

# Instructions for Form 941

(Rev. April 2010)

## Employer's QUARTERLY Federal Tax Return



Department of the Treasury  
Internal Revenue Service

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

### What's New

**Qualified employer's social security tax credit.** Qualified employers are allowed a credit in the second quarter of 2010 for their share (6.2%) of social security tax on wages/tips paid to qualified employees after March 18, 2010, and before April 1, 2010. See the instructions for lines 12c through 12e on page 6.

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

**Aggregate Form 941 filers.** Agents must complete Schedule R (Form 941), Allocation Schedule for Aggregate Form 941 Filers, when filing an aggregate Form 941. Aggregate Forms 941 are filed by agents approved by the IRS under section 3504 of the Internal Revenue Code. To request approval to act as an agent for an employer, the agent files Form 2678, Employer/Payer Appointment of Agent, with the IRS.

**COBRA premium assistance credit extended.** The credit for COBRA premium assistance payments has been extended. It now applies to premiums paid for employees involuntarily terminated between September 1, 2008, and May 31, 2010, and to premiums paid for up to 15 months. Congress may take additional legislative action that extends the credit. To find out if additional legislation is enacted, monitor the news media or visit the IRS website at [www.irs.gov](http://www.irs.gov) and enter the keyword *COBRA*. See *COBRA premium assistance payments* on page 6.

**Employers can choose to file Forms 941 instead of Form 944 for 2010.** Beginning with tax year 2010, employers that would otherwise be required to file Form 944 can notify the IRS if they want to file quarterly Forms 941 instead of annual Form 944. See Revenue Procedure 2009-51 2009-45 I.R.B. 625, available at [www.irs.gov/irb/2009-45\\_IRB/ar12.html](http://www.irs.gov/irb/2009-45_IRB/ar12.html).

**Social security wage base for 2010.** Do not withhold or pay social security tax after an employee reaches \$106,800 in social security wages in 2010.

### Reminders

**Correcting a previously filed Form 941.** If you discover an error on a previously filed Form 941, make the correction using Form 941-X, Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund. Form 941-X is filed separately from Form 941. For more information, see section 13 of Pub. 15 (Circular E) or visit the IRS website at [www.irs.gov](http://www.irs.gov) and enter the keywords *Correcting Employment Taxes*.

**Paid preparers must sign Form 941.** Paid preparers must complete and sign the paid preparer's section of Form 941.

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

- For e-file, visit [www.irs.gov](http://www.irs.gov) for additional information.
- 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).

**Electronic funds withdrawal (EFW).** If you file Form 941 electronically, you can e-file and e-pay (electronic funds

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

**Credit or debit card payments.** Employers can pay the balance due shown on Form 941 by credit or debit card. **Do not** use a credit or debit card to make federal tax deposits. For more information on paying your taxes with a credit or debit card, visit the IRS website at [www.irs.gov/e-pay](http://www.irs.gov/e-pay).

**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 and Specialty Tax Line toll free at 1-800-829-4933, Monday through Friday from 7 a.m. to 10 p.m. local time (Alaska and Hawaii follow Pacific time) to order tax deposit coupons (Form 8109) and for answers to your questions about completing Form 941, tax deposit rules, or obtaining an employer identification number (EIN).

**Photographs of missing children.** The Internal Revenue Service is a proud partner with the National Center for Missing and Exploited Children. Photographs of missing children selected by the Center may appear in 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:

#### Purpose of Form 941

These instructions give you some background information about Form 941. They tell you who must file Form 941, how to complete it line by line, and when and where to file it.

If you want more in-depth information about payroll tax topics relating to Form 941, see Pub. 15 (Circular E), Employer's Tax Guide, or visit the IRS website at [www.irs.gov/businesses](http://www.irs.gov/businesses) and click on the *Employment Taxes* link.

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 you 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.

#### Who Must File Form 941?

Use Form 941 to report 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 quarter's adjustments to social security and Medicare taxes for fractions of cents, sick pay, tips, and group-term life insurance.
- Advance earned income credit (EIC) payments.
- Credit for COBRA premium assistance payments.

- Exemption for qualified employer's share of social security tax on wages/tips paid to qualified employees.

**Do not** use the Form 941 to report backup withholding or income tax withholding on **nonpayroll** payments such as pensions, annuities, and gambling winnings. Report these types of withholding on Form 945, Annual Return of Withheld Federal Income Tax.

After you file your first Form 941, you must file a return for each quarter, even if you have no taxes to report, unless you filed a **final return** or one of the exceptions listed below applies.

## Exceptions

Special rules apply to some employers.

- **Seasonal employers** do not have to file a Form 941 for quarters in which they have no tax liability because they have paid no wages. To tell the IRS that you will not file a return for one or more quarters during the year, check the box on line 19 **every quarter** you file Form 941. See section 12 of Pub. 15 (Circular E) for more information.
- Employers of **household employees** do not usually file Form 941. See Pub. 926, Household Employer's Tax Guide, and Schedule H (Form 1040), Household Employment Taxes, for more information.
- Employers of **farm employees** do not usually file Form 941. See Form 943, Employer's Annual Federal Tax Return for Agricultural Employees, and Pub. 51 (Circular A), Agricultural Employer's Tax Guide.



*If none of the above exceptions applies and you have not filed a final return, you **must** file Form 941 each quarter even if you did not pay wages during the quarter. Use IRS e-file, if possible.*

## 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 941 for the quarter in which the transfer occurred. Report only the wages you paid.

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

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

- 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; and
- 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 Form 941 for a particular quarter is your final return, check the box on line 18 and enter the date you last 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.

See the Instructions for Forms W-2, Wage and Tax Statement, and W-3, Transmittal of Wage and Tax Statement, for information about earlier dates for the expedited furnishing and filing of Forms W-2 when a final Form 941 is filed.

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 your initial Form 941 for the quarter in which you first paid wages that are subject to social security and Medicare taxes or

subject to federal income tax withholding. See the table below titled, *When To File Form 941*.

Then you must file for every quarter after that—every 3 months—even if you have no taxes to report, unless you are a seasonal employer or are filing your final return. See *Seasonal employers* and *If your business has closed* . . . above.

File Form 941 only once for each quarter. If you filed electronically, do not file a paper Form 941. For more information about filing Form 941 electronically, see *Electronic filing and payment* on page 1.

## When To File Form 941

Your Form 941 is due by the last day of the month that follows the end of the quarter.		
The Quarter Includes . . .	Quarter Ends	Form 941 Is Due
1. January, February, March	March 31	April 30
2. April, May, June	June 30	July 31
3. July, August, September	September 30	October 31
4. October, November, December	December 31	January 31

For example, you generally must report wages you pay during the first quarter—which is January through March—by April 30th. If you made timely deposits in full payment of your taxes for a quarter, you have 10 more days after the due dates shown above to file your Form 941.

If we receive Form 941 after the due date, we will treat Form 941 as filed on time if the envelope containing Form 941 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 941 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 shown above falls on a Saturday, Sunday, or legal holiday, you may file your return on the next business day.

## How Should You Complete Form 941?

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

If you are using a copy of Form 941 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 it exactly matches the EIN assigned to your business by the IRS. If any information is incorrect, cross it out and type or print the correct information. See *If you change your name or address* . . . on page 3.

If you use a tax preparer to fill out Form 941, make sure the preparer uses your business name and EIN **exactly** as they appear on the preprinted form we sent you.

If you are not using a preprinted Form 941, type or print your EIN, name, and address in the spaces provided. Also enter your name and EIN on 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 you used when you applied for your EIN on Form SS-4, Application for Employer Identification Number. For example, if you are a sole proprietor, enter "Haleigh Smith" on the "Name" line and "Haleigh'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 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.

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 *Apply for an Employer Identification Number (EIN) Online* link. You may also apply for an EIN by calling 1-800-829-4933, or you can fax or mail Form SS-4 to the IRS. If you have applied for an EIN but do not have your EIN by the time a return is due, write "Applied For" and the date you applied in the space shown for the number.

**TIP** *Always be sure the EIN on the form you file exactly matches the EIN the IRS assigned to your business. Do not use your social security number on forms that ask for an EIN. Filing a Form 941 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.

- Write to the IRS office where you file your returns (using the *Without a payment* address on page 4) to notify the IRS of any name change. Get Pub. 1635, *Understanding Your Employer Identification Number (EIN)*, to see if you need to apply for a new EIN.
- Complete and mail Form 8822, *Change of Address*, for any address change.

### Check the Box for the Quarter

Under "Report for this Quarter of 2010" at the top of Form 941, check the appropriate box of the quarter for which you are filing. Make sure the quarter checked is the same as shown on any attached Schedule B (Form 941), *Report of Tax Liability for Semiweekly Schedule Depositors*.

### Completing and Filing Form 941

Make entries on Form 941 as follows to enable accurate scanning and processing.

- Use 12-point Courier font (if possible) for all entries if you are typing or using a computer to fill out your form.
- Omit 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 (except lines 1, 2, and 10) with a value of zero.
- 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 941 do not have to enter their name and EIN on page 2.
- Staple multiple sheets in the upper left corner when filing.

### Other Forms You Must Use

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

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

Each eligible employee who wishes to receive any advance earned income credit 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 (EIC)*.

### Reconciling Forms 941 and Form W-3

The IRS matches amounts reported on your four quarterly Forms 941 with Form W-2 amounts totaled on your yearly Form W-3. If the amounts do not agree, you may be contacted by the IRS or the Social Security Administration (SSA). The following amounts are reconciled.

- Federal income tax withholding.
- Social security wages.
- Social security tips.
- Medicare wages and tips.
- Advance EIC payments.

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

## Depositing Your Taxes: When Must You Deposit Your Taxes?

### Determine if you are a monthly or semiweekly schedule depositor for the quarter.

The IRS uses two different sets of deposit rules to determine when businesses must deposit their social security, Medicare, and withheld federal income taxes. These schedules tell you when a deposit is due after you have a payday.

Your deposit schedule is not determined by how often you pay your employees. Your deposit schedule depends on the total tax liability you reported on Form 941 during the previous four-quarter **lookback period** (July 1 of the second preceding calendar year through June 30 of last year). See section 11 of Pub. 15 (Circular E) for details. If you filed Form 944 in either 2008 or 2009, your lookback period is the 2008 calendar year.

Before the beginning of each calendar year, determine which type of deposit schedule you must use. If you reported:

- \$50,000 or less in taxes during the lookback period, you are a **monthly schedule depositor**.
- More than \$50,000 of taxes for the lookback period, you are a **semiweekly schedule depositor**.

**TIP** *See section 11 of Pub. 15 (Circular E) for the Next Day Deposit Rule on taxes of \$100,000 or more accumulated on any day during the deposit period.*

## How Must You Deposit Your Taxes?

You may have to deposit the federal income taxes you withheld and both the employer and employee social security taxes and Medicare taxes. If your total taxes after adjustment for advance EIC (line 10) are:

- **Less than \$2,500 for the current quarter or the preceding quarter, and you did not incur a \$100,000 next-day deposit obligation during the current quarter.** You do not have to make a deposit. To avoid a penalty, you must pay the amount in full with a timely filed return or you must deposit the amount timely. However, if your taxes for the preceding quarter were less than \$2,500, you are unsure whether you will incur a \$100,000 next-day deposit obligation in the current quarter, and you are unsure your taxes will be less than \$2,500 in the current quarter, deposit your taxes using the appropriate rules (above) to avoid failure to deposit penalties.
- **\$2,500 or more for the current quarter and the preceding quarter.** You must deposit your taxes by using EFTPS or by depositing them at a financial institution that is authorized to accept federal tax deposits (that is, authorized depository) with Form 8109, *Federal Tax Deposit Coupon*. See section 11 of Pub. 15 (Circular E).

You may reduce your deposits during the quarter by the amount of:

- COBRA premium assistance payments on line 12a,
- Employer's exempt social security tax on line 6d, and
- Employer's exempt social security tax on line 12e.

**TIP** *EFTPS is an easy, safe, and convenient way for all employers to make their tax deposits. Using EFTPS helps eliminate errors commonly made on federal tax deposit (FTD) coupons. **Some taxpayers are required to use EFTPS to deposit their taxes.** See section 11 of Pub. 15 (Circular E) for details.*

## What About Penalties and Interest?

### Avoiding penalties and interest

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

- Deposit or pay your taxes when they are due, using EFTPS if required.
- File your fully completed Form 941 on time.
- Report your tax liability accurately.
- Submit valid checks for tax payments.
- Furnish 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 941 or Form 941-X.



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

## Where Should You File?

Where you file depends on whether you include a payment with Form 941.

If you are in . . .	Without a payment . . .	With a payment . . .
<b>Special filing addresses</b> 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 84201-0005	Internal Revenue Service P.O. Box 105083 Atlanta, GA 30348-5083
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 45999-0005
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 84201-0005
No legal residence or principal place of business in any state	Internal Revenue Service P.O. Box 409101 Ogden, UT 84409	Internal Revenue Service P.O. Box 105273 Atlanta, GA 30348-5273



**Your filing or payment address may have changed from 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 941 or any payments to the SSA.**

## Specific Instructions:

### Part 1: Answer these questions for this quarter.

#### 1. Number of employees who received wages, tips, or other compensation this quarter

Enter the number of employees on your payroll for the pay period including March 12, June 12, September 12, or December 12, **for the quarter indicated** at the top of Form 941. Do not include:

- Household employees,
- Employees in nonpay status for the pay period,
- Farm employees,
- Pensioners, or
- Active members of the Armed Forces.



**If you enter "250" or more on line 1, you must file Forms W-2 electronically. For details, call the SSA at 1-800-772-6270 or visit SSA's Employer W-2 Filing Instructions and Information website at [www.socialsecurity.gov/employer](http://www.socialsecurity.gov/employer).**

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

Enter amounts on line 2 that would also be included in box 1 of your employees' Forms W-2. Include sick pay paid by a third party if you were given timely notice of the payments and transferred liability for the employees' taxes. See the Instructions for Forms W-2 and W-3 for details.

If you are a third-party payer of sick pay, do not include sick pay that you paid to policyholders' employees here if you gave the policyholders timely notice of the payments.

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

Enter the federal income tax you withheld (or were required to withhold) from your employees on this quarter's wages, tips, taxable fringe benefits, and supplemental unemployment compensation benefits. Do not include any income tax withheld by a third-party payer of sick pay even if you reported it on Form W-2. You will reconcile this difference on Form W-3. Also include here any excise taxes you were required to withhold on golden parachute payments (section 4999).

If you are a third-party payer of sick pay, enter the federal income tax you withheld (or were required to withhold) on third-party sick pay here.

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

If no wages, tips, and other compensation on line 2 are subject to social security or Medicare tax, check the box on line 4. 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) and section 4 of Pub. 15-A.



**If you are a government employer, wages you pay are not automatically exempt from social security and Medicare taxes. Your employees may be covered by law or by a voluntary Section 218 Agreement with the SSA. For more information, see Pub. 963, Federal-State Reference Guide.**

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

**5a. Taxable social security wages.** Report the total wages, sick pay, and fringe benefits subject to social security taxes you paid to your employees during the quarter. For this purpose, sick pay includes payments made by an insurance company to your employees for which you received timely notice from the insurance company. See Section 6 in Pub. 15-A for more information about sick pay reporting.

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 percent (.062) each for the employer and employee or 12.4 percent (.124) for both. Stop paying social security tax on and

reporting an employee's wages on line 5a when the employee's taxable wages (including tips) reach \$106,800 during 2010, unchanged from 2009. However, continue to withhold income and Medicare taxes for the whole year on wages and tips even when the social security wage base of \$106,800 has been reached.

$$\begin{array}{r} \text{line 5a (column 1)} \\ \times \quad .124 \\ \hline \text{line 5a (column 2)} \end{array}$$



*Do not reduce the amount reported on line 5a by any amount paid to qualified new employees. The social security tax exemption on wages/tips will be figured on lines 6c and 6d and will reduce the tax on line 6e.*

**5b. Taxable social security tips.** Enter all tips your employees reported to you during the quarter until the total of the tips and wages for an employee reach \$106,800 in 2010. Do this even if you were unable to withhold the employee tax of 6.2%.

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

Do not include allocated tips on this line. Instead, report them on Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips. Allocated tips are not reportable on Form 941 and are not subject to withholding of federal income, social security, or Medicare taxes.

$$\begin{array}{r} \text{line 5b (column 1)} \\ \times \quad .124 \\ \hline \text{line 5b (column 2)} \end{array}$$



*Do not reduce the amount reported on line 5b by any amount paid to qualified new employees. The social security tax exemption on wages/tips will be figured on lines 6c and 6d and will reduce the tax on line 6e.*

**5c. Taxable Medicare wages & 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 quarter, even if you were unable to withhold the employee tax of 1.45%.

$$\begin{array}{r} \text{line 5c (column 1)} \\ \times \quad .029 \\ \hline \text{line 5c (column 2)} \end{array}$$

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



*Do not reduce the amount reported on line 5c by any amount paid to qualified new employees. The tax exemption does not apply to Medicare tax.*

**5d. Total social security and Medicare taxes.** Add the social security tax (line 5a), social security tips tax (line 5b), and Medicare tax (line 5c) and enter the result on line 5d.

## 6. Employer's social security tax exemption

Complete lines 6a–6d to figure the payroll tax exemption for the employer's share (6.2%) of social security tax on wages/tips paid to one or more qualified employees.

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

An employer may elect not to apply the social security tax exemption with respect to a qualified employee. The election is made by not including that employee or that employee's wages on lines 6a–6d and lines 12c–12e. An election not to apply the social security tax exemption for a qualified employee may allow a qualified employer to claim the Work Opportunity Credit for that employee. A qualified employer cannot apply both the social security tax exemption on Form 941 and claim the Work

Opportunity Credit for the same employee. For more information, see Form 5884, Work Opportunity Credit.

For more information about the employer's social security tax exemption, visit the IRS website at [www.irs.gov](http://www.irs.gov) and enter the keywords "HIRE Act" in the search box.

### 6a. Number of qualified employees first paid exempt wages/tips this quarter.

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

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

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

**Exempt wages/tips** are the wages/tips paid to qualified employees for which the employer is exempt from paying the employer's 6.2% share of social security tax. Enter on line 6a the number of qualified employees **first paid** wages/tips to which you applied the social security tax exemption in **this quarter**. Do not include on line 6a qualified employees that are included on line 12c.

**6b. Number of qualified employees paid exempt wages/tips this quarter.** Enter on line 6b the **total** number of qualified employees paid exempt wages/tips to which you applied the social security tax exemption in **this quarter**. Qualified employees included on line 6a will also be included on line 6b. Qualified employees included on line 12c may also be included on line 6b. See line 6a for the definition of qualified employee.

**6c. Exempt wages/tips paid to qualified employees this quarter.** Enter the amount of exempt wages/tips paid this quarter to all qualified employees reported on line 6b. See line 6a for the definition of exempt wages/tips.

**6d. Social security tax exemption.** Multiply the amount of exempt wages/tips reported on line 6c by .062 and enter the result on line 6d. See the instructions for line 17 for details about applying this exemption to your tax liability.

**6e. Total taxes before adjustments.** Add the total federal income tax withheld from wages, tips, and other compensation (line 3) and the total social security and Medicare taxes before adjustments (line 5d), and subtract the qualified employer's social security tax exemption (line 6d). Enter the result on line 6e.

## 7. TAX ADJUSTMENTS

Enter **tax amounts** on lines 7a through 7c that result from current quarter adjustments. Use a minus sign (if possible) to show an adjustment that decreases the total taxes shown on line 6e instead of parentheses. Doing so enhances the accuracy of our scanning software. For example, report "-10.59" instead of "(10.59)." However, if your software only allows for parentheses in reporting negative amounts, you may use them.

**Current quarter's adjustments.** In certain cases, you must adjust the amounts you reported as social security and Medicare taxes in column 2 of lines 5a, 5b, and 5c to figure your correct tax liability for this quarter's Form 941. See section 13 of Pub. 15 (Circular E).

**Prior quarter's adjustments.** If you need to adjust any amount reported on lines 7a, 7b, or 7c from a previously filed Form 941, complete and file Form 941-X. Form 941-X is filed separately from Form 941. See section 13 of Pub. 15 (Circular E).

**7a. Current quarter's adjustment for 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 5a, 5b, and 5c may differ slightly from amounts actually withheld from employees' paychecks due to the rounding of social security and Medicare taxes based on statutory rates.

**7b. Current quarter's adjustment for 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.

**7c. Current quarter's adjustments for tips and group-term life insurance.** Enter adjustments for:

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

## 8. Total taxes after adjustments

Combine the amounts shown on lines 6e through 7c and enter the result here.

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

Enter the amount of the advance 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.

If the amount of your advance EIC payments is more than your total taxes after adjustments (line 8) for the quarter, you may claim a refund of the overpayment or elect to have the credit applied to your return for the next quarter. Attach a statement to Form 941 identifying the amount of excess payments and the pay periods in which you paid it.

For more information on advance EIC, see section 10 of Pub. 15 (Circular E) and Pub. 596.

## 10. Total taxes after adjustment for advance EIC

Subtract line 9 from line 8 and enter the result on line 10.

- **If line 10 is less than \$2,500 or line 10 on the preceding quarterly return was less than \$2,500, and you did not incur a \$100,000 next-day deposit obligation during the current quarter.** You may pay the amount with Form 941 or you may deposit the amount. To avoid a penalty, you must pay the amount in full with a timely filed return or you must deposit the amount timely.
- **If line 10 is \$2,500 or more and line 10 on the preceding quarterly return was \$2,500 or more, or if you incurred a \$100,000 next-day deposit obligation during the current quarter.** You must deposit the amount by using EFTPS or at an authorized financial institution with Form 8109. The amount shown on line 10 must equal the "Total liability for the quarter" shown on Form 941, line 17 or the "Total liability for the quarter" shown on Schedule B (Form 941).

For more information on federal tax deposits, see *Depositing Your Taxes* on page 3 of these instructions and section 11 of Pub. 15 (Circular E).

 **If you are a semiweekly depositor, you must complete Schedule B (Form 941). If you fail to complete and submit Schedule B (Form 941), the IRS will assert deposit penalties based on available information.**

## 11. Total deposits for this quarter...

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

## 12a. COBRA premium assistance payments

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



*The amount reported on line 12a is treated as a deposit of taxes on the first day of your return period and must not be used to adjust line 17 or Schedule B (Form 941).*

If you provided premium assistance in a prior quarter of the current year and did not report the amount of that premium assistance on Form 941 for that quarter, you may include the amount of that premium assistance in the amount entered on this line, or file form 941-X to report the amount for the prior quarter of the current year.

## 12b. Number of individuals provided COBRA premium assistance on line 12a

Enter the total number of assistance eligible individuals provided COBRA premium assistance reported on line 12a. Count each assistance eligible individual who paid a reduced COBRA premium in the quarter as one individual, whether or not the reduced premium was for insurance that covered more than one assistance eligible individual. For example, if the reduced COBRA premium was for coverage for a former employee, spouse, and two children, you would include one individual in the number entered on line 12b for the premium assistance. Further, each individual is reported only once per quarter. For example, an assistance eligible individual who made monthly premium payments during the quarter would only be reported as one individual.



*Lines 12c–12e only apply to the second quarter of 2010. These lines are used to determine the number of qualified employees, amount of exempt wages/tips, and amount of employer social security tax exemption as if the exemption were allowed for the first quarter of 2010. An employer is allowed to treat this exemption as a payment credited against deposit requirements for employment taxes due for the second quarter 2010. If any of these lines are completed for any quarter other than the second quarter of 2010, Form 941 may be considered incomplete and subject to correction and penalties.*

## 12c. Number of qualified employees paid exempt wages/tips March 19–31

Complete this line when filing Form 941 for the 2nd quarter of 2010 only. Enter on line 12c the number of qualified employees paid exempt wages/tips from March 19, 2010, through March 31, 2010. Include only qualified employees for which you are claiming the social security tax exemption. For the definition of qualified employee, see the instructions for line 6a on page 5.

## 12d. Exempt wages/tips paid to qualified employees March 19–31

Complete this line when filing Form 941 for the 2nd quarter of 2010 only. Enter the amount of exempt wages/tips paid March 19, 2010, through March 31, 2010, to all qualified employees reported on line 12c. For the definition of exempt wages/tips, see the instructions for line 6a on page 5.

## 12e. Social security tax exemption for March 19–31

Multiply the amount of exempt wages/tips reported on line 12d by .062 and enter the result on line 12e.



*The amount reported on line 12e is treated as a deposit of taxes on April 1, 2010, and must not be used to adjust line 17 or Schedule B (Form 941).*

### 13. Total deposits and credits

Add lines 11, 12a, and 12e.

### 14. Balance due

If line 10 is more than line 13, write the difference in line 14. Otherwise, see *Overpayment* below. **You do not have to pay if line 14 is under \$1.** Generally, you should have a balance due only if your total taxes after adjustment for advance EIC (line 10), for the current quarter or preceding quarter are less than \$2,500, and you did not incur a \$100,000 next-day deposit obligation during the current quarter. However, see section 11 of Pub. 15 (Circular E) for information about payments made under the **accuracy of deposits rule**.

You may pay the amount shown on line 14 using EFTPS, a credit or debit card, a check or money order, or electronic funds withdrawal (EFW). **Do not** use a credit or debit card or EFW to pay taxes that were required to be deposited. For more information on electronic payment options, visit the IRS website at [www.irs.gov/e-pay](http://www.irs.gov/e-pay).

If you pay by EFTPS, credit card, or EFW, file your return using the *Without a payment* address on page 4 under *Where Should You File?* and **do not** file Form 941-V, Payment Voucher.

If you pay by check or money order, make it payable to the "United States Treasury." Enter your EIN, Form 941, and the tax period on your check or money order. Complete Form 941-V and enclose with Form 941.

If line 10 is \$2,500 or more and you have deposited all taxes when due, the balance due on line 14 should be zero.



*If you do not deposit as required and, instead, pay the taxes with Form 941, you may be subject to a penalty.*

### 15. Overpayment

If line 13 is more than line 10, write the difference in line 15. **Never make an entry in both lines 14 and 15.**

If you deposited more than the correct amount for the quarter, you can choose to have the IRS either refund the overpayment or apply it to your next return. Check only one box in line 15. If you do not check either box or if you check both boxes, generally we will apply the overpayment to your account. We may apply your overpayment to any past due tax account that is shown in our records under your EIN.

If line 15 is under \$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 941 and sign on page 2. An incomplete return may delay processing.

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

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### 16. State abbreviation

In the spaces provided, write the two-letter U.S. Postal Service abbreviation for the bank branch in the state where you deposit your taxes using Form 8109 or initiate EFTPS transfers. The IRS uses the state shown to determine banking days for purposes of deposit due dates. Official state holidays for the state shown are not counted as banking days. If you deposit in multiple states, enter "MU" in the spaces provided.

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

### 17. Tax liability for the quarter

• If line 10 is less than \$2,500 or line 10 on the preceding quarterly return was less than \$2,500, and you did not incur a \$100,000 next-day deposit obligation during the current quarter, check the appropriate box in line 17 and go to Part 3.

• If you reported \$50,000 or less in taxes during the lookback period (see below), you are a **monthly schedule depositor** unless the *\$100,000 Next-Day Deposit Rule* discussed in section 11 of Pub. 15 (Circular E) applies. Check the appropriate box on line 17 and enter your tax liability for each month in the quarter. Add the amounts for each month. Enter the result in the *Total liability for quarter* box.

Note that your total tax liability for the quarter must equal your total taxes shown on line 10. If it does not, your tax deposits and payments may not be counted as timely. **Do not** change your tax liability on line 17 by adjustments reported on any Forms 941-X.

You are a **monthly schedule depositor** for the calendar year if the amount of your Form 941 taxes reported for the lookback period is \$50,000 or less. The **lookback period** is the four consecutive quarters ending on June 30 of the prior year. For 2010, the lookback period begins July 1, 2008, and ends June 30, 2009. For details on the deposit rules, see section 11 of Pub. 15 (Circular E). If you filed Form 944 in either 2008 or 2009, your lookback period is the 2008 calendar year.



*The amounts reported on line 17 are a summary of your monthly tax liability, not a summary of deposits you made. If you do not properly report your liabilities when required or if you are a semiweekly schedule depositor and report your liabilities on line 17 instead of on Schedule B (Form 941), you may be assessed an "averaged" failure-to-deposit (FTD) penalty. See Deposit Penalties in section 11 of Pub. 15 (Circular E) for more information.*

• If you reported more than \$50,000 of taxes for the lookback period (see above), you are a **semiweekly schedule depositor**. Check the appropriate box on line 17.

You **must** complete Schedule B (Form 941) and submit it with your Form 941. **Do not** use Schedule B (Form 941) if you are a monthly schedule depositor.

**Do not** change your tax liability on Schedule B (Form 941) by adjustments reported on any Forms 941-X.

**Adjusting tax liability for employer's social security tax exemption reported on line 6d.** Monthly schedule depositors and semiweekly schedule depositors must account for the employer's social security tax exemption (line 6d) when reporting their tax liabilities on line 17 or Schedule B (Form 941). The total liability for the quarter must equal the amount reported on line 10. Failure to account for the social security tax exemption on line 17 or Schedule B (Form 941) may cause line 10 to be less than the total tax liability reported on line 17 or Schedule B (Form 941). Do not reduce the tax liability reported on line 17 or Schedule B (Form 941) below zero.

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## Part 3: Tell us about your business.

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In Part 3, answer only those questions that apply to your business. If the questions do not apply, leave them blank and go to Part 4.

### 18. If your business has closed . . .

If you go out of business or stop paying wages, you must file a **final return**. To tell the IRS that a particular Form 941 is your final return, check the box on line 18 and enter the date you last paid wages in the space provided. For additional filing requirements, see *If your business has closed...* on page 2.

### 19. If you are a seasonal employer . . .

If you hire employees seasonally—such as for summer or winter only—check the box on line 19. Checking the box tells the IRS not to expect four Forms 941 from you throughout the year because you have not paid wages regularly.

Generally, we will not ask about unfiled returns if you file at least one return showing tax due each year. However, you must check the box **every time** you file a Form 941.

Also, when you fill out Form 941, be sure to check the box on the top of the form that corresponds to the quarter reported.

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

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If you want to allow an employee, a paid tax preparer, or another person to discuss your Form 941 with the IRS, check the “Yes” box in Part 4. Then tell us the name, phone number, and the five-digit personal identification number (PIN) of the specific person to speak with—not the name of the firm who prepared your tax return. The designee may choose any five 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:

- give us any information that is missing from your return,
- call us for information about processing your return, and
- 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 from the due date (without regard to extensions) for filing your Form 941. 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.

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## Part 5: Sign Here

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Complete all information in Part 5 and sign Form 941 as follows.

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

Form 941 may also be signed by a duly authorized agent of the taxpayer if a valid power of attorney has been filed.

**Alternative signature method.** Corporate officers or duly authorized agents may sign Form 941 by rubber stamp, mechanical device, or computer software program. For details and required documentation, see Rev. Proc. 2005-39, 2005-28 I.R.B. 82, at [www.irs.gov/irb/2005-28\\_IRB/ar16.html](http://www.irs.gov/irb/2005-28_IRB/ar16.html).

### Paid Preparer’s Use Only

A paid preparer must sign Form 941 and provide the information in the *Paid preparer’s use only* section of Part 5 if the preparer was paid to prepare Form 941 and is not an employee of the filing entity. Paid preparers must sign paper returns with a manual signature. The preparer must give you a copy of the return in addition to the copy to be filed with the IRS.

If you are a paid preparer, 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. However, a

reporting agent must complete this section if the reporting agent offered legal advice, for example, advising the client on determining whether its workers are employees or independent contractors for Federal tax purposes.

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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 W-11, Hiring Incentives to Restore Employment (HIRE) Act Employee Affidavit
- Form 940, Employer’s Annual Federal Unemployment (FUTA) Tax Return
- Form 943, Employer’s Annual Federal Tax Return for Agricultural Employees
- Form 944, Employer’s ANNUAL Federal Tax Return
- Form 4070, Employee’s Report of Tips to Employer
- Form 8027, Employer’s Annual Information Return of Tip Income and Allocated Tips
- Form 8655, Reporting Agent Authorization
- Notice 797, Possible Federal Tax Refund Due to the Earned Income Credit (EIC)
- Pub. 15 (Circular E), Employer’s Tax Guide
- Pub. 15-A, Employer’s Supplemental Tax Guide
- Pub. 15-B, Employer’s Tax Guide to Fringe Benefits
- Pub. 596, Earned Income Credit
- Pub. 926, Household Employer’s Tax Guide
- Schedule B (Form 941), Report of Tax Liability for Semiweekly Schedule Depositors
- Schedule D (Form 941), Report of Discrepancies Caused by Acquisitions, Statutory Mergers, or Consolidations
- Schedule H (Form 1040), Household Employment Taxes
- Schedule R (Form 941), Allocation Schedule for Aggregate Form 941 Filers