

## **2008 Instructions for Form 944, Employer's ANNUAL Federal Tax Return**

**Purpose:** This is the first circulation of the 2008 Instructions for Form 944 for review and comment. The major changes are described on page 2.

**TPCC Meeting:** None scheduled.

**Prior Version:** The 2007 Instructions for Form 944 are available at:  
<http://www.irs.gov/pub/irs-pdf/f944.pdf> .

**Form Circulation:** The 2008 Form 944 was circulated on June 20 and is available on the circulation page link listed below:

**Other Products:** Circulations of draft tax forms and instructions are posted at  
<http://taxforms.web.irs.gov/Circulations/index.htm>

**Comments:** Please email, fax, or call with any comments by Oct. 10, 2008, and email the reviewer, Ron Gamble, at [Ronald.W.Gamble@irs.gov](mailto:Ronald.W.Gamble@irs.gov) . The two week comment period is needed to meet print deadlines.

**Robert M. Coar, Tax Law Specialist**  
Business Branch, Tax Forms and Publications  
Cubbie C-7-266, NCFB  
SE:W:CAR:MP:T:B:P  
Phone: (202) 283-0659  
Fax: (202) 283-7008  
Email: [Robert.M.Coar@irs.gov](mailto:Robert.M.Coar@irs.gov)

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## **2008 Instructions for Form 944, Employer's ANNUAL Federal Tax Return**

### **Major Changes**

#### **Page 1**

1. Beginning in 2009, there will be a new process for adjusting employment tax returns. Information on this has been added on pages 1, 2, and 5. Regulation

2. The social security wage base for 2008 has been updated to \$102,000 in "What's New" and on page 5. Memo from SSA. The paragraph on the social security wage base for next year has been deleted.

3. The What's New paragraph on address changes reflects the filing address change for Georgia and Tennessee and the replacement of the Charlotte address with a Cincinnati address.

4. We added a What's New item about the requirement for a paid preparer to sign Form 944.

5. We added a reminder about the employer's liability if they contract with a third-party and the third party fails to perform an action. Requested by collection policy.

#### **Page 2**

6. A TIP has been added at the end of the section "What if you do not want to file Form 944 for 2009", alerting taxpayers if they meet one of the exceptions to not file Form 944 for 2009, they can elect to not participate in the Form 944 program in future years. This suggested by the Form 944 working group.

#### **Page 3**

7. The link to the *Online EIN* webpage was updated.

#### **Page 4**

8. Georgia and Tennessee have switched filing addresses. The Charlotte "With a payment" address has been replaced by a Cincinnati address, memo from Submission Processing.

#### **Page 8**

9. A paid preparer is now required to sign Form 944, beginning with the 2008 return. The paid preparer's section is now called Paid Preparer's Use Only (to agree with Form 1040) and is a separate section within Part 5. The instructions have been revised to reflect this. Section 8246 of the Small Business and Work Opportunity Tax Act of 2007 and Notice 2008-13.



2008

# Instructions for Form 944

## Employer's ANNUAL Federal Tax Return

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

### What's New

**Changes to filing addresses.** The filing addresses have changed for Form 944 filers located in Georgia and Tennessee. The Charlotte, NC "With a payment" filing address has changed to Cincinnati, OH. See *Where Should You File?* on page 4.

**Paid preparers must sign Form 944.** The paid preparer's section of Form 944 is no longer optional and is included in Part 5 of Form 944. See *Paid preparers* on page 8.

**Social security wage base for 2008.** Do not withhold social security tax after an employee reaches \$102,000 in social security wages. There is no limit on the amount of wages subject to Medicare tax.

**New employment tax adjustment process in 2009.** If you discover an error on a previously filed Form 944 after December 31, 2008, make the correction using new Form 944-X, Adjusted Employer's ANNUAL Federal Tax Return or Claim for Refund. Currently, taxpayers make corrections to Form 944 using Form 941c that is filed once a year with Form 944. Form 944-X is a stand-alone form, meaning taxpayers can file Form 944-X when an error is discovered, rather than waiting until the end of the year to file Form 941c with Form 944. Lines 6b, 6c, 6d, 6e, and 6f will be deleted from the 2009 Form 944. Adjustments now made on those lines will be made on the new Form 944-X. For more information, visit the IRS website at [www.irs.gov](http://www.irs.gov).

### Reminders

**Form 944—annual employment tax filing for small employers.** To reduce burden on small employers, the Internal Revenue Service (IRS) has simplified the rules for filing employment tax returns to report social security, Medicare, and withheld federal income taxes. Certain employers must file Form 944, Employer's ANNUAL Federal Tax Return, instead of Form 941, Employer's QUARTERLY Federal Tax Return.

**Correcting Form 944 or Form 941.** If you discover an error in 2008 on a previously filed Form 944 or Form 941 and you are required to file Form 944, make the correction using the 2008 Form 944 and attach Form 941c, Supporting Statement to Correct Information. For example, in May 2008, you discovered that you underreported \$100 in social security and Medicare wages on your 2007 Form 944. Correct the error by showing \$15.30 ( $15.3\% \times \$100$ ) on line 6c of your 2008 Form 944 and attaching a completed Form 941c. For more information, see *Prior Period Adjustments* in section 13 of Pub. 15 (Circular E), Employer's Tax Guide.

**Electronic filing and payment.** Now, more than ever before, businesses can enjoy the benefits of filing and paying their federal taxes electronically. Whether you rely on a tax professional or handle your own taxes, IRS offers you convenient programs to make filing and paying easier. Spend less time and worry on taxes and more time running

your business. Use e-file and Electronic Federal Tax Payment System (EFTPS) to your benefit.

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

 *If you were a semiweekly schedule depositor at any time during 2008, you must file a paper Form 944 and Form 945-A, Annual Record of Federal Tax Liability.*

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

**Credit card payments.** Employers can pay the balance due shown on Form 944 by credit card. However, **do not** use a credit card to make federal tax deposits. For more information on paying your taxes with a credit card, visit the IRS website at [www.irs.gov](http://www.irs.gov) and click on the *electronic IRS* link. A convenience fee will be charged for this service.

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

**Where can you get telephone help?** You can call the IRS Business & Specialty Tax Line toll free at 1-800-829-4933 to order tax deposit coupons (Form 8109) and for answers to your questions about completing Form 944, tax deposit rules, or obtaining an employer identification number (EIN).

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

### General Instructions

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

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

## What Is the Purpose of Form 944?

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

For more information about annual employment tax filing and tax deposit rules, see Treasury Decision 9239. You can find T.D. 9239 on page 401 of Internal Revenue Bulletin 2006-6 at [www.irs.gov/pub/irs-irbs/irb06-06.pdf](http://www.irs.gov/pub/irs-irbs/irb06-06.pdf).

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

## Who Must File Form 944?

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

- Wages you have paid.
- Tips your employees have received.
- Federal income tax you withheld.
- Both the employer's and the employee's share of social security and Medicare taxes.
- Current year's adjustments to social security and Medicare taxes for fractions of cents, sick pay, tips, and group-term life insurance.
- Prior years' adjustments to payroll taxes (attach Form 941c). If you discover an error after 2008, you must use Form 944-X to make corrections to a previously filed Form 944.
- Advance earned income tax credit (EIC) payments.

You must file Form 944 for each year even if you have no taxes to report (or you have taxes in excess of \$1,000 to report) unless the IRS notifies you that your filing requirement has been changed to Form 941 (or you filed a final return — See *If your business has closed...* below). Also see *What if you do not want to file Form 944 for 2009?* below.

In February 2008, the IRS mailed newly eligible employers a notice to file Form 944 if their annual liability for social security, Medicare, and withheld federal income taxes was expected to be \$1,000 or less. If you did not respond to that notice by April 1, 2008, indicating your interest to not participate in the Form 944 program, then you must file Form 944 for 2008.

If you did not receive a notice but you contacted the IRS to participate in the Form 944 program and the IRS notified you in writing that your filing requirement was changed, you must file Form 944 for 2008.

**New employers** are also eligible to file Form 944 if they will meet the eligibility requirements. New employers filing Form SS-4, Application for Employer Identification Number, must complete line 13 of Form SS-4 indicating the highest number of employees expected in the next 12 months and must check the "Yes" box or the "No" box on line 14 to indicate whether they expect to have \$1,000 or less in employment tax liability for the calendar year. Generally, if you pay \$4,000 or less in wages subject to social security and Medicare taxes and federal income tax withholding, you are likely to pay \$1,000 or less in employment taxes. New employers are advised of their employment tax filing requirement when they are issued their EIN.



*If the IRS notified you to file Form 944 for 2008, file Form 944 (and not Forms 941) even if your tax liability for 2008 exceeds \$1,000.*

## What if you do not want to file Form 944 for 2009?

You must file Form 944 if you have been notified to do so, unless you meet one of the exceptions. If the IRS has notified you to file Form 944 and an exception listed below applies to you, you must contact the IRS by telephone at 1-800-829-4933 about what form to file. To determine if you can file Form 941 quarterly to report your social security, Medicare, and withheld federal income taxes for the 2009 calendar year, you must contact the IRS by April 1, 2009, unless you are a new employer. See *New employers* above. You may be eligible to file Form 941 quarterly, instead of Form 944 annually, if **either** of the following applies.

- You agree to file your quarterly Forms 941 electronically.
- You expect your 2009 liability for social security, Medicare, and withheld federal income taxes to be more than \$1,000.

If you contact the IRS and the IRS determines you can file Forms 941 instead of Form 944, the IRS will send you a written notice that your filing requirement has been changed.



*If you meet one of the exceptions above, you may elect to not participate in the Form 944 program in future years. You can make this election when you contact IRS about your 2009 Form 944 filing. If the IRS determines you can file Form 941 instead of Form 944 for years after 2009, you will be sent a written notice that your filing requirement has changed.*

## Who cannot file Form 944?

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

- **Employers who are not notified.** If the IRS does not notify you to file Form 944, do not file Form 944. You can call the IRS at 1-800-829-4933 by April 1, 2009, to determine if you can file Form 944 for calendar year 2009.
- **Household employers.** If you employ only household employees, do not file Form 944. For more information, see Pub. 926, Household Employer's Tax Guide, and Schedule H (Form 1040), Household Employment Taxes.
- **Agricultural employers.** If you employ only agricultural employees, do not file Form 944. For more information, see Pub. 51 (Circular A), Agricultural Employer's Tax Guide, and Form 943, Employer's Annual Federal Tax Return for Agricultural Employees.

## What if you reorganize or close your business?

### If you sell or transfer your business...

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

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

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

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

### If your business has closed...

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

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

### When Must You File?

File Form 944 by February 2, 2009, after the end of the 2008 calendar year. If you made deposits in full payment of your taxes for the year by January 31, 2009, you have 10 more calendar days after that date to file your Form 944.

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

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

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

### How Should You Complete Form 944?

#### Review Your Business Information at the Top of the Form

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

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

If you are not using a preprinted Form 944, enter your EIN, name, and address in the spaces provided. Also enter your name and EIN at the top of page 2. Do not use your social security number (SSN) or individual taxpayer identification number (ITIN). Generally, enter the business (legal) name that you used when you applied for your EIN

on Form SS-4. For example, if you are a sole proprietor, enter "Tyler Smith" on the "Name" line and "Tyler's Cycles" on the "Trade name" line. Leave the "Trade name" line blank if it is the same as your "Name."

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

Your business should have only one EIN. If you have more than one and are not sure which one to use, write to the IRS office where you file your returns (using the "Without a payment" address on page 4) or call the IRS at 1-800-829-4933. TTY/TDD users can call 1-800-829-4059.

If you do not have an EIN, you may apply for one online. Go to the IRS website at [www.irs.gov](http://www.irs.gov) and click on the *More Online Tools* link, then the *Online Employer Identification Number (EIN)* link. You may also apply for an EIN by calling 1-800-829-4933, or you can fax or mail Form SS-4 to the IRS. If you have applied for an EIN but do not have your EIN by the time a return is due, write "Applied For" and the date you applied in the space shown for the number.



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

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

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

#### Completing and Filing Form 944

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

- Use 12-point Courier font (if possible) for all entries if you are using a typewriter or computer to complete Form 944.
- Do not enter dollar signs and decimal points. Commas are optional. Report dollars to the left of the preprinted decimal point and cents to the right of it.
- Leave blank any data field with a value of zero (except lines 1 and 9).
- Enter negative amounts using a minus sign (if possible). Otherwise, use parentheses.
- Enter your name and EIN on **all** pages and attachments. Filers using the IRS-preaddressed Form 944 do not have to enter their name and EIN on page 2.

#### Other Forms You Must Use

Give each eligible employee Notice 797, Possible Federal Tax Refund Due to the Earned Income Credit (EIC). Each eligible employee who wishes to receive any advance earned income credit (EIC) payments must give you a completed Form W-5, Earned Income Credit Advance Payment Certificate. For more information, see section 10 of Pub. 15 (Circular E) and Pub. 596, Earned Income Credit.

#### Reconciling Form 944 and Form W-3

The IRS matches amounts reported on your Form 944 with Form W-2 amounts totaled on your Form W-3, Transmittal of

Wage and Tax Statements. If the amounts do not agree, the IRS may contact you. The following amounts are reconciled.

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

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

## Must You Deposit Your Taxes?

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

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

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

**Note.** When you make deposits depends on your deposit schedule, which is either monthly or semiweekly, depending on the amount of your tax liability during the lookback

period. The lookback period for Form 944 filers is different than the lookback period for Form 941 filers, so your deposit schedule may have changed. For more information, see section 11 of Pub. 15 (Circular E).

## What About Penalties and Interest?

### Avoiding penalties and interest

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

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

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



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

## Where Should You File?

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

If you are in ...	Without a payment ...	With a payment ...
Special filing address for exempt organizations; federal, state and local governmental entities; and Indian tribal governmental entities; regardless of location	Department of the Treasury Internal Revenue Service Ogden, UT 84201-0044	Internal Revenue Service P.O. Box 105118 Atlanta, GA 30348-5118
Connecticut	New Jersey	Department of the Treasury Internal Revenue Service Cincinnati, OH 45999-0044
Delaware	New York	Internal Revenue Service P.O. Box 804522 Cincinnati, OH 45280-4522
District of Columbia	North Carolina	
Georgia	Ohio	
Illinois	Pennsylvania	
Indiana	Rhode Island	
Kentucky	South Carolina	
Maine	Tennessee	
Maryland	Vermont	
Massachusetts	Virginia	
Michigan	West Virginia	
New Hampshire	Wisconsin	

If you are in . . .	Without a payment . . .	With a payment . . .
Alabama	Missouri	Department of the Treasury
Alaska	Montana	Internal Revenue Service
Arizona	Nebraska	P.O. Box 105118
Arkansas	Nevada	Atlanta, GA
California	New Mexico	30348-5118
Colorado	North Dakota	
Florida	Oklahoma	
Hawaii	Oregon	
Idaho	South Dakota	
Iowa	Texas	
Kansas	Utah	
Louisiana	Washington	
Minnesota	Wyoming	
Mississippi		
No legal residence or principal place of business in any state	Internal Revenue Service P.O. Box 409101 Ogden, UT 84409	Internal Revenue Service P.O. Box 105273 Atlanta, GA 30348-5273



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

## Specific Instructions:

### Part 1: Answer these questions for 2008

#### 1. Wages, tips, and other compensation

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

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

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

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

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

#### 4. Taxable social security and Medicare wages and tips

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

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

The rate of social security tax on taxable wages is 6.2% (.062) each for the employer and employee or 12.4% (.124)

for both. Stop paying social security tax on and reporting an employee's wages on line 4a when the employee's taxable wages (including tips) reach \$102,000 during 2008. However, continue to withhold income and Medicare taxes for the whole year on wages and tips even when the social security wage base of \$102,000 has been reached.

line 4a (column 1)  
x .124  
line 4a (column 2)

**4b. Taxable social security tips.** Enter all tips your employees reported to you during the year until the total of the tips and wages for an employee reach \$102,000 in 2008. Do this even if you were unable to withhold the 6.2% employee's share of social security tax.

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

line 4b (column 1)  
x .124  
line 4b (column 2)

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

Include all tips your employees reported during the year, even if you were unable to withhold the employee tax of 1.45%.

line 4c (column 1)  
x .029  
line 4c (column 2)

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

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

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

#### 5. Total taxes before adjustments

Add the federal income tax withheld from wages, tips, and other compensation (line 2) and total social security and Medicare taxes before adjustments (line 4d) and enter the result on line 5.

#### 6. TAX ADJUSTMENTS

Enter **tax amounts** on lines 6a through 6e that result from current or prior period adjustments. Use a minus sign (if possible) to show an adjustment that decreases the total taxes shown on line 5. Otherwise, use parentheses. **Do not** enter an amount on line 6d or line 6e unless the IRS has sent you a notice instructing you to do so.

**CAUTION** For errors discovered after 2008, make corrections to a previously filed Form 944 on Form 944-X. Lines 6b, 6c, 6d, 6e, and 6f will be deleted from the 2009 Form 944.

**6a. Current year's adjustments.** In certain cases, you must adjust the amounts you reported as social security and Medicare taxes in column 2 of lines 4a, 4b, and 4c to figure your correct tax liability for this year's Form 944. See section 13 of Pub. 15 (Circular E). **Do not** attach Form 941c or an equivalent statement for current year adjustments.

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

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

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

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

**6b. Prior years' income tax withholding adjustments.**

Generally, you cannot adjust amounts reported as federal income tax withheld in a prior calendar year unless it is to correct an administrative error. An administrative error happened if the amount you entered on a prior year Form 944 or Form 941 was not the same amount you actually withheld. For example, when the total amount of federal income tax actually withheld was not reported correctly on Form 944 because of a mathematical or transposition error, the difference is an administrative error. The administrative error adjustment corrects the amounts reported on a prior return to agree with the amount actually withheld from the employee. Remember to attach Form 941c to explain the adjustment.

**6c. Prior years' social security and Medicare tax adjustments.** Use line 6c to adjust amounts reported on **previous returns**. If you need to report both an increase and a decrease for the same line, show only the difference.

Adjustments you report here change your tax liability and your tax deposits. You will have to take these adjustments into account on lines 13a through 13l. Enter your tax liability amounts for each month. You must explain any adjustments that you make on Form 941c or in an equivalent statement.

Form 941c is **not** an amended return but is a statement providing the necessary information and certifications for adjustments shown on lines 6c through 6e. **Do not** file Form 941c separately from Form 944. For more information, see section 13 of Pub. 15 (Circular E).

**TIP** If you are adjusting an employee's social security wages, social security tips, or Medicare wages and tips for a prior year, you must also file Form W-2c, *Corrected Wage and Tax Statement*, and Form W-3c, *Transmittal of Corrected Wage and Tax Statements*.

**6d. Special additions to federal income tax.** Use this line **only** if the IRS has sent you a notice instructing you to do so. You **must** attach Form 941c explaining the tax increase.

**6e. Special additions to social security and Medicare taxes.** Use this line **only** if the IRS has sent you a notice instructing you to do so. You **must** attach Form 941c explaining the tax increase.

**6f. TOTAL ADJUSTMENTS.** Combine all adjustments shown on lines 6a through 6e and enter the result on line 6f.

**7. Total taxes after adjustments**

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

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

Enter the amount of the advance earned income credit (EIC) payments that you made to your employees. Eligible employees may choose to receive part of the EIC as an advance payment. Those who expect to have a qualifying child must give you a completed Form W-5 stating they expect to qualify for the EIC. Once the employee gives you a signed and completed Form W-5, you must make the advance EIC payments starting with the employee's next wage payment. Advance EIC payments are generally made from withheld federal income tax and employee and employer social security and Medicare taxes. See section 10 of Pub. 15 (Circular E) and Pub. 596.

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

**9. Total taxes after adjustment for advance EIC**

Calculate your total taxes as shown below.

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

- If line 9 is less than \$2,500, you may pay the amount with Form 944 because you were not required to deposit. See section 11 of Pub. 15 (Circular E) for information about federal tax deposits.
- If line 9 is \$2,500 or more, you generally must deposit your tax liabilities using EFTPS or at an authorized financial institution with Form 8109. However, if you deposited all taxes accumulated in the first three quarters of the year and your fourth quarter liability is less than \$2,500, you may pay taxes accumulated during the fourth quarter on Form 944. The amount shown on line 9 must equal line 13m, *Total liability for year*.

**10. Total deposits for this year, including overpayments applied from a prior year**

Enter your deposits for this year, including any deposits that you were required to make to cover prior period liabilities resulting from adjustments shown on lines 6a–6e. Also include in the amount shown any overpayment from a previous period that you applied to this return.

**11. Balance due**

If line 9 is more than line 10, write the difference on line 11. Otherwise, see *Overpayment* below.

You do not have to pay if line 11 is less than \$1. Generally, you should have a balance due only if your total taxes after adjustment for advance EIC (line 9) are less than \$2,500. See *If line 9 is \$2,500 or more* above for an exception.

If line 11 is:

- Less than \$1, you do not have to pay it.
- Between \$1 and \$2,500, you can pay the amount owed with your return. Make your check or money order payable to the *United States Treasury* and write your EIN, Form 944, and 2008 on the check or money order. Complete Form 944-V, *Payment Voucher*, and enclose it with your return.
- \$2,500 or more, you must deposit your tax. See *Must You Deposit Your Taxes?* on page 4.

You may pay the amount shown on line 11 using EFTPS, a credit card, or electronic funds withdrawal (EFW). **Do not**

use a credit card or EFW to pay taxes that were required to be deposited. For more information on paying your taxes with a credit card or EFW, visit the IRS website at [www.irs.gov](http://www.irs.gov) and click on the *electronic IRS* link.

If you pay by EFTPS or credit card, file your return using the "Without a payment" address on page 4 under *Where Should You File?* and **do not** file Form 944-V.



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

## 12. Overpayment

If line 10 is more than line 9, enter the amount on line 12. **Never** make an entry on both lines 11 and 12.

If you deposited more than the correct amount for a year, you can choose to have the overpayment refunded to you or applied to your next return. Check the appropriate box in line 12. If you do not check either box, we will automatically refund the overpayment. We may apply your overpayment to any past due tax account that is shown in our records under your EIN.

If line 12 is less than \$1, we will send a refund or apply it to your next return only if you ask us in writing to do so.

### Complete both pages.

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

## Part 2: Tell us about your tax liability for 2008

### 13. Check one

If line 9 is less than \$2,500, check the first box in line 13 and go to Part 3, line 15.

If line 9 is \$2,500 or more, check the second box on line 13. If you are a monthly schedule depositor, fill out your tax liability for each month and figure the total liability for the year. If you do not enter your tax liability for each month, the IRS will not know when you should have made deposits and may assess an "averaged" failure-to-deposit penalty. See section 11 of Pub. 15 (Circular E). If your tax liability for any month is negative (for example, if you are adjusting an overreported liability in a prior month), do not enter a negative amount for the month. Instead, enter zero for the month and subtract that negative amount from your tax liability for the next month.

**Note.** Your total tax liability for the year (line 13m) must equal your total taxes on line 9.

If you are a semiweekly schedule depositor or if you accumulate \$100,000 or more in tax liability on any day in a deposit period, you must complete Form 945-A and file it with Form 944. See the *Next Day Deposit Rule* in section 11 of Pub. 15 (Circular E). Do not complete lines 13a–13m if you file Form 945-A.

## 14. State abbreviation

If you made deposits of taxes reported on Form 944, write the two-letter United States Postal Service abbreviation for the state where you deposit your taxes using Form 8109 or initiate EFTPS transfers. IRS uses the state shown to determine banking days for purposes of deposit due dates. Official state holidays for the state shown are not counted as banking days. If you deposit in multiple states, enter "MU" in the spaces provided.

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

## Part 3: Tell us about your business

In Part 3, answer question 15 only if it applies to your business. If it does not apply, leave it blank and go to Part 4.

### 15. If your business has closed or you stopped paying wages...

If you go out of business or stop paying wages, you must file a **final return**. To notify the IRS that a particular Form 944 is your final return, check the box on line 15 and enter the date you last paid wages in the space provided.

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

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

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

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

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

The authorization will automatically expire 1 year after the due date (without regard to extensions) for filing Form 944. If you or your designee want to terminate the authorization, write to the IRS office for your locality using the "Without a payment" address under *Where Should You File?* on page 4.

## Part 5: Sign here

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

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

- **Single member LLC treated as a disregarded entity—**

The owner of the LLC.

- **Trust or estate—** The fiduciary.

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

**Alternative signature method.** Corporate officers or duly authorized agents (but not paid preparers) may sign Form 944 by rubber stamp, mechanical device, or computer software program. For details and required documentation, see Rev. Proc. 2005-39. You can find Rev. Proc. 2005-39 on page 82 of Internal Revenue Bulletin 2005-28 at [www.irs.gov/pub/irs-irbs/irb05-28.pdf](http://www.irs.gov/pub/irs-irbs/irb05-28.pdf).

**Paid preparers.** A paid preparer must sign Form 944 and provide the information in the Paid Preparer's Use Only section of Part 5 if the preparer was paid to prepare Form 944 and is not an employee of the filing entity. The preparer must give you a copy of the return in addition to the copy to be filed with the IRS.

If you are a paid preparer, write your SSN or your Preparer Tax Identification Number (PTIN) in the space provided. Include your complete address. If you work for a firm, write the firm's name and the EIN of the firm. You can apply for a PTIN using Form W-7P, Application for Preparer Tax Identification Number. You cannot use your PTIN in place of the EIN of the tax preparation firm.

Generally, do not complete this section if you are filing the return as a reporting agent and have a valid Form 8655, Reporting Agent Authorization, on file with the IRS.

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## How to Order Forms and Publications from the IRS

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Call 1-800-829-3676.



Visit the IRS website at [www.irs.gov](http://www.irs.gov).

## Other IRS Products You May Need

- Form SS-4, Application for Employer Identification Number
- Form W-2, Wage and Tax Statement
- Form W-2c, Corrected Wage and Tax Statement
- Form W-3, Transmittal of Wage and Tax Statements
- Form W-3c, Transmittal of Corrected Wage and Tax Statements
- Form W-4, Employee's Withholding Allowance Certificate
- Form W-5, Earned Income Credit Advance Payment Certificate
- Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return
- Form 941, Employer's QUARTERLY Federal Tax Return
- Form 941c, Supporting Statement to Correct Information
- Form 943, Employer's Annual Federal Tax Return for Agricultural Employees
- Form 944-X, Adjusted Employer's ANNUAL Federal Tax Return and Claim for Refund (available in 2009)
- Form 945-A, Annual Record of Federal Tax Liability
- Form 4070, Employee's Report of Tips to Employer
- Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips
- Instructions for Forms W-2 and W-3
- Instructions for Form 941
- Notice 797, Possible Federal Tax Refund Due to the Earned Income Credit (EIC)
- Pub. 15 (Circular E), Employer's Tax Guide
- Pub. 15-A, Employer's Supplemental Tax Guide
- Pub. 15-B, Employer's Tax Guide to Fringe Benefits
- Pub. 51 (Circular A), Agricultural Employer's Tax Guide
- Pub. 596, Earned Income Credit
- Pub. 926, Household Employer's Tax Guide
- Pub. 947, Practice Before the IRS and Power of Attorney
- Schedule H (Form 1040), Household Employment Taxes