain individuals.	All amounts	February 28*	January 31	
1099-INT	Interest Income	Interest income.	\$10 or more (\$600 or more in some cases)	February 28*	January 31**	
1099-LTC	Long-Term Care and Accelerated Death Benefits	Payments under a long-term care insurance contract and accelerated death benefits paid under a life insurance contract or by a viatical settlement provider.	All amounts	February 28*	January 31	
1099-MISC	Miscellaneous Income (Also, use to report direct sales of \$5,000 or more of consumer goods for resale.)	Rent or royalty payments; prizes and awards that are not for services, such as winnings on TV or radio shows.	\$600 or more, except \$10 or more for royalties	February 28*	January 31**	
		Payments to crew members by owners or operators of fishing boats including payments of proceeds from sale of catch.	All amounts			
		Section 409A income from nonqualified deferred compensation plans (NQDCs).	All amounts			
		Payments to a physician, physicians' corporation, or other supplier of health and medical services. Issued mainly by medical assistance programs or health and accident insurance plans.	\$600 or more			
		Payments for services performed for a trade or business by people not treated as its employees. Examples: fees to subcontractors or directors and golden parachute payments.	\$600 or more			
		Fish purchases paid in cash for resale.	\$600 or more			
		Crop insurance proceeds.	\$600 or more			
		Substitute dividends and tax-exempt interest payments reportable by brokers.	\$10 or more			February 15**
		Gross proceeds paid to attorneys.	\$600 or more			February 15**
1099-OID	Original Issue Discount	Original issue discount.	\$10 or more	February 28*	January 31**	
1099-PATR	Taxable Distributions Received From Cooperatives	Distributions from cooperatives passed through to their patrons including any domestic production activities deduction and certain pass-through credits.	\$10 or more	February 28*	January 31	

*The due date is March 31 if filed electronically.

**The due date is March 15 for reporting by trustees and middlemen of WHFITs.

Guide to Information Returns (Continued)

Form	Title	What to Report	Amounts to Report	Due Date	
				To IRS	To Recipient (unless indicated otherwise)
1099-Q	Payments From Qualified Education Programs (Under Sections 529 and 530)	Earnings from qualified tuition programs and Coverdell ESAs.	All amounts	February 28*	January 31
1099-R	Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.	Distributions from retirement or profit-sharing plans, any IRA, insurance contracts, and IRA recharacterizations.	\$10 or more	February 28*	January 31
1099-S	Proceeds From Real Estate Transactions	Gross proceeds from the sale or exchange of real estate and certain royalty payments.	Generally, \$600 or more	February 28*	February 15
1099-SA	Distributions From an HSA, Archer MSA, or Medicare Advantage MSA	Distributions from an HSA, Archer MSA, or Medicare Advantage MSA.	All amounts	February 28*	January 31
3921	Exercise of an Incentive Stock Option Under Section 422(b)	Transfer of an employer's stock to an employee pursuant to the exercise of an incentive stock option under section 422(b).	All amounts	February 28*	January 31
3922	Transfer of Stock Acquired Through an Employee Stock Purchase Plan Under Section 423(c)	Transfer(s) of stock acquired through an employee stock purchase plan under section 423(c)	All amounts	February 28*	January 31
5498	IRA Contribution Information	Contributions (including rollover contributions) to any individual retirement arrangement (IRA) including a SEP, SIMPLE, and Roth IRA; Roth conversions; IRA recharacterizations; and the fair market value (FMV) of the account.	All amounts	May 31	(To Participant) For FMV/RMD Jan 31; For contributions, May 31
5498-ESA	Coverdell ESA Contribution Information	Contributions (including rollover contributions) to a Coverdell ESA.	All amounts	May 31	April 30
5498-SA	HSA, Archer MSA, or Medicare Advantage MSA Information	Contributions to an HSA (including transfers and rollovers) or Archer MSA and the FMV of an HSA, Archer MSA, or Medicare Advantage MSA.	All amounts	May 31	(To Participant) May 31
W-2G	Certain Gambling Winnings	Gambling winnings from horse racing, dog racing, jai alai, lotteries, keno, bingo, slot machines, sweepstakes, wagering pools, poker tournaments, etc.	Generally, \$600 or more; \$1,200 or more from bingo or slot machines; \$1,500 or more from keno	February 28*	January 31
W-2	Wage and Tax Statement	Wages, tips, other compensation; social security, Medicare, withheld income taxes; and advance earned income credit (EIC) payments. Include bonuses, vacation allowances, severance pay, certain moving expense payments, some kinds of travel allowances, and third-party payments of sick pay.	See separate instructions	To SSA Last day of February*	To Recipient January 31

*The due date is March 31 if filed electronically.

Types of Payments

Below is an alphabetic list of some payments and the forms to file and report them. However, it is not a complete list of all payments, and the absence of a payment from the list does not indicate that the payment is not reportable. For instructions on a specific type of payment, see the separate instructions in the form(s) listed.

Type of Payment	Report on Form	Type of Payment	Report on Form
Abandonment	1099-A	Income tax refunds, state and local	1099-G
Accelerated death benefits	1099-LTC	Indian gaming profits paid to tribal members	1099-MISC
Acquisition of control	1099-CAP	Interest income	1099-INT
Advance earned income credit	W-2	Tax-exempt	1099-INT
Advance health insurance payments	1099-H	Interest, mortgage	1098
Agriculture payments	1099-G	IRA contributions	5498
Allocated tips	W-2	IRA distributions	1099-R
Alternate TAA payments	1099-G	Life insurance contract distributions	1099-R, 1099-LTC
Annuities	1099-R	Liquidation, distributions in	1099-DIV
Archer MSAs:		Loans, distribution from pension plan	1099-R
Contributions	5498-SA	Long-term care benefits	1099-LTC
Distributions	1099-SA	Medicare Advantage MSAs:	
Attorney, fees and gross proceeds	1099-MISC	Contributions	5498-SA
Auto reimbursements, employee	W-2	Distributions	1099-SA
Auto reimbursements, nonemployee	1099-MISC	Medical services	1099-MISC
Awards, employee	W-2	Mileage, employee	W-2
Awards, nonemployee	1099-MISC	Mileage, nonemployee	1099-MISC
Barter exchange income	1099-B	Military retirement	1099-R
Bonuses, employee	W-2	Mortgage insurance premiums	1098
Bonuses, nonemployee	1099-MISC	Mortgage interest	1098
Broker transactions	1099-B	Moving expense	W-2
Cancellation of debt	1099-C	Nonemployee compensation	1099-MISC
Capital gain distributions	1099-DIV	Nonqualified deferred compensation:	
Car expense, employee	W-2	Beneficiary	1099-R
Car expense, nonemployee	1099-MISC	Employee	W-2
Changes in capital structure	1099-CAP	Nonemployee	1099-MISC
Charitable gift annuities	1099-R	Original issue discount (OID)	1099-OID
Commissions, employee	W-2	Patronage dividends	1099-PATR
Commissions, nonemployee	1099-MISC	Pensions	1099-R
Commodities transactions	1099-B	Points	1098
Compensation, employee	W-2	Prizes, employee	W-2
Compensation, nonemployee	1099-MISC	Prizes, nonemployee	1099-MISC
Contributions of motor vehicles, boats, and airplanes	1098-C	Profit-sharing plan	1099-R
Cost of current life insurance protection	1099-R	Punitive damages	1099-MISC
Coverdell ESA contributions	5498-ESA	Qualified plan distributions	1099-R
Coverdell ESA distributions	1099-Q	Qualified tuition program payments	1099-Q
Crop insurance proceeds	1099-MISC	Real estate transactions	1099-S
Damages	1099-MISC	Recharacterized IRA contributions	1099-R, 5498
Death benefits	1099-R	Refund, state and local tax	1099-G
Accelerated	1099-LTC	Rents	1099-MISC
Debt cancellation	1099-C	Retirement	1099-R
Dependent care payments	W-2	Roth conversion IRA contributions	5498
Direct rollovers	1099-Q, 1099-R, 5498	Roth conversion IRA distributions	1099-R
Direct sales of consumer products for resale	1099-MISC	Roth IRA contributions	5498
Directors' fees	1099-MISC	Roth IRA distributions	1099-R
Discharge of indebtedness	1099-C	Royalties	1099-MISC
Dividends	1099-DIV	Timber, pay-as-cut contract	1099-S
Donation of motor vehicle	1098-C	Sales:	
Education loan interest	1098-E	Real estate	1099-S
Employee business expense reimbursement	W-2	Securities	1099-B
Employee compensation	W-2	Section 1035 exchange	1099-R
Excess deferrals, excess contributions, distributions of	1099-R	SEP contributions	W-2, 5498
Exercise of incentive stock option under section 422(b)	3921	SEP distributions	1099-R
Fees, employee	W-2	Severance pay	W-2
Fees, nonemployee	1099-MISC	Sick pay	W-2
Fishing boat crew members proceeds	1099-MISC	SIMPLE contributions	W-2, 5498
Fish purchases for cash	1099-MISC	SIMPLE distributions	1099-R
Foreclosures	1099-A	Student loan interest	1098-E
Foreign persons' income	1042-S	Substitute payments in lieu of dividends or tax-exempt interest	1099-MISC
401(k) contributions	W-2	Supplemental unemployment	W-2
404(k) dividend	1099-DIV	Tax refunds, state and local	1099-G
Gambling winnings	W-2G	Tips	W-2
Golden parachute, employee	W-2	Transfer of stock acquired through an employee stock purchase plan under section 423(c)	3922
Golden parachute, nonemployee	1099-MISC	Tuition	1098-T
Grants, taxable	1099-G	Unemployment benefits	1099-G
Health care services	1099-MISC	Vacation allowance, employee	W-2
Health insurance advance payments	1099-H	Vacation allowance, nonemployee	1099-MISC
Health savings accounts:		Wages	W-2
Contributions	5498-SA		
Distributions	1099-SA		
Income attributable to domestic production activities, deduction for	1099-PATR		

Useful Websites for Year End Payroll Processing

The Internal Revenue Service (IRS)	www.irs.gov
The Social Security Administration	www.ssa.gov
The U.S. Department of Labor	www.dol.gov
The U.S. Immigration and Naturalization Service (INS)	www.ins.usdoj.gov
The Society for Human Resource Management	www.shrm.org
The National Association of State Workforce Agencies (NASWA)	www.icesa.org
United States Department of the Treasury – Health Savings Accounts	www.treas.gov/offices/public-affairs/hsa
U.S. Small Business Administration	www.sba.gov/hsa

