

Instructions for Form 944-X

(January 2009)

Adjusted Employer's ANNUAL Federal Tax Return or Claim for Refund

[DRAFT #5]

Department of the Treasury
Internal Revenue Service

What's New?

New form. The Internal Revenue Service (IRS) developed Form 944-X, Adjusted Employer's ANNUAL Federal Tax Return or Claim for Refund, to replace Form 941c, Supporting Statement to Correct Information. Use Form 944-X to make corrections to previously filed Forms 944. **Do not** attach Form 944-X to your Form 944; file Form 944-X separately.

Form 944-X will also replace Form 843, Claim for Refund or Request for Abatement, for employers to request a refund or abatement of overreported employment taxes. Continue to use Form 843 when requesting a refund or abatement of assessed interest or penalties.

We believe you will find Form 944-X and its instructions easier to understand and fill out than Form 941c. At the same time, the new form will enable the IRS to make corrections to employment taxes more accurately and efficiently. Please read both the form and these instructions carefully to become familiar with the many changes.

Background. Treasury Decision 9405 changed the process for adjusting employment taxes reported on Form 944, Employer's ANNUAL Federal Tax Return, and for filing a claim for refund or abatement of employment taxes. Treasury Decision 9405, 2008-32 I.R.B. 293, is available at www.irs.gov/irb/2008-32_irb/ar13.html. You will use the revised interest-free adjustment process if you underreported employment taxes and are making a payment, or if you overreported employment taxes and will be applying the credit to the Form 944 year during which you file Form 944-X. (However, see the CAUTION on page 2.) You will use the revised claim process if you overreported employment taxes and are requesting a refund or abatement of the overreported amount.

References to Form 944 on Form 944-X and in these instructions also apply to Form 944-SS, Employer's ANNUAL Federal Tax Return, unless otherwise noted. We use the terms "correct" and "corrections" on Form 944-X and in these instructions to include interest-free adjustments under sections 6205 and 6413 of the Internal Revenue Code.

If you have comments or suggestions for improving Form 944-X or these instructions, we would be happy to hear from you. Write to the address shown in the *Privacy Act and Paperwork Reduction Act Notice* on Form 944.

New process for correcting employment taxes. After December 31, 2008, when you discover an error on a previously filed Form 944, you **must**:

- correct that error using Form 944-X,

- file one Form 944-X for each Form 944 that you are correcting, and
- file Form 944-X separately. **Do not** file Form 944-X with Form 944.

Beginning with 2009, Form 944 will no longer provide adjustment lines (formerly lines 6b through 6f) for correcting prior year errors. However, continue to report current year adjustments for fractions of cents, third-party sick pay, tips, and group-term life insurance on Form 944 using line 6.

Report the correction of underreported and overreported amounts for the same year on a single Form 944-X, unless you are requesting a refund or abatement. If you are requesting a refund or abatement and are correcting both underreported and overreported amounts, file one Form 944-X correcting the underreported amounts only and a second Form 944-X correcting the overreported amounts.

Follow the chart on the back of Form 944-X for help in choosing whether to use the adjustment process or the claim process.

CAUTION: Do not use Form 944-X to correct Forms CT-1, 941, 943, or Form 945. Instead, use the "X" form that corresponds to those returns (Form CT-1 X, 941-X, 943-X, or Form 945-X).

General Instructions: Understanding Form 944-X

What Is the Purpose of Form 944-X?

Use Form 944-X to correct errors on a Form 944 that you previously filed. Use Form 944-X to correct:

- wages, tips, and other compensation;
- income tax withheld from wages, tips, and other compensation;
- taxable social security wages;
- taxable social security tips;
- taxable Medicare wages and tips; and
- advance earned income credit (EIC) payments made to employees.

If you did not file a Form 944 for one or more years, **do not** use Form 944-X. Instead, file Form 944 for each of those years. See also *When Should You File Form 944-X?* on page 2.

Note. If you did not file Forms 944 because you improperly treated all workers as subcontractors or nonemployees and are

now reclassifying them as employees, see the instructions for line 19 on page 10.

You have additional requirements to complete when filing Form 944-X, such as certifying that you filed (or will file) all applicable Forms W-2 and Forms W-2c. For corrections of overreported federal income tax, social security or Medicare tax, you must make any certifications that apply to your situation.

Be sure to give us a detailed explanation on line 20 for each correction that you show on Form 944-X.

Where Can You Get Help?

For help filing Form 944-X or for questions about federal employment taxes and tax corrections, you can:

- call the IRS toll-free at 1-800-829-4933 (TTY/TDD for the hearing impaired at 1-800-829-4059),
- visit the IRS website at www.irs.gov/businesses and click on “Employment Taxes,” or
- get Pub. 15 (Circular E), Employer’s Tax Guide. If you are correcting Form 944-SS, get Pub. 80 (Circular SS) instead.

See also *How Can Your Order Forms and Publications from the IRS?* on page 11.

When Should You File Form 944-X?

File Form 944-X when you discover an error on a previously filed Form 944.

However, if your only error on Form 944 relates to federal tax liabilities reported in Part 2 of Form 944 or on Form 945-A, Annual Record of Federal Tax Liability, do not file Form 944-X. For more information about correcting federal tax liabilities reported in Part 2 of Form 944 or on Form 945-A, see the instructions for Form 945-A.

Due dates. The due date for filing Form 944-X to qualify for interest-free adjustments for underpayments or overpayments depends on when you discover an error and if you underreported or overreported tax. If you underreported tax, see *Underreported tax* below. For overreported amounts, you may choose to either make an interest-free adjustment or file a claim for refund or abatement. If you are correcting overreported amounts, see *Overreported tax—credit* and *Overreported tax—claim* below.

Underreported tax. If you are correcting underreported tax, you must file Form 944-X by the due date of the return for the return period in which you discovered the error. When you discover that you underreported tax on a previously filed Form 944, file Form 944-X no later than January 31 of the following year. Pay the amount you owe when you file. Doing so will generally ensure that your correction is interest free and not subject to failure-to-pay or failure-to-deposit penalties. See *What About Penalties and Interest?* on page 3.

Example—You owe tax:

On February 11, 2009, you discover that you underreported \$1,000 of social security and Medicare wages on your 2008 Form 944. File Form 944-X and pay the amount you owe by January 31, 2010 because you discovered the error in 2009 and January 31, 2010 is the due date for that year. If you file Form 944-X before January 31, 2010, pay the amount you owe when you file.

Overreported tax—credit. If you overreported tax and choose to apply the credit on Form 944, file Form 944-X more than 90 days before the period of limitations for correcting the Form 944 expires. See *Is There a Deadline for Filing Form 944-X?* below.

Example—You want your credit applied to Form 944:

On May 1, 2009, you discover that you overreported tax on your 2008 Form 944. You file Form 944-X on June 1, 2009. IRS treats your credit as a tax deposit made on January 1, 2009. When you file your 2009 Form 944, include the amount from line 17 of Form 944-X on line 10 (“Total deposits”) of your 2009 Form 944.

Overreported tax—claim. If you overreported tax, you may choose to file a claim for refund or abatement on Form 944-X. (If you need to correct **any** underreported amounts, you must file another Form 944-X reporting only corrections to the underreported amounts.) You will be refunded the overreported tax plus interest if IRS approves your claim for refund. However, see *Is There a Deadline for Filing Form 944-X?* below.

TIP: If you discovered an error on or before December 31, 2008 but did not report it as a line adjustment on Form 944 for any year ended before 2009 and did not file a claim (Form 843), you may use Form 944-X to correct the error. File Form 944-X for the year in which you made the error.

Is There a Deadline for Filing Form 944-X?

Generally, you may correct overreported taxes on a previously filed Form 944 within 3 years of the date Form 944 was filed or 2 years from the date you paid the tax reported on Form 944, whichever is later. You may correct underreported taxes on a previously filed Form 944 within 3 years of the date the Form 944 was filed. We call each of these timeframes the “period of limitations.” For purposes of the period of limitations, all Forms 944 that you filed on time are deemed to have been filed on April 15 of the next calendar year.

Example:

You filed your 2007 Form 944 on January 27, 2008. (IRS treats the return as if it were filed on April 15, 2008.) On January 10, 2011, you discover that you overreported social security and Medicare wages on that form by \$1,000. To correct the error, you must file Form 944-X by April 15, 2011 which is the end of the period of limitations for refund or credit.

CAUTION: If you file Form 944-X to correct overreported amounts in the last 90 days of a period of limitations (after

January 15, 2011 in the example above), you must use the claim process. You cannot use the adjustment process. If you are also correcting underreported amounts, you must use the adjustment process to file another Form 944-X reporting the underreported amounts only and pay any tax due.

Where Should You File Form 944-X?

Send your completed Form 944-X to the Internal Revenue Service Center shown below.

IF you are in...	THEN use this address...
Special filing addresses 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
Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin	Department of the Treasury Internal Revenue Service Cincinnati, OH 45999-0044
Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming	Department of the Treasury Internal Revenue Service Ogden, UT 84201-0044
No legal residence or principal place of business in any state	Internal Revenue Service P.O. Box 409101 Ogden, UT 84409

How Should You Complete Form 944-X?

Use One Form 944-X for Each Year You Are Correcting

Use a separate Form 944-X for each Form 944 that you are correcting. For example, if you found errors on your Forms 944 for 2007 and 2008, file one Form 944-X to correct the 2007 Form 944. File a second Form 944-X to correct the 2008 Form 944.

EIN, Name, and Address

Enter your EIN, name, and address in the spaces provided. Also enter your name and EIN on the top of pages 2 and 3, and on any attachments. If your address has changed since you filed your Form 944, enter the corrected information and IRS will update your address of record.

Return You Are Correcting

In the box at the top of page 1 of Form 944-X, check the type of return (Form 944 or Form 944-SS) you are correcting. Enter the calendar year of the Form 944 you are correcting. Enter the calendar year on pages 2 and 3, and on any attachments.

Enter the Date You Discovered Errors

You **must** enter the date you discovered errors. If you are reporting several errors that you discovered at different times, enter the earliest date you discovered them here. On line 20, report any subsequent dates and related errors.

Must You Make an Entry on Each Line?

You must provide all of the information requested at the top of page 1 of Form 944-X. You must check one box (but not both) in Part 1. You must check the box on line 3 and any boxes that apply on lines 4 and 5. In Part 3, if any line does not apply, leave it blank. Complete Parts 4 and 5 as instructed.

How Should You Report Negative Amounts?

Form 944-X uses negative numbers to show reductions in tax (credits) and positive numbers to show additional tax (amounts you owe).

When reporting a negative amount in columns 3 and 4, use a minus sign instead of parentheses. For example, enter “-10.59” instead of “(10.59).” However, if you are completing the return on your computer and your software only allows you to use parentheses to report negative amounts, you may use them.

How Should You Make Entries on Form 944-X?

You can help IRS process Form 944-X timely and accurately if you follow these guidelines.

- Type or print your entries.
- Use Courier font (if possible) for all typed or computer-generated entries.
- Omit dollar signs. You may use commas and decimal points, if desired. Enter dollar amounts to the left of any preprinted decimal point and cents to the right of it.
- Always show an amount for cents. Do not round entries to whole dollars.
- Complete all three pages and sign Form 944-X on page 3.
- Give us a detailed explanation on line 20 for all corrections.
- Staple multiple sheets in the upper-left corner.

What About Penalties and Interest?

Generally, your correction of an underreported amount will not be subject to a failure-to-pay penalty, failure-to-deposit penalty, or interest if you:

- file on time (by the due date of Form 944 for the year in which you discover the error),
- pay the amount shown on line 17 **when you file** Form 944-X,
- enter the date you discovered the error, and
- explain in detail the grounds and facts relied on to support the correction.

Example:

On November 12, 2009, you discovered that you underreported \$1,000 of social security and Medicare wages on your 2008 Form 944. You filed Form 944-X on January 15, 2010 to correct the error. (The due date for filing your 2009 Form 944-X was January 31, 2010.) You paid the underreported tax of \$153 when you filed on January 15. In the appropriate space on page 1 of Form 944-X, you entered “11/12/2009” as the date you discovered the error. You adequately explained the correction on line 20.

Part 1: Select ONLY One Process

Overview of the New Processes

The new processes for adjusting Form 944 or filing a claim are outlined below.

If you underreported the tax. If you underreported the tax on a previously filed Form 944, check the box on line 1 and **pay** any additional amount you owe when you file Form 944-X.

Example—You underreported employment taxes:

On June 20, 2009, you discover an error that results in additional tax on your 2008 Form 944. File Form 944-X by January 31, 2010 and pay the amount you owe when you file. See *When Should You File Form 944-X?* on page 2. For details on how to make a payment, see the instructions for line 17 on page 9. **Do not** attach Form 944-X to your 2009 Form 944.

If you overreported the tax. If you overreported the tax on a previously filed Form 944, you may **choose** to:

- *use the adjustment process.* Check the box on line 1 to apply any credit (negative amount) from line 17 to Form 944 for the year during which you file Form 944-X, or
- *use the claim process.* Check the box on line 2 to file a claim on Form 944-X requesting a refund or abatement of the amount shown on line 17.

TIP: To ensure that the IRS has enough time to process a credit for an **overreporting adjustment** in the year during which you file Form 944-X, you are encouraged to file Form 944-X correcting the overreported amount in the first eleven months of a year. For example, if you discover an overreported amount in December, you may want to file Form 944-X during the first eleven months of the next year. This should ensure that the IRS will have enough time to process the Form 944-X so that the credit will be posted before you file Form 944, thus avoiding an erroneous balance due notice from the IRS. See the example below. (If you currently file Form 941 instead of Form 944 and will claim a credit on Form 941, file Form 944-X in the first two months of a quarter.)

Example—You want your overreported tax applied as a credit to Form 944:

On December 22, 2009, you discover you overreported your tax on your 2008 Form 944. You choose the adjustment process (and check the box on line 1) to apply the overreported tax as a credit on your **2010** Form 944. To allow IRS enough time to process the credit, you file Form 944-X on January 6, 2010. Include the credit from line 17 of Form 944-X on line 10 (“Total deposits”) of your 2010 Form 944. Your credit will count as a tax deposit made on January 1, 2010, the first day of the 2010 calendar year. **Do not** attach Form 944-X to your 2009 or 2010 Form 944.

Specific Instructions:

Because Form 944-X may be used to file either an adjusted employment tax return or a claim for refund or abatement of employment taxes, you **must** check one box in either line 1 or line 2. Do not check both boxes.

1. Adjusted Employment Tax Return

Check the box on line 1 if you are correcting underreported amounts or overreported amounts and you would like to use the adjustment process to correct the errors.

If you are correcting both underreported amounts and overreported amounts on this form, you **must** check this box. If you check this box, any negative amount shown on line 17 will be applied as a credit (tax deposit) on your Form 944 or Form 944-SS for the year in which you are filing this form. See *Example—You want your overreported tax applied as a credit to Form 944* above.

If you owe tax. Pay the amount shown on line 17 when you file Form 944-X. Generally, you will not be charged interest if you file on time, pay on time, enter the date you discovered the error, and adequately explain the correction on line 20.

If you have a credit. You overreported employment taxes (you have a negative amount on line 17) and want IRS to apply the credit on Form 944 (or Form 941) for the period during which you filed Form 944-X. IRS will apply your credit to the first day of the Form 944 year (or Form 941 quarter) during which you filed Form 944-X. However, the credit you show on line 17 of Form 944-X may not be fully available on your Form 944 (or Form 941) if IRS corrects it during processing or you owe other taxes, penalties, or interest. IRS will notify you if your claimed credit changes or if the amount available as a credit was reduced because of unpaid taxes, penalties, or interest.

CAUTION: To allow enough time for IRS to process your credit, consider filing Form 944-X only in the first eleven months of a year. See the TIP above. (For credits applied to Form 941, file Form 944-X in the first two months of a quarter.) Do not check the box on line 1 if you are correcting overreported amounts and the period of limitations for changes to Form 944 will expire within 90 days of the date you file Form 944-X. Instead, check the box on line 2. See *Is There a Deadline for Filing Form 944-X?* on page 2.

2. Claim

Check the box on line 2 to use the claim process if you are correcting **overreported amounts only** and you are claiming a refund or abatement for the negative amount (credit) shown on line 17. Do not check this box if you are correcting ANY underreported amounts on this form.

You must check the box on line 2 if you have a credit and the period of limitations for corrections to Form 944 will expire within 90 days of the date you file Form 944-X. See *Is There a Deadline for Filing Form 944-X?* on page 2.

Unless IRS corrects Form 944-X during processing or you owe other taxes, penalties, or interest, IRS will refund the amount shown on line 17, plus any interest that applies.

IRS usually processes claims shortly after they are filed. IRS will notify you if your claim is denied, accepted as filed, or selected to be examined. Get Publication 556, Examination of Returns, Appeal Rights, and Claims for Refund, for more information.

Part 2: Complete the Certifications

You must complete all certifications that apply by checking the appropriate boxes. If all of your corrections relate to underreported amounts, complete line 3 only; skip lines 4 and 5 and go to Part 3.

3. Filing Forms W-2 or Forms W-2c

Check the box on line 3 to certify that you filed or will file Forms W-2 or Forms W-2c, whichever is appropriate, showing your employees' correct wage and tax amounts. See the Instructions for Forms W-2 and W-3 and the Instructions for Forms W-2c and W-3c for detailed information about filing requirements. References to Form W-2 on Form 944-X and in these instructions also apply to Forms W-2AS, W-2CM, W-2GU, and W-2VI unless otherwise noted.

You must check the box on line 3 to certify that you filed Forms W-2 or Forms W-2c even if your corrections on Form 944-X do not change amounts shown on those forms. For example, if your only correction to Form 944 involves misstated tax adjustments (see the instructions for line 11), check the box on line 3 to certify that you already filed all required Forms W-2 and W-2c.

4. Certifying Overreporting Adjustments

If you overreported federal income tax, social security tax, or Medicare tax and checked the box on line 1, check the appropriate box on line 4. You may need to check more than one box.

4a. Check the box on line 4a if your overreported amount includes each affected employee's share of overcollected taxes. You are certifying that you repaid or reimbursed the employee's share of current and prior year taxes and you received written statements from the employees stating that they did not and will not receive a refund or credit for the prior year taxes. You are certifying that you adjusted federal income tax withheld from employees for the current calendar year only.

Example. The following is an example of the written statement that is required from employees.

Employee name _____

Employer name _____

I have received a repayment of \$_____ as overcollected social security and Medicare taxes for 20____. I have not claimed a refund of or credit for the overcollected taxes from IRS, or if I did, that claim has been rejected; and I will not claim a refund or a credit of the amount.

Employee signature _____

Date _____

Do not send these statements to IRS. Keep them for your records.

4b. Check the box on line 4b to certify that your overreported amount is only for the employer share of taxes on those employees who you were unable to find or those who would not (or could not) give you a statement described on line 4a.

4c. Check the box on line 4c to certify that your overreported amount is only for federal income tax, social security tax, and Medicare tax that you did not withhold from your employees.

5. Certifying Claims

If you are filing a claim for refund or abatement of overreported federal income tax, social security tax, or Medicare tax and checked the box on line 2, check the appropriate box on line 5. You may need to check more than one box. You may not file a refund claim to correct federal income tax withheld from employees.

5a. Check the box on line 5a if your overreported tax includes each affected employee's share of social security and Medicare tax. You are certifying that you repaid or reimbursed to the employees their share of current and prior year social security and Medicare tax and you received written statements from those employees stating that they did not and will not receive a refund or credit for the prior year taxes.

5b. Check the box on line 5b if your overreported tax includes each affected employee's share of social security and Medicare tax. You may check this box even if you have not yet repaid or reimbursed the employee share of taxes. You are certifying that you received consent from each affected employee to file a claim on the employee share of those taxes and you received written statements from those employees stating that they did not and will not receive a refund or credit for the prior year taxes.

Example. The following is an example of the consent and written statement that is required from employees when you are filing a claim for refund and have **not yet repaid or reimbursed** the employee share of taxes.

Employee name _____

Employer name _____

I give my consent to have my employer (named above) file a claim on my behalf with IRS requesting \$_____ in overcollected social security and Medicare taxes for 20____. I have not claimed a refund of or credit for the overcollected taxes from IRS, or if I did, that claim has been rejected; and I will not claim a refund or a credit of the amount.

Employee signature _____

Date _____

Do not send these statements to IRS. Keep them for your records.

Note. If you do not currently have consents from your employees, you may still be able to file a claim for refund or abatement following the Chicago Milwaukee Corp. (40 F.3d 373) court decision. Be sure to cite “Chicago-Milwaukee” as your first comment on line 20.

5c. Check the box on line 5c to certify that your overreported tax is only for the employer share of social security and Medicare tax. Affected employees did not give you consent to file a claim for refund for the employee share of social security and Medicare tax, they could not be found, or would not (or could not) give you a statement described on line 5b.

5d. Check the box on line 5d to certify that your overreported amount is only for federal income tax, social security tax, and Medicare tax that you did not withhold from your employees.

Part 3: Enter the Corrections for This Year

What Amounts Should You Report in Part 3?

In columns 1 and 2 of lines 6 through 10, show amounts for **all** of your employees, not just for those employees whose amounts you are correcting.

If a correction that you report in column 4 was caused by offsetting errors (see the instructions for line 18), give us details for each error on line 20.

Because special circumstances apply for lines 11 through 14 and 16, read the instructions for each line carefully before entering amounts in the columns.

CAUTION: If you previously adjusted or amended Form 944 using Form 941c, Form 944-X, Form 843, an “amended” Form 944, by filing a “supplemental” Form 944, or because of an IRS examination change, show amounts in column 2 that include those previously reported corrections.

6. Wages, Tips, and Other Compensation

If you are correcting the wages, tips, and other compensation you reported on line 1 of Form 944, enter the total corrected amount for ALL employees in column 1. In column 2, enter the amount you originally reported. In column 3, enter the difference between columns 1 and 2. This line does not apply to Form 944-SS.

If you (or IRS) previously corrected the amount reported on line 1 of Form 944, enter in column 2 the amount after any previous corrections.

line 6 (column 1)
~~line 6 (column 2)~~
 line 6 (column 3) If the amount in column 2 is larger than the amount in column 1, use a minus sign in column 3.

Example —Wages, tips, and other compensation increased

You reported \$9,000 as total wages, tips, and other compensation on line 1 of your 2008 Form 944. In July of 2009, you discovered that you had overlooked \$1,000 in tips for one of your part-time employees. To correct the error, figure the difference on Form 944-X as shown.

Column 1 (corrected amount)	10,000.00
Column 2 (from line 1 of Form 944)	- 9,000.00
Column 3 (difference)	1,000.00

Example —Wages, tips, and other compensation decreased

You reported \$9,000 as wages, tips, and other compensation on line 2 of your 2008 Form 944. In December of 2009, you discovered that you included \$2,000 in wages for one of your employees twice. To correct the error, figure the difference on Form 944-X as shown.

Column 1 (corrected amount)	7,000.00
Column 2 (from line 1 of Form 944)	- 9,000.00
Column 3 (difference)	-2,000.00

Example—Auto allowance; wages, tips, and other compensation increased

You paid one of your employees a \$50 monthly auto allowance from October through December 2008 and did not treat the payments as taxable wages. However, in February 2009, you realized that the payments were wages because they were not reimbursements of deductible business expenses that were substantiated and paid under an accountable plan. Therefore, you must correct the error and treat the auto allowance as wages subject to income, social security, and Medicare taxes. Use Form 944-X to report the additional \$150 of wages on line 6 and any underreported amounts on lines 8 and 10.

TIP: For line 6 of Form 944-X only, there is no entry in column 4. Instead, use the amount in column 1 when you prepare your Forms W-2 or Forms W-2c.

7. Income Tax Withheld from Wages, Tips, and Other Compensation

If you are correcting the federal income tax withheld from wages, tips, and other compensation you reported on line 2 of Form 944, enter the total corrected amount in column 1. In column 2, enter the amount you originally reported or as previously corrected. In column 3, enter the difference between columns 1 and 2. This line does not apply to Form 944-SS.

line 7 (column 1)
~~line 7 (column 2)~~
 line 7 (column 3) If the amount in column 2 is larger than the amount in column 1, use a minus sign in column 3.

Copy the amount in column 3 to column 4. Include any minus sign shown in column 3.

CAUTION: Generally, you may correct federal income tax withholding errors **only** for the current calendar year. However, you may correct federal income tax withholding errors for prior years if the amounts shown on Form 944 do not agree with the amounts you actually withheld, that is, an administrative error. See section 13 of Pub. 15 (Circular E) for more information about corrections during the calendar year and about administrative errors.

Example—Failure to withhold income tax when required

You were required to withhold \$400 of federal income tax from a new employee’s pay in December of 2008 but withheld

nothing. You discovered the error on March 15, 2009. You cannot file Form 944-X to correct your 2008 Form 944 because the error involves a previous year and the amount previously reported for the new employee (zero) represents the actual amount withheld from the new employee during 2008.

Example—Administrative error reporting income tax

You had three employees. In 2008, you withheld \$100 of federal income tax from employee A, \$200 from employee B, and \$600 from employee C. The total amount of federal income tax you withheld was \$900. You mistakenly reported \$600 on line 2 of your 2008 Form 944. You discovered the error on March 16, 2009. This is an example of an administrative error that may be corrected in a later calendar year because the amount actually withheld from employees' wages differs from the amount reported on Form 944. Use Form 944-X to correct the error. Enter \$900 in column 1 and \$600 in column 2. Subtract the amount in column 2 from the amount in column 1.

Column 1 (corrected amount)	900.00
Column 2 (from line 2 of Form 944)	- <u>600.00</u>
Column 3 (difference)	300.00

Report the 300.00 as a tax correction in column 4.

Be sure to explain the reasons for this correction on line 20.

8. Taxable Social Security Wages

If you are correcting the taxable social security wages you reported on line 4a, column 1 of Form 944, enter the total corrected amount in column 1. In column 2, enter the amount you originally reported or as previously corrected. In column 3, enter the difference between columns 1 and 2.

line 8 (column 1)	
<u>-line 8 (column 2)</u>	
line 8 (column 3)	If the amount in column 2 is larger than the amount in column 1, use a minus sign in column 3.

Multiply the amount in column 3 by .124 (12.4% tax rate) and enter that result in column 4.

line 8 (column 3)	
<u> x .124</u>	
line 8 (column 4)	If the amount in column 3 used a minus sign, also use a minus sign in column 4.

Note. If you are correcting only the employer share of tax on a decrease to social security wages, use .062 (6.2%) when multiplying the amount shown in column 3. If you are correcting both shares of tax for some employees and only the employee share for other employees, enter the properly calculated amount in column 4. Be sure to show your calculations on line 20.

Example—Social security wages decreased

Following *Example—Wages, tips and other compensation decreased* in the instructions for line 6, the wages that you counted twice were also taxable social security wages. To correct the error, figure the difference on Form 944-X as shown.

Column 1 (corrected amount)	7,000.00
Column 2 (from line 4a of Form 944)	- <u>9,000.00</u>
Column 3 (difference)	-2,000.00

Use the difference in column 3 to determine your tax correction.

Column 3 (difference)	-2,000.00
Tax rate (12.4%)	<u> x .124</u>
Column 4 (tax correction)	-248.00

Be sure to explain the reasons for this correction on line 20.

9. Taxable Social Security Tips

If you are correcting the taxable social security tips you reported on line 4b, column 1 of Form 944, enter the total corrected amount in column 1. In column 2, enter the amount you originally reported or as previously corrected. In column 3, enter the difference between columns 1 and 2.

line 9 (column 1)	
<u>-line 9 (column 2)</u>	
line 9 (column 3)	If the amount in column 2 is larger than the amount in column 1, use a minus sign in column 3.

Multiply the amount in column 3 by .124 (12.4% tax rate) and report that result in column 4.

line 9 (column 3)	
<u> x .124</u>	
line 9 (column 4)	If the amount in column 3 used a minus sign, also use a minus sign in column 4.

Note. If you are adjusting only the employer share of tax on a decrease to social security tips, use .062 (6.2%) when multiplying the amount shown in column 3. If you are correcting both shares of tax for some employees and only the employee share for other employees, report the properly calculated amount in column 4. Be sure to show your calculations on line 20.

Following the *Example—Wages, tips, and other compensation increased* in the instructions for line 6, the tips that you overlooked were also taxable social security tips. To correct the error, figure the difference on Form 944-X as shown.

Column 1 (corrected amount)	10,000.00
Column 2 (from line 4b of Form 944)	- <u>9,000.00</u>
Column 3 (difference)	1,000.00

Use the difference in column 3 to determine your tax correction.

Column 3 (difference)	1,000.00
Tax rate (12.4%)	<u> x .124</u>
Column 4 (tax correction)	124.00

Be sure to explain the reasons for this correction on line 20.

10. Taxable Medicare Wages and Tips

If you are correcting the taxable Medicare wages and tips you reported on line 4c, column 1 of Form 944, enter the total corrected amount in column 1. In column 2, enter the amount

you originally reported or as previously corrected. In column 3, enter the difference between columns 1 and 2.

line 10 (column 1)
-line 10 (column 2)
 line 10 (column 3) If the amount in column 2 is larger than the amount in column 1, use a minus sign in column 3.

Multiply the amount in column 3 by .029 (2.9% tax rate) and enter that result in column 4.

line 10 (column 3)
 x .029
 line 10 (column 4) If the amount in column 3 used a minus sign, also use a minus sign in column 4.

Note. If you are correcting only the employer share of tax on a decrease to Medicare wages and tips, use .0145 (1.45%) when multiplying the amount in column 3. If you are correcting both shares of tax for some employees and only the employee share for other employees, enter the properly calculated amount in column 4. Be sure to explain your calculations on line 20.

Example—Medicare wages and tips decreased

Following *Example—Wages, tips and other compensation decreased* in the instructions for line 6, the wages that you counted twice were also taxable Medicare wages and tips. To correct the error, figure the difference on Form 944-X as shown.

Column 1 (corrected amount)	7,000.00
Column 2 (from line 4c of Form 944)	<u>- 9,000.00</u>
Column 3 (difference)	-2,000.00

Use the difference in column 3 to determine your tax correction.

Column 3 (difference)	-2,000.00
Tax rate (2.9%)	<u> x .029</u>
Column 4 (tax correction)	-58.00

Be sure to explain the reasons for this correction on line 20.

11. Tax Adjustments

Do not enter an amount on line 11 unless you need to **correct** any adjustments reported on line 6a of a previously filed Form 944 for 2006, 2007, or 2008. (Use Form 944-X to correct current year adjustments reported on line 6 of a 2009 or subsequent year Form 944. For those years, substitute line 6 for line 6a in this instruction.)

Use line 11 to correct any adjustments shown on line 6a of Form 944. Add the **corrected** amounts making up the amount shown on line 6a. Enter that total in column 1.

In column 2, enter the amount you originally reported on line 6a or as previously corrected. In column 3, enter the difference between columns 1 and 2.

line 11 (column 1)
-line 11 (column 2)
 line 11 (column 3)

TIP: You may need to report negative numbers in any column. Make sure that the difference you enter in column 3 accurately represents the change to adjustments originally reported or previously corrected on line 6a of Form 944.

Copy the amount in column 3 to column 4. Include any minus sign shown in column 3.

On line 20, describe what you misreported on Form 944. Tell us if your adjustment is for fractions of cents, third-party sick pay, tips, or group-term life insurance.

Example—Current year’s third-party sick pay underreported

You reported \$6,900 (shown as “-6,900.00”) as a third-party sick pay adjustment (reduction to tax) on line 6a of your 2008 Form 944. Your third-party sick pay adjustment should have been \$9,600 (shown as “-9,600.00”) because your third-party sick pay payer withheld that amount of social security and Medicare taxes from your employees. You discovered the error in April of 2009. To correct the error, figure the difference on Form 944-X as shown.

Column 1 (corrected amount)	-9,600.00
Column 2 (from line 6a of Form 944)	- <u>(6,900.00)</u>
Column 3 (difference)	-2,700.00

Here is how you would enter the numbers on Form 944-X.

Column 1 (corrected amount)	Column 2 (from line 6a, Form 944)	Column 3 (difference)
-9,600.00	-6,900.00	-2,700.00

Report “-2,700.00” as your correction in column 4.

In this example, you are claiming a credit for \$2,700 in overreported tax for your 2008 Form 944. Always enter the same amount in column 4 (including any minus sign) that you enter in column 3.

Be sure to explain the reasons for this correction on line 20.

CAUTION: Do not use line 11 to report corrections to amounts reported on lines 6b through 6e of pre-2009 Forms 944.

12.14. Special Additions to Wages for Federal Income Tax, Social Security Tax, and Medicare Tax

On lines 12, 13, and 14 enter **only** corrections to wages resulting from reclassifying certain workers as employees or as otherwise directed by IRS personnel.

Unlike other lines on Form 944-X, enter in column 1 only the corrected wages related to worker reclassification, **not** the amount paid to ALL employees. Enter previously reported reclassification amounts (if any) in column 2. To get the amount for column 4, use the tax rates provided in the IRS notification document when multiplying the amount in column 3. (You may qualify to use the special rates under section 3509 even if you

have not received IRS notification.) The tax correction in column 4 will be a positive number if you increased the amount of wages you previously reported.

TIP: If you misreported an amount on line 6d or line 6e on a pre-2009 Form 944, you may adjust the amount using lines 12 through 14 of Form 944-X. Be sure to complete all of the columns and provide a detailed explanation on line 20.

15. Subtotal

Combine the amounts on lines 7 through 14 of column 4.

Example:

You entered “1,400.00” in column 4 of line 7, “-500.00” in column 4 of line 8, and “-100.00” in column 4 of line 10. Combine these amounts and enter “800.00” in column 4 of line 15.

Line 7	1,400.00
Line 8	-500.00
Line 10	<u>-100.00</u>
Line 15	800.00

16. Advance Earned Income Credit (EIC)

Payments Made to Employees

If you are correcting the advance earned income credit (EIC) payments made to your employees that you reported on line 8 of Form 944, enter the total corrected amount for ALL employees in column 1. In column 2, enter the amount you originally reported or as previously corrected. In column 3, enter the difference between columns 1 and 2. This line does not apply to Form 944-SS.

line 16 (column 1)
-line 16 (column 2)

line 16 (column 3) If the amount in column 2 is larger than the amount in column 1, use a minus sign in column 3.

CAUTION: Copy the amount in column 3 to column 4. However, to properly show the correction as a credit or balance due item, enter a positive number in column 3 as a negative number in column 4 or a negative number in column 3 as a positive number in column 4. Remember, negative amounts in column 4 represent credits and positive amounts in column 4 represent additional tax.

Examples:

If line 16, column 3 shows “560.00,” enter “-560.00” in col. 4.

If line 16, column 3 shows “-990.00,” enter “990.00” in col. 4.

Example—Advance EIC payments increased

You filed your 2008 Form 944 reporting zero (line left blank) on line 8. On February 17, 2009, you discovered that you forgot to report the \$1,000 in advance EIC payments you made on behalf of John Smith, one of your employees. You made no other EIC payments for your other employees. This is an example of an administrative error. To correct the error, file Form 944-X showing the following.

Column 1 (correct amount)	1,000.00
Column 2 (from Form 944, line 8) -	<u>0.00</u>
Column 3 (difference)	1,000.00

Reverse the mathematical sign of the amount in column 3 and enter your correction in column 4.

Column 4 (tax correction)	-1,000.00
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Be sure to explain the reasons for this correction on line 20.

CAUTION: See section 13 of Pub. 15 (Circular E) for more information about administrative errors and corrections during the calendar year. The same rules that apply to withheld federal income taxes also apply to advance earned income credit (EIC) payments made to employees.

17. Total

Combine lines 15 and 16 and enter the result on line 17.

Your credit. If the amount entered on line 17 is less than zero, for example, “-115.00,” you have a credit because you overreported your federal employment taxes.

- If you checked the box on line 1, **include** this amount on line 10 (“Total deposits”) of Form 944 for the year during which you filed Form 944-X. (If you currently file Form 941 or Form 941-SS because your filing requirement changed, include the credit on line 11.)
- If you checked the box on line 2, you are filing a claim for refund or abatement of the amount shown.

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

Amount you owe. You must pay the amount you owe when you file Form 944-X. You may not use any credit that you show on another Form 944-X to pay the amount you owe, even if you filed for the amount you owe and the credit at the same time. You may pay the amount you owe on line 17 electronically using the Electronic Federal Tax Payment System (EFTPS), by credit card, or by a check or money order.

- The preferred method of payment is EFTPS. For more information, visit www.eftps.gov, call EFTPS Customer Service at 1-800-555-4477 toll free, or get Pub. 966, The Secure Way to Pay Your Federal Taxes.
- To pay by credit card, visit the IRS website at www.irs.gov and click on the *electronic IRS* link.
- If you pay by check or money order, make it payable to “United States Treasury.” On your check or money order, be sure to write your EIN, “Form 944-X,” and the year corrected.

CAUTION. Do not use a federal tax deposit coupon (Form 8109 or Form 8109-B) to make a payment with Form 944-X.

You do not have to pay if the amount you owe is less than \$1.

Previously assessed FTD penalty. If line 17 reflects overreported tax and the IRS previously assessed a failure-to-

deposit (FTD) penalty, you may be able to reduce the penalty. For more information, see the instructions for Form 945-A.

Part 4: Explain Your Corrections for This Year

18. Reporting Offsetting Corrections

Check the box on line 18 if you are correcting more than one error on a line on lines 7 through 14 and line 16 and column 3 reflects the difference between a correction that increases tax and another correction that decreases tax. We call these offsetting corrections.

Example:

If you had an increase to social security wages of \$1,500 for employee A and a decrease to social security wages of \$500 for employee B, you would enter \$1,000 on line 8, column 3. That \$1,000 represents the net change from offsetting corrections.

On line 20, you must explain the reason for both the \$1,500 increase and the \$500 decrease.

19. Did You Reclassify Any Workers?

Check the box on line 19 if you reclassified any workers to be subcontractors or nonemployees. Also check this box if IRS (or you) determined that workers you treated as subcontractors or nonemployees should be classified as employees. On line 20, give us a detailed reason why any worker was reclassified.

Return not filed because you did not treat any workers as employees. If you did not previously file Form 944 because you mistakenly treated workers as subcontractors or as nonemployees, file a Form 944 for each delinquent year.

On each Form 944 for which you are entitled to use section 3509 rates,

- write “Misclassified Employees” in red ink across the top margin of page 1,
- enter a zero on line 9 (“Total taxes after adjustment for advance EIC”),
- complete Part 5 (“Sign Here”), and
- attach a completed Form 944-X (see instructions below).

On each Form 944-X,

- enter the wage amounts in column 1 of lines 12 through 14,
- enter zeros in column 2 of line 6 and on lines 12 through 14,
- complete columns 3 and 4 as instructed in Part 3, and
- complete the signature area.

CAUTION: If you cannot use section 3509 rates (for example, because you did not file required information returns for workers you treated as nonemployees), file a Form 944 for each delinquent year. Do not attach Form 944-X. Write “Misclassified Employees” in red ink across the top margin of page 1 of each Form 944. Complete Form 944 using the Instructions for Form 944.

20. Explain Your Corrections

Treasury regulations require you to explain in detail the grounds and facts relied upon to support each correction. On line 20,

describe in detail each correction you entered in column 4 on lines 7 through 14 and line 16. If you need more space, attach additional sheets, but be sure to write your name, EIN, and calendar year on the top of each sheet.

You must describe the events that caused the underreported or overreported wages, administrative errors, or payroll errors. Explanations such as “social security and Medicare wages were overstated” or “administrative/payroll errors were discovered” are insufficient and may delay processing your Form 944-X because IRS may need to ask for a more complete explanation.

The following is the information we need in your explanation for each error you are correcting.

- Form 944-X line number(s) affected
- Date you discovered the error
- Difference (amount of the error)
- Cause of the error

You may report the information in paragraph form. The following paragraph is an example.

“The \$1,000 difference shown in column 3 of lines 6, 8, and 10 was discovered on May 15, 2009 during a payroll audit. By mistake, we issued checks to a former worker after termination. This correction removes the reported wages that were never paid.”

For corrections shown on lines 12 through 14, explain why the correction was necessary and attach any notice you received from the IRS.

Part 5. Sign Here

You must complete all three pages of Form 944-X and sign it on page 3. If you do not sign, processing of Form 944-X will be delayed.

Who must sign the Form 944-X? Form 944-X must be signed by one of the following:

- **Sole proprietorship**—The individual who owns the business.
- **Corporation (including an LLC treated as a corporation)**—The president, vice president, or other principal officer duly authorized to act.
- **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 limited liability company (LLC) treated as a disregarded entity**—The owner of the limited liability company (LLC).
- **Trust or estate**—The fiduciary.

A duly authorized agent of the taxpayer may also sign Form 944-X if a valid power of attorney has been filed.

Alternative signature method. Corporate officers or duly authorized agents may sign Form 944-X 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, 2005-28 I.R.B. 82, at www.irs.gov/irb/2005-28_IRB/ar16.html.

Paid Preparer's Use Only

You must complete this section if you were paid to prepare Form 944-X and are not an employee of the filing entity. Sign in the space provided. Give the employer the return to file with the IRS and include a copy of the return for the employer's records. Paid preparers are not permitted to sign an adjusted return or claim by rubber stamp or using a mechanical device such as a signature pen.

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

How Can You Order Forms and Publications from the IRS?

TELEPHONE: Call the IRS at 1-800-829-3676

COMPUTER: Visit the IRS website at www.irs.gov.

Additional Information

You may find the following products helpful when using Form 944-X.

- Form W-2, Wage and Tax Statement
- Form W-3, Transmittal of Wage and Tax Statements
- Instructions for Forms W-2 and W-3
- Form W-2AS, American Samoa Wage and Tax Statement
- Form W-2CM, Wage and Tax Statement (Northern Mariana Islands)
- Form W-2GU, Guam Wage and Tax Statement
- Form W-2VI, U.S. Virgin Islands Wage and Tax Statement
- Form W-3SS, Transmittal of Wage and Tax Statements
- Instructions for Forms W-2AS, W-2GU, W-2VI, and Form W-3SS
- Form W-2c, Corrected Wage and Tax Statement
- Form W-3c, Transmittal of Corrected Wage and Tax Statements
- Form 945-A, Annual Record of Federal Tax Liability
- Instructions for Forms W-2c and W-3c
- Instructions for Form 843
- Instructions for Form 944
- Instructions for Form 944-SS

- Pub. 15 (Circular E), Employer's Tax Guide
- Pub. 80 (Circular SS), Federal Tax Guide for Employers in the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands
- Pub. 966, The Secure Way to Pay Your Federal Taxes

Paperwork Reduction Act Notice

We ask for the information on Form 944-X to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books and records relating to a form or instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Code section 6103.

The time needed to complete and file Form 944-X will vary depending on individual circumstances. The estimated average time is:

Recordkeeping.....	17 hrs., 27 min.
Learning about the law or the form.....	45 min.
Preparing and sending the form to the IRS.....	2 hrs., 16min.

If you have comments concerning the accuracy of these time estimates or suggestions for making Form 944-X simpler, we would be happy to hear from you. You can write to the IRS at the address shown in the Privacy Act and Paperwork Reduction Act Notice on Form 944.

