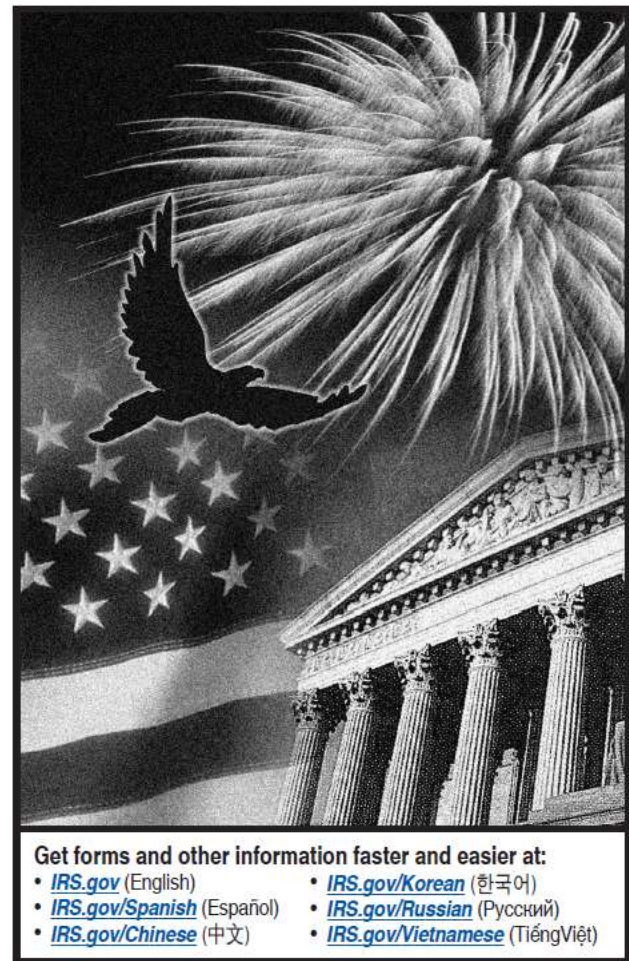


Publication 51

(Circular A), Agricultural Employer's Tax Guide

For use in **2023**

Volume 1 of 2



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Publication 51 (Rev. 2023) Catalog Number 39245P
Department of the Treasury **Internal Revenue Service** www.irs.gov

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Future Developments

For the latest information about developments related to Pub. 51, such as legislation enacted after it was published, go to [IRS.gov/Pub51](https://www.irs.gov/pub51).

What's New

Social security and Medicare tax for 2023. The rate of social security tax on taxable wages, including qualified sick leave wages and qualified family leave wages paid in 2023 for leave taken after March 31, 2021, and before October 1, 2021, is 6.2% each for the employer and employee or 12.4% for both. Qualified sick leave wages and qualified family leave wages paid in 2023 for leave taken after March 31, 2020, and before April 1, 2021, aren't subject to the employer share of social security tax; therefore, the tax rate on these wages is 6.2%. The social security wage base limit is \$160,200.

The Medicare tax rate is 1.45% each for the employee and employer, unchanged from 2022. There is no wage base limit for Medicare tax.

Social security and Medicare taxes apply to the wages of household workers you pay \$2,600 or more in cash wages in 2023.

Qualified small business payroll tax credit for increasing research activities.

For tax years beginning before January 1, 2023, a qualified small business may elect to claim up to \$250,000 of its credit for increasing research activities as a payroll tax credit. The Inflation Reduction Act of 2022 (the IRA) increases the election amount to \$500,000 for tax years beginning after December 31, 2022. The payroll tax credit election must be made on or before the due date of the originally filed income tax return (including extensions). The portion of the credit used against payroll taxes is allowed in the first calendar quarter beginning after the

date that the qualified small business filed its income tax return. The election and determination of the credit amount that will be used against the employer's payroll taxes are made on Form 6765, Credit for Increasing Research Activities. The amount from Form 6765, line 44, must then be reported on Form 8974, Qualified Small Business Payroll Tax Credit for Increasing Research Activities.

Starting in the first quarter of 2023, the payroll tax credit is first used to reduce the employer share of social security tax up to \$250,000 per quarter and any remaining credit reduces the employer share of Medicare tax for the quarter. Any remaining credit, after reducing the employer share of social security tax and the employer share of Medicare tax, is then carried forward to the next quarter. Form 8974 is used to determine the amount of the credit that can be used in the current quarter. The amount from Form 8974, line 12 or, if applicable, line 17, is

reported on Form 943. For more information about the payroll tax credit, see [IRS.gov/ResearchPayrollTC](https://www.irs.gov/ResearchPayrollTC). Also see the line 17 instructions in the Instructions for Form 943 for information on reducing your record of tax liability for this credit.

Pubs. 51, 80, and 179 discontinued after 2023. Pub. 51; Pub. 80, Federal Tax Guide for Employers in the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands; and Pub. 179, Guía Contributiva Federal para Patronos Puertorriqueños, will no longer be available after 2023. Instead, information specific to agricultural employers and employers in the U.S. territories will be included in Pub. 15 beginning with the Pub. 15 for use in 2024 (published December 2023). Beginning in 2024, there will be a new Pub. 15 (sp) that is a Spanish-language version of Pub. 15.

Reminders

The COVID-19 related credit for qualified sick and family leave wages is limited to leave taken after March 31, 2020, and before October 1, 2021. Generally, the credit for qualified sick and family leave wages, as enacted under the Families First Coronavirus Response Act (FFCRA) and amended and extended by the COVID-related Tax Relief Act of 2020 for leave taken after March 31, 2020, and before April 1, 2021, and the credit for qualified sick and family leave wages under sections 3131, 3132, and 3133 of the Internal Revenue Code, as enacted under the American Rescue Plan Act of 2021 (the ARP), for leave taken after March 31, 2021, and before October 1, 2021, have expired. However, employers that pay qualified sick and family leave wages in 2023 for leave taken after March 31, 2020, and before October 1, 2021, are eligible to claim a credit for qualified sick and family leave

wages in 2023. See the 2023 Instructions for Form 943 for more information.

Disaster tax relief. Disaster tax relief is available for those impacted by disasters. For more information about disaster relief, go to [IRS.gov/DisasterTaxRelief](https://www.irs.gov/DisasterTaxRelief).

Payroll tax credit for certain tax-exempt organizations affected by qualified disasters. Section 303(d) of the Taxpayer Certainty and Disaster Tax Relief Act of 2020 allows for a payroll tax credit for certain tax-exempt organizations affected by certain qualified disasters **not** related to COVID-19. This credit is claimed on Form 5884-D (not on Form 943). Form 5884-D is filed after the Form 943 for the year for which the credit is being claimed has been filed. For more information about this credit, go to [IRS.gov/Form5884D](https://www.irs.gov/Form5884D).

2023 withholding tables. The Percentage Method and Wage Bracket Method withholding tables, the employer instructions

on how to figure employee withholding, and the amount to add to a nonresident alien employee's wages for figuring income tax withholding are included in Pub. 15-T, Federal Income Tax Withholding Methods, available at [IRS.gov/Pub15T](https://www.irs.gov/pub15t).

Withholding on supplemental wages. P.L. 115-97 lowered the withholding rates on supplemental wages for tax years beginning after 2017 and before 2026. See *Supplemental wages* in section 5 for the withholding rates.

Certification program for professional employer organizations (PEOs). The Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014 required the IRS to establish a voluntary certification program for PEOs. PEOs handle various payroll administration and tax reporting responsibilities for their business clients and are typically paid a fee based on payroll costs. To become and remain certified under the

certification program, certified professional employer organizations (CPEOs) must meet various requirements described in sections 3511 and 7705 and related published guidance. Certification as a CPEO may affect the employment tax liabilities of both the CPEO and its customers. A CPEO is generally treated for employment tax purposes as the employer of any individual who performs services for a customer of the CPEO and is covered by a contract described in section 7705(e)(2) between the CPEO and the customer (CPEO contract), but only for wages and other compensation paid to the individual by the CPEO. To become a CPEO, the organization must apply through the IRS Online Registration System. For more information or to apply to become a CPEO, go to [IRS.gov/CPEO](https://www.irs.gov/CPEO). Also see Revenue Procedure 2017-14, 2017-3 I.R.B. 426, available at [IRS.gov/irb/ 2017-03 IRB#RP-2017-14](https://www.irs.gov/irb/2017-03_IRB#RP-2017-14).

Outsourcing payroll duties. You're responsible to ensure that tax returns are filed and deposits and payments are made, even if you contract with a third party to perform these acts. You remain responsible if the third party fails to perform any required action. Before you choose to outsource any of your payroll and related tax duties (that is, withholding, reporting, and paying over social security, Medicare, FUTA, and income taxes) to a third-party payer, such as a payroll service provider or reporting agent, go to [IRS.gov/OutsourcingPayrollDuties](https://www.irs.gov/OutsourcingPayrollDuties) for helpful information on this topic. If a CPEO pays wages and other compensation to an individual performing services for you, and the services are covered by a contract described in section 7705(e)(2) between you and the CPEO (CPEO contract), then the CPEO is generally treated as the employer, but only for wages and other compensation paid to the individual by the CPEO. However, with respect to certain employees covered by a CPEO

contract, you may also be treated as an employer of the employees and, consequently, may also be liable for federal employment taxes imposed on wages and other compensation paid by the CPEO to such employees. For more information on the different types of third-party payer arrangements, see section 16 of Pub. 15.

Aggregate Form 943 filers. Approved section 3504 agents and CPEOs must complete Schedule R (Form 943), Allocation Schedule for Aggregate Form 943 Filers, when filing an aggregate Form 943.

Aggregate Forms 943 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 with the IRS.

Aggregate Forms 943 are also filed by CPEOs approved by the IRS under section 7705. To become a CPEO, the organization must apply through the IRS Online Registration System

at [IRS.gov/CPEO](https://www.irs.gov/CPEO). CPEOs file Form 8973, Certified Professional Employer Organization/Customer Reporting Agreement, to notify the IRS that they've started or ended a service contract with a client or customer. CPEOs must generally file Form 943 and Schedule R (Form 943) electronically. For more information about a CPEO's requirement to file electronically, see Revenue Procedure 2017-14, 2017-3 I.R.B. 426, available at [IRS.gov/irb/2017-03_IRB#RP-2017-14](https://www.irs.gov/irb/2017-03_IRB#RP-2017-14).

Other third-party payers that file aggregate Forms 943, such as non-certified PEOs, must complete and file Schedule R (Form 943) if they have clients that are claiming any employment tax credit (for example, the qualified small business payroll tax credit for increasing research activities).

Work opportunity tax credit for qualified tax-exempt organizations hiring qualified veterans.

Qualified tax-exempt organizations that hire eligible unemployed veterans may be able to claim the work opportunity tax credit against their payroll tax liability using Form 5884-C. For more information, go to [IRS.gov/WOTC](https://www.irs.gov/WOTC).

Definition of marriage. A marriage of two individuals is recognized for federal tax purposes if the marriage is recognized by the state, possession, or territory of the United States in which the marriage is entered into, regardless of legal residence. Two individuals who enter into a relationship that is denominated as a marriage under the laws of a foreign jurisdiction are recognized as married for federal tax purposes if the relationship would be recognized as a marriage under the laws of at least one state, possession, or territory of the United States, regardless of legal residence. Individuals who have entered into a registered domestic partnership, a civil

union, or other similar relationship that isn't denominated as a marriage under the law of the state, possession, or territory of the United States where such relationship was entered into aren't lawfully married for federal tax purposes, regardless of legal residence.

Differential wage payments. Qualified differential wage payments made by employers to individuals serving in the U.S. Armed Forces are subject to income tax withholding but not social security, Medicare, or FUTA taxes. For more information, see section 5 of Pub. 15.

Federal tax deposits must be made by electronic funds transfer (EFT). You must use EFT to make all federal tax deposits. Generally, an EFT is made using the Electronic Federal Tax Payment System (EFTPS). If you don't want to use EFTPS, you can arrange for your tax professional, financial institution, payroll service, or other trusted third party to make electronic

deposits on your behalf. Also, you may arrange for your financial institution to initiate a same-day wire payment on your behalf. EFTPS is a free service provided by the Department of the Treasury. Services provided by your tax professional, financial institution, payroll service, or other third party may have a fee.

For more information on making federal tax deposits, see *How To Deposit* in section 7. To get more information about EFTPS or to enroll in EFTPS, go to [EFTPS.gov](https://eftps.gov) or call 800-555-4477. To contact EFTPS using Telecommunications Relay Services (TRS) for people who are deaf, hard of hearing, or have a speech disability, dial 711 and then provide the TRS assistant the 800-555-4477 number above or 800-733-4829. Additional information about EFTPS is also available in Pub. 966.

Electronic filing and payment. Businesses can enjoy the benefits of filing tax returns 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 payment easier.

Spend less time worrying about taxes and more time running your business. Use *e-file* and EFTPS to your benefit.

- For *e-file*, go to [IRS.gov/EmploymentEfile](https://www.irs.gov/employmentefile) for additional information. A fee may be charged to file electronically.
- For EFTPS, go to [EFTPS.gov](https://www.eftps.gov), or call EFTPS Customer Service at 800-555-4477. To contact EFTPS using TRS for people who are deaf, hard of hearing, or have a speech disability, dial 711 and then provide the TRS assistant the 800-555-4477 number above or 800-733-4829.

- For electronic filing of Form W-2, Wage and Tax Statement, go to [SSA.gov/employer](https://ssa.gov/employer). You may be required to file Forms W-2 electronically. For details, see the General Instructions for Forms W-2 and W-3.



If you're filing your tax return or paying your federal taxes electronically, a valid employer identification number (EIN) is required at the time the return is filed or the payment is made. If a valid EIN isn't provided, the return or payment won't be processed. This may result in penalties. See Employer identification number (EIN) in section 1 for more information about applying for an EIN.

Electronic funds withdrawal (EFW). If you file your employment tax return electronically, you can *e-file* and use EFW to pay the balance due in a single step using tax preparation software or through a tax

professional. However, don't use EFW to make federal tax deposits. For more information on paying your taxes using EFW, go to [IRS.gov/EFW](https://www.irs.gov/efw).

Credit or debit card payments. You can pay the balance due shown on your employment tax return by credit or debit card. Your payment will be processed by a payment processor who will charge a processing fee. Don't use a credit or debit card to make federal tax deposits. For more information on paying your taxes with a credit or debit card, go to [IRS.gov/PayByCard](https://www.irs.gov/paybycard).

Online payment agreement. You may be eligible to apply for an installment agreement online if you can't pay the full amount of tax you owe when you file your employment tax return. For more information, see the instructions for your employment tax return or go to [IRS.gov/OPA](https://www.irs.gov/opa).

Dishonored payments. Any form of payment that is dishonored and returned from a financial institution is subject to a penalty. The penalty is \$25 or 2% of the payment, whichever is more. However, the penalty on dishonored payments of \$24.99 or less is an amount equal to the payment. For example, a dishonored payment of \$18 is charged a penalty of \$18.

When you hire a new employee. Ask each new employee to complete the 2023 Form W-4, or its Spanish version, Formulario W-4(SP), Certificado de Retenciones del Empleado. Also, ask the employee to show you their social security card so that you can record the employee's name and social security number (SSN) accurately. If the employee has lost the card or recently changed names, have the employee apply for a duplicate or corrected card. If the employee doesn't have a card, have the employee apply for one on Form SS-

5, Application for a Social Security Card. See section 1 for more information.

Eligibility for employment. You must verify that each new employee is legally eligible to work in the United States. This includes completing the U.S. Citizenship and Immigration Services (USCIS) Form I-9, Employment Eligibility Verification. You can get Form I-9 at [USCIS.gov/ Forms](https://uscis.gov/Forms). For more information, go to the USCIS website at [USCIS.gov/I-9-Central](https://uscis.gov/I-9-Central), or call 800-375-5283 or 800-767-1833 (TTY).

You may use the Social Security Number Verification Service (SSNVS) at [SSA.gov/employer/ssnv.htm](https://ssa.gov/employer/ssnv.htm) to verify that an employee name matches an SSN. A person may have a valid SSN but not be authorized to work in the United States. You may use E-Verify at [E-Verify.gov](https://e-verify.gov) to confirm the employment eligibility of newly hired employees.

New hire reporting. You're required to report any new employee to a designated state new-hire registry. A new employee is an employee who hasn't previously been employed by you or was previously employed by you but has been separated from such prior employment for at least 60 consecutive days.

Many states accept a copy of Form W-4 with employer information added. Go to the Office of Child Support Enforcement's website at acf.hhs.gov/css/employers for more information.

Forms in Spanish. You can provide Formulario W-4(SP) in place of Form W-4 to your Spanish-speaking employees. For more information, see Pub. 17(SP), El Impuesto Federal sobre los Ingresos (Para Personas Físicas).

For nonemployees, such as independent contractors, Formulario W-9(SP), Solicitud y Certificación del Número de Identificación del

Contribuyente, may be used in place of Form W-9, Request for Taxpayer Identification Number and Certification.

References in this publication to Form W-4 or Form W-9 also apply to their equivalent Spanish translations—Formulario W-4(SP) or Formulario W-9(SP).

Information returns. You must file Forms W-2 to report wages paid to employees. You may also be required to file information returns to report certain types of payments made during the year. For example, you must file Form 1099-NEC, Nonemployee Compensation, to report payments of \$600 or more to persons not treated as employees (for example, independent contractors) for services performed for your trade or business. For details about filing Forms 1099 and for information about required electronic filing, see the General Instructions for Certain Information Returns for general information, and the separate, specific instructions for

each information return you file (for example, the Instructions for Forms 1099-MISC and 1099-NEC). Generally, don't use Forms 1099 to report wages and other compensation you paid to employees; report these amounts on Form W-2. See the General Instructions for Forms W-2 and W-3 for details about filing Form W-2 and for information about required electronic filing.

Technical Services Operation (TSO). The IRS operates the TSO to answer questions about reporting on Forms W-2, W-3, and 1099, and other information returns. If you have questions related to reporting on information returns, call 866-455-7438 (toll free) or 304-263-8700 (toll call). Deaf or hard of hearing customers may call any of our toll-free numbers using their choice of relay service. The center can also be reached by email at mccirp@irs.gov. Don't include taxpayer identification numbers (TINs) or

attachments in email because email isn't secure.

Web-based application for an EIN. Go to [IRS.gov/EIN](https://www.irs.gov/EIN) to apply for an EIN online. See section 1 for additional information.

When a crew leader furnishes workers to you. Record the crew leader's name, address, and EIN. See sections 2 and 10.

Change of business address or responsible party. Notify the IRS immediately if you change your business address or responsible party. Complete and mail Form 8822-B to notify the IRS of a business address or responsible party change. For a definition of "responsible party," see the Instructions for Form SS-4.

Ordering employer tax forms, instructions, and publications. Go to [IRS.gov/OrderForms](https://www.irs.gov/OrderForms) to order current forms, instructions, and publications; call 800-829-3676 to order prior-year forms and

instructions. The IRS will process your order for forms and publications as soon as possible. **Don't** resubmit requests you've already sent us. You can get forms and publications faster online.

Instead of ordering paper Forms W-2 and W-3, consider filing them electronically using the SSA's free *e-file* service. Go to the SSA's Employer W-2 Filing Instructions & Information webpage at [SSA.gov/employer](https://ssa.gov/employer) to register for Business Services Online. You'll be able to create Forms W-2 online and submit them to the SSA by typing your wage information into easy-to-use fill-in fields. In addition, you can print out completed copies of Forms W-2 to file with state or local governments, distribute to your employees, and keep for your records. Form W-3 will be created for you based on your Forms W-2.

Tax questions. You can call the IRS Business and Specialty Tax Line with your employment tax questions at 800-829-4933 or 800-829-

4059 (TDD/TTY for persons who are deaf, hard of hearing, or have a speech disability). You may also use this number for assistance with unresolved tax problems.

Recordkeeping. Keep all records of employment taxes for at least 4 years. These should be available for IRS review. Your records should include the following information.

- Your EIN.
- Amounts and dates of all wage, annuity, and pension payments.
- Names, addresses, SSNs, and occupations of employees and recipients.
- Any employee copies of Forms W-2 and W-2c returned to you as undeliverable.
- Dates of employment for each employee.

- Periods for which employees and recipients were paid while absent due to sickness or injury and the amount and weekly rate of payments you or third-party payers made to them.
- Copies of employees' and recipients' income tax withholding certificates (Forms W-4, W-4(SP), W-4P, and W-4S).
- Dates and amounts of tax deposits you made and acknowledgment numbers for deposits made by EFTPS.
- Copies of returns filed and confirmation numbers.
- Records of fringe benefits and expense reimbursements provided to your employees, including substantiation.
- Documentation to substantiate any credits claimed. Records related to qualified sick leave wages and qualified family leave wages for leave

taken after March 31, 2021, and before October 1, 2021, and records related to qualified wages for the employee retention credit paid after June 30, 2021, should be kept for at least 6 years. For more information on substantiation requirements, go to [IRS.gov/PLC](https://www.irs.gov/PLC) and [IRS.gov/ERC](https://www.irs.gov/ERC).

- Documentation to substantiate the amount of any employer or employee share of social security tax that you deferred and paid for 2020.

If a crew leader furnished you with farmworkers, you must keep a record of the name, permanent mailing address, and EIN of the crew leader. If the crew leader has no permanent mailing address, record their present address.

Private delivery services (PDSs). You can use certain PDSs designated by the IRS to meet the “timely mailing as timely filing” rule

for tax returns. Go to [IRS.gov/PDS](https://www.irs.gov/PDS) for the current list of PDSs.

The PDS can tell you how to get written proof of the mailing date.

For the IRS mailing address to use if you're using a PDS, go to [IRS.gov/PDSstreetAddresses](https://www.irs.gov/PDSstreetAddresses). Select the mailing address listed on the webpage that is in the same state as the address to which you would mail returns filed without a payment, as shown in the instructions for your employment tax return.



PDSs can't deliver items to P.O. boxes. You must use the U.S. Postal Service to mail any item to an IRS P.O. box address.

Zero wage return. If you haven't filed a "final" Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return, or Form 943, you must continue to file Forms 940 and 943 even for years during which you paid no

wages. The IRS encourages you to file your “zero wage” Forms 940 and 943 electronically. Go to [IRS.gov/EmploymentEfile](https://www.irs.gov/employmentefile) for more information on electronic filing.

Pub. 5146 explains employment tax examinations and appeal rights. Pub. 5146 provides employers with information on how the IRS selects employment tax returns to be examined, what happens during an exam, and what options an employer has in responding to the results of an exam, including how to appeal the results. Pub. 5146 also includes information on worker classification issues and tip exams.

Photographs of missing children. The IRS is a proud partner with the [National Center for Missing & Exploited Children® \(NCMEC\)](https://www.fbi.gov/ncmec). Photographs of missing children selected by the Center may appear in this publication 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.

Calendar

The following is a list of important dates and responsibilities. The dates listed here haven't been adjusted for Saturdays, Sundays, and legal holidays (see the *TIP* next). Pub. 509, Tax Calendars (for use in 2023), adjusts the dates for Saturdays, Sundays, and legal holidays. See section 7 for information about depositing taxes reported on Forms 943 and 945, Annual Return of Withheld Federal Income Tax. See section 10 for information about depositing FUTA tax. Due dates for forms required for health coverage reporting aren't listed here. For these dates, see Pub. 509.



If any date shown next for filing a return, furnishing a form, or depositing taxes falls on a Saturday, Sunday, or legal holiday, the due date is the next business day. The term "legal holiday" means any legal holiday in the District of Columbia. A statewide legal holiday delays a filing due date only if the IRS office where you're required to file is located in that state. However, a statewide legal holiday doesn't delay the due date of federal tax deposits. See Deposits Due on Business Days Only in section 7. For any filing due date, you will meet the "file" or "furnish" requirement if the envelope containing the return or form 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 PDS on or before the due date. See Private delivery services under Reminders, earlier, for more information.

Fiscal year taxpayers. The due dates listed next apply whether you use a calendar or a fiscal year.

By January 31

- File Form 943. If you deposited all Form 943 taxes when due, you may file Form 943 by February 10. See section 8 for more information on Form 943.
- File Form 940 to report any FUTA tax. However, if you deposited all the FUTA tax when due, you may file Form 940 by February 10. See section 10 for more information on FUTA tax.
- File with the SSA Copy A of all 2022 paper and electronic Forms W-2 with Form W-3, Transmittal of Wage and Tax Statements. For more information on reporting Form W-2 information to the SSA electronically, go to the SSA's Employer W-2 Filing Instructions &

Information webpage at [SSA.gov/employer](https://ssa.gov/employer). If filing electronically via the SSA's Form W-2 Online service, the SSA will generate Form W-3 data from the electronic submission of Form(s) W-2.

- Furnish each employee a completed 2022 Form W-2.
- File with the IRS Copy A of all 2022 paper and electronic Forms 1099-NEC that report nonemployee compensation. Paper forms must be filed with Form 1096, Annual Summary and Transmittal of U.S. Information Returns. For information on filing information returns electronically with the IRS, see Pub. 1220. Other Forms 1099, including Forms 1099-MISC, have different due dates. See the General Instructions for Certain Information Returns for more information.

- Furnish each recipient to whom you paid \$600 or more in nonemployee compensation a completed Form 1099-NEC.
- File Form 945 to report any nonpayroll federal income tax withheld. If you deposited all Form 945 taxes when due, you may file Form 945 by February 10.

By February 15

Ask for a new Form W-4 or Formulario W-4(SP) from each employee who claimed exemption from federal income tax withholding last year.

On February 16

Any Form W-4 claiming exemption from withholding for the previous year has now expired. Begin withholding for any employee who previously claimed exemption from withholding but hasn't given you a new Form

W-4 for the current year. If the employee doesn't give you a new Form W-4, withhold tax as if they had checked the box for Single or Married filing separately in Step 1(c) and made no entries in Step 2, Step 3, or Step 4 of the 2023 Form W-4. See section 5 for more information. If the employee gives you a new Form W-4 claiming exemption from withholding after February 15, you may apply the exemption to future wages, but don't refund taxes withheld while the exempt status wasn't in place.

By April 30, July 31, October 31, and January 31

Deposit FUTA taxes. Deposit FUTA taxes if the undeposited amount is over \$500.

Before December 1

Remind employees to submit a new Form W-4 if their filing status, other income, deductions,

or credits have changed or will change for the next year.

Introduction

This publication is for employers of agricultural workers (farmworkers). It contains information that you may need to comply with the laws for agricultural labor (farmwork) relating to social security and Medicare taxes, FUTA tax, and withheld federal income tax (employment taxes). Agricultural employers report social security and Medicare taxes and withheld federal income tax on Form 943 and report FUTA tax on Form 940. References to "income tax" in this guide apply only to federal income tax. Contact your state or local tax department to determine their rules.

When you pay your employees, you don't pay them all the money they earned. As their employer, you have the added responsibility of withholding taxes from their paychecks.

The federal income tax and employees' share of social security and Medicare taxes that you withhold from your employees' paychecks are part of their wages that you pay to the U.S. Treasury instead of to your employees. Your employees trust that you pay the withheld taxes to the U.S. Treasury by making federal tax deposits. This is the reason that these withheld taxes are called trust fund taxes. If federal income, social security, or Medicare taxes that must be withheld aren't withheld or aren't deposited or paid to the U.S. Treasury, the trust fund recovery penalty may apply. See section 7 for more information.

If you have nonfarm employees, see Pub. 15. If you have employees in the U.S. Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands, see Pub. 80. Pub. 15-A contains more employment-related information, including information about sick pay and pension income. Pub. 15-B contains

information about the employment tax treatment and valuation of various types of noncash compensation. Pub. 15-T includes the federal income tax withholding tables and instructions on how to use the tables. For additional information about employment taxes, go to [IRS.gov/ EmploymentTaxes](https://www.irs.gov/employmenttaxes). For general tax information relevant to agricultural employers, go to [IRS.gov/AgricultureTaxCenter](https://www.irs.gov/agriculturetaxcenter).

Comments and suggestions. We welcome your comments about this publication and suggestions for future editions

You can send us comments through [IRS.gov/FormComments](https://www.irs.gov/formcomments).

Or you can write to:

Internal Revenue Service
Tax Forms and Publications
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

Although we can't respond individually to each comment received, we do appreciate your feedback and will consider your comments and suggestions as we revise our tax forms, instructions, and publications.

Don't send tax questions, tax returns, or payments to the above address.

Getting answers to your tax questions. If you have a tax question not answered by this publication, check [IRS.gov](https://www.irs.gov) and *How To Get Tax Help* at the end of this publication.

Disregarded entities and qualified subchapter S subsidiaries (QSubs).

Eligible single-owner disregarded entities and QSubs are treated as separate entities for employment tax purposes. Eligible single-member entities must report and pay employment taxes on wages paid to their employees using the entities' own names and EINs. See Regulations sections 1.1361-4(a)(7) and 301.7701-2(c)(2)(iv).

Useful Items

You may want to see:

Publication

- ☐ **15** Employer's Tax Guide
- ☐ **15-A** Employer's Supplemental Tax Guide
- ☐ **15-B** Employer's Tax Guide to Fringe Benefits
- ☐ **15-T** Federal Income Tax Withholding Methods
- ☐ **225** 225 Farmer's Tax Guide **535** 535 Business Expenses
- ☐ **583** Starting a Business and Keeping Records
- ☐ **1635** Employer Identification Number:
Understanding Your EIN

1. Taxpayer Identification Numbers (TINs)

If you're required to withhold any federal income, social security, or Medicare taxes, you will need an EIN for yourself. Also, you will need the SSN of each employee and the name of each employee as shown on the employee's social security card.

Employer identification number (EIN). An EIN is a nine-digit number that the IRS issues. The digits are arranged as follows: 00-0000000. It is used to identify the tax accounts of employers and certain others who have no employees. Use your EIN on all of the items that you send to the IRS and the SSA.

If you don't have an EIN, you may apply for one online by going to [IRS.gov/EIN](https://irs.gov/ein). You may also apply for an EIN by faxing or mailing Form SS-4 to the IRS. If the principal business was created or organized outside of

the United States or U.S. territories, you may also apply for an EIN by calling 267-941-1099 (toll call). Don't use an SSN in place of an EIN.

If you don't have an EIN by the time a return is due, file a paper return and write "Applied For" and the date you applied for it in the space shown for the number. If you took over another employer's business, don't use that employer's EIN.

You should have only one EIN. If you have more than one, and aren't sure which one to use, call the toll-free Business and Specialty Tax Line at 800-829-4933 or 800-829-4059 (TDD/TTY for persons who are deaf, hard of hearing, or have a speech disability). Provide the EINs that you have, the name and address to which each number was assigned, and the address of your principal place of business. The IRS will tell you which EIN to use. For more information, see Pub. 1635.



Always be sure the EIN on the form you file exactly matches the EIN the IRS assigned to your business. Don't use your SSN or individual taxpayer identification number (ITIN) on forms that ask for an EIN. If you used an EIN (including a prior owner's EIN) on Form 943 that is different from the EIN reported on Form W-3, see Box h—Other EIN used this year in the General Instructions for Forms W-2 and W-3. The name and EIN on Form 945 must match the name and EIN on your information returns where federal income tax withholding is reported (for example, backup withholding reported on Form 1099-NEC). Filing a Form 945 with an incorrect EIN or using another business's EIN may result in penalties and delays in processing your return.

When you receive your EIN. If you're a new employer that indicated a federal tax obligation when requesting an EIN, you will be pre-enrolled in EFTPS. You will receive

information in your EIN Package about Express Enrollment and an additional mailing containing your EFTPS personal identification number (PIN) and instructions for activating your PIN. Call the toll-free number located in your "How To Activate Your EFTPS Enrollment" brochure to activate your enrollment and begin making your employment tax deposits. If you outsource any of your payroll and related tax duties to a third-party payer, such as a payroll service provider or reporting agent, be sure to tell them about your EFTPS enrollment.

Social security number (SSN). An employee's SSN consists of nine digits arranged as follows: 000-00-0000. You must obtain each employee's name and SSN as shown on the employee's social security card because you must enter them on Form W-2. Don't accept a social security card that says "Not valid for employment." An SSN issued with this legend doesn't permit employment.

You may, but aren't required to, photocopy the social security card if the employee provides it. If you don't show the employee's correct name and SSN on Form W-2, you may owe a penalty unless you have reasonable cause. See Pub. 1586, Reasonable Cause Regulations & Requirements for Missing and Incorrect Name/TINs, for information on the requirement to solicit the employee's SSN.

Applying for a social security card. Any employee who is legally eligible to work in the United States and doesn't have a social security card can get one by completing Form SS-5 and submitting the necessary documentation to the SSA. You can get Form SS-5 at [SSA.gov/forms/ss-5.pdf](https://www.ssa.gov/forms/ss-5.pdf), at SSA offices, or by calling 800-772-1213 or 800-325-0778 (TTY). The employee must complete and sign Form SS-5; it can't be filed by the employer. You may be asked to supply a letter to accompany Form SS-5 if the employee has exceeded their yearly or

lifetime limit for the number of replacement cards allowed.

Applying for an SSN. If you file Form W-2 on paper and your employee has applied for an SSN but doesn't have one when you must file Form W-2, enter "Applied For" on the form. If you're filing electronically, enter all zeros (000-00-0000 if creating forms online or 000000000 if uploading a file) in the SSN field. When the employee receives the SSN, file Copy A of Form W-2c, Corrected Wage and Tax Statement, with the SSA to show the employee's SSN. Furnish Copies B, C, and 2 of Form W-2c to the employee. Up to 25 Forms W-2c for each Form W-3c, Transmittal of Corrected Wage and Tax Statements, may be filed per session over the Internet, with no limit on the number of sessions. For more information, go to the SSA's Employer W-2 Filing Instructions & Information webpage at [SSA.gov/employer](https://ssa.gov/employer). Advise your employee to correct the SSN on their original Form W-2.

Correctly record the employee's name

and SSN. Record the name and SSN of each employee as they're shown on the employee's social security card. If the employee's name isn't correct as shown on the card (for example, because of marriage or divorce), the employee should request an updated card from the SSA. Continue to report the employee's wages under the old name until the employee shows you an updated social security card with the corrected name.

If the SSA issues the employee an updated card after a name change, or a new card with a different SSN after a change in alien work status, file a Form W-2c to correct the name/SSN reported on the most recently filed Form W-2. It isn't necessary to correct other years if the previous name and SSN were used for years before the most recent Form W-2.

IRS individual taxpayer identification numbers (ITINs) for aliens. Don't accept an ITIN in place of an SSN for employee identification or for work. An ITIN is only available to resident and nonresident aliens who aren't eligible for U.S. employment and need identification for other tax purposes. You can identify an ITIN because it's a nine-digit number, formatted like an SSN, that starts with the number "9" and has a range of numbers from "50–65," "70–88," "90–92," and "94–99" for the fourth and fifth digits (for example, 9NN-7N-NNNN). For more information about ITINs, see the Instructions for Form W-7 or go to [IRS.gov/ITIN](https://www.irs.gov/ITIN).



An individual with an ITIN who later becomes eligible to work in the United States must obtain an SSN. If the individual is currently eligible to work in the United States, instruct the individual to apply for an SSN and follow the instructions under

Applying for an SSN, earlier. Don't use an ITIN in place of an SSN on Form W-2.

Verification of SSNs. Employers and authorized reporting agents can use the Social Security Number Verification Service (SSNVS) to instantly verify that an employee name matches an SSN for up to 10 names and SSNs (per screen) at a time, or submit an electronic file of up to 250,000 names and SSNs and usually receive results the next business day. Go to

[SSA.gov/employer/ssnv.htm](https://ssa.gov/employer/ssnv.htm) for more information. A person may have a valid SSN but not be authorized to work in the United States. Employers may use E-Verify at [E-Verify.gov](https://e-verify.gov) to confirm the employment eligibility of newly hired employees.

Registering for SSNVS. You must register online to use SSNVS. To register, go to the SSA's website at [SSA.gov/bso](https://ssa.gov/bso) and click on the *Register* link under *Business Services Online*. Follow the registration instructions to

obtain a user identification (ID) and password. You will need to provide the following information about yourself and your company.

- Name.
- SSN.
- Date of birth.
- Type of employer.
- EIN.
- Company name, address, and telephone number.
- Email address.

When you have completed the online registration process, the SSA will mail a one-time activation code to you. You must enter the activation code online to use SSNVS. Your employees must receive authorization from you to use SSNVS. If your employees

register, the one-time activation code will be mailed to you.

2. Who Are Employees?

Generally, employees are defined either under common law or under statutes for certain situations. See Pub. 15-A for details on statutory employees and nonemployees.

Employee status under common law.

Generally, a worker who performs services for you is your employee if you have the right to control what will be done and how it will be done. This is so even when you give the employee freedom of action. What matters is that you have the right to control the details of how the services are performed. See Pub. 15-A for more information on how to determine whether an individual providing services is an independent contractor or an employee.

If an employer-employee relationship exists, it doesn't matter what it is called. The

employee may be called an agent or independent contractor. It also doesn't matter how payments are measured or paid, what they're called, or if the employee works full or part time.

You're responsible for withholding and paying employment taxes for your employees. You're also required to file employment tax returns. These requirements don't apply to amounts that you pay to independent contractors. The rules discussed in this publication apply only to workers who are your employees.

In general, you're an employer of farmworkers if your employees:

- Raise or harvest agricultural or horticultural products on your farm (including the raising and feeding of livestock);
- Work in connection with the operation, management, conservation, improvement, or maintenance of your

farm and its tools and equipment, if the major part of such service is performed on a farm;

- Provide services relating to salvaging timber, or clearing land of brush and other debris, left by a hurricane (also known as hurricane labor) if the major part of such service is performed on a farm;
- Handle, process, or package any agricultural or horticultural commodity in its unmanufactured state, if you produced over half of the commodity (for a group of up to 20 unincorporated operators, all of the commodity); or
- Do work for you related to cotton ginning, turpentine, gum resin products, or the operation and maintenance of irrigation facilities.

For this purpose, the term “farm” includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, as well as plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

Farmwork doesn't include reselling activities that don't involve any substantial activity of raising agricultural or horticultural commodities, such as a retail store or a greenhouse used primarily for display or storage. It also doesn't include processing services that change a commodity from its raw or natural state, or services performed after a commodity has been changed from its raw or natural state.

The table in section 12, How Do Employment Taxes Apply to Farmwork, distinguishes between farm and nonfarm activities, and also addresses rules that apply in special situations.

Crew Leaders

If you're a crew leader, you're an employer of farmworkers. A crew leader is a person who furnishes and pays (either on their own behalf or on behalf of the farm operator) workers to do farmwork for the farm operator. If there is no written agreement between you and the farm operator stating that you're their employee and if you pay the workers (either for yourself or for the farm operator), then you're a crew leader. For FUTA tax rules, see section 10.

If you're a crew leader, you're not considered the employee of the farm operator for services you perform in furnishing farmworkers and as a member of the crew.

Business Owned and Operated by Spouses

If you and your spouse jointly own and operate a farm or nonfarm business and

share in the profits and losses, you may be partners in a partnership, whether or not you have a formal partnership agreement. See Pub. 541 for more details. The partnership is considered the employer of any employees and is liable for any employment taxes due on wages paid to its employees.

Exception—Qualified joint venture. For tax years beginning after 2006, the Small Business and Work Opportunity Tax Act of 2007 (Public Law 110-28) provides that a “qualified joint venture,” whose only members are spouses filing a joint income tax return, can elect not to be treated as a partnership for federal tax purposes. A qualified joint venture conducts a trade or business where:

- The only members of the joint venture are spouses who file a joint income tax return,
- Both spouses materially participate (see *Material participation* in the instructions for Schedule C (Form

1040), line G) in the trade or business (mere joint ownership of property isn't enough),

- Both spouses elect to not be treated as a partnership, and
- The business is co-owned by both spouses and isn't held in the name of a state law entity such as a partnership or limited liability company (LLC).

To make the election, all items of income, gain, loss, deduction, and credit must be divided between the spouses, in accordance with each spouse's interest in the venture, and reported on a separate Schedule C (Form 1040) or Schedule F (Form 1040) as sole proprietors. Each spouse must also file a separate Schedule SE (Form 1040) to pay self-employment taxes, as applicable.

Spouses using the qualified joint venture rules are treated as sole proprietors for federal tax purposes and generally don't need

an EIN. If employment taxes are owed by the qualified joint venture, either spouse may report and pay the employment taxes due on the wages paid to the employees using the EIN of that spouse's sole proprietorship.

Generally, filing as a qualified joint venture won't increase the spouses' total tax owed on the joint income tax return. However, it gives each spouse credit for social security earnings on which retirement benefits are based and for Medicare coverage without filing a partnership return.

Note. If your spouse is your employee, not your partner, you must withhold and pay federal income, social security, and Medicare taxes for them. However, the wages aren't subject to FUTA tax.

For more information on qualified joint ventures, go to [IRS.gov/QJV](https://www.irs.gov/QJV).

Exception—Community income. If you and your spouse wholly own an unincorporated business as community property under the

community property laws of a state, foreign country, or U.S. possession, you can treat the business either as a sole proprietorship (of the spouse who carried on the business) or a partnership. You may still make an election to be taxed as a qualified joint venture instead of a partnership. See Exception—Qualified joint venture, earlier in this section.

3. Wages and Other Compensation

Cash wages that you pay to employees for farmwork are generally subject to social security tax and Medicare tax. You may also be required to withhold, deposit, and report Additional Medicare Tax. See section 4 for more information. If the wages are subject to social security and Medicare taxes, they're also subject to federal income tax withholding. You're liable for the payment of these taxes to the federal government whether or not you collect them from your

employees. If, for example, you withhold less than the correct tax from an employee's wages, you're still liable for the full amount. You may also be liable for FUTA tax, which isn't withheld by you or paid by the employee. FUTA tax is discussed in section 10. Cash wages include checks, money orders, and any kind of money or cash.

For more information on what payments are considered taxable wages, see Pub. 15.

Noncash wages (including commodity wages). Noncash wages include food, lodging, clothing, transportation passes, farm products, or other goods or commodities. Noncash wages paid to farmworkers, including commodity wages, aren't subject to social security taxes, Medicare taxes, or federal income tax withholding. However, you and your employee can agree to have federal income tax withheld on noncash wages.

Noncash wages, including commodity wages, are treated as cash wages if the substance of the transaction is a cash payment. Noncash wages treated as cash wages are subject to social security taxes, Medicare taxes, and federal income tax withholding.

Report the value of noncash wages in box 1 of Form W-2 together with cash wages.

Noncash wages for farmwork are subject to federal income tax unless a specific exclusion applies. Don't show noncash wages in box 3 or 5 of Form W-2 (unless the substance of the transaction is a cash payment and they're being treated as cash wages).

Other compensation. Pubs. 15-A and 15-B discuss other forms of compensation that may be taxable.

Family members. Generally, the wages that you pay to family members who are your employees are subject to social security and Medicare taxes, federal income tax withholding, and FUTA tax. However, certain

exemptions may apply for your child, spouse, or parent. See the table, How Do Employment Taxes Apply to Farmwork, in section 12.

Household employees. The wages of an employee who performs household services, such as a maid, babysitter, gardener, or cook, in your home aren't subject to social security and Medicare taxes if you pay that employee cash wages of less than \$2,600 in 2023.

Social security and Medicare taxes don't apply to cash wages for housework in your private home if it was done by your spouse or your child under age 21. Nor do the taxes apply to housework done by your parent unless:

- You have a child (including an adopted child or stepchild) living in your home who is under age 18 or has a physical or mental condition that requires care by an adult for at least 4 continuous weeks in the calendar quarter services were performed; and

- You're a widow or widower, or divorced and not remarried, or have a spouse in the home who, because of a physical or mental condition, can't care for your child for at least 4 continuous weeks in the calendar quarter services were performed.

For more information, see Pub. 926.



Wages for household work are generally not a deductible farm expense. See Nondeductible Pay in chapter 4 of Pub. 225 for more information.

Share farmers. You don't have to withhold or pay social security and Medicare taxes on amounts paid to share farmers under share-farming arrangements.

Compensation paid to H-2A visa holders.

Report compensation of \$600 or more paid to foreign agricultural workers who entered the country on H-2A visas in box 1 of Form W-2 but don't report it as social security wages

(box 3) or Medicare wages (box 5) on Form W-2 because compensation paid to H-2A workers for agricultural labor performed in connection with this visa isn't subject to social security and Medicare taxes. On Form W-2, don't check box 13 (Statutory employee), as H-2A workers aren't statutory employees.

An employer isn't required to withhold federal income tax from compensation paid to an H-2A worker for agricultural labor performed in connection with this visa but may withhold if the worker asks for withholding and the employer agrees. In that case, the worker must give the employer a completed Form W-4. Federal income tax withheld should be reported in box 2 of Form W-2.

These reporting rules apply when the H-2A worker provides their TIN to the employer. If the H-2A worker doesn't provide a TIN and the total annual wages to the H-2A worker are at least \$600, the employer is required to backup withhold. See the Instructions for

Forms 1099-MISC and 1099-NEC and the Instructions for Form 945.

For more information on foreign agricultural workers on H-2A visas, go to [IRS.gov/H2A](https://www.irs.gov/H2A).

4. Social Security and Medicare Taxes

Generally, you must withhold social security and Medicare taxes on all cash wage payments that you make to your employees. You may also be required to withhold Additional Medicare Tax. For more information, see *Additional Medicare Tax withholding*, later.

The \$150 Test or the \$2,500 Test

All cash wages that you pay to an employee during the year for farmwork are subject to social security and Medicare taxes and federal income tax withholding if either of the two tests below is met.

- You pay cash wages to an employee of \$150 or more in a year for farmwork (count all cash wages paid on a time, piecework, or other basis). The \$150 test applies separately to each farmworker that you employ. If you employ a family of workers, each member is treated separately. Don't count wages paid by other employers.
- The total that you pay for farmwork (cash and noncash) to all your employees is \$2,500 or more during the year.

Exceptions. Annual cash wages of less than \$150 you pay to a **seasonal** farmworker aren't subject to social security and Medicare taxes, or federal income tax withholding, even if you pay \$2,500 or more to all your farmworkers. However, these wages count toward the \$2,500 test for determining whether other farmworkers' wages are subject to social security and Medicare taxes.

A seasonal farmworker is a worker who:

- Is employed in agriculture as a hand-harvest laborer,
- Is paid piece rates in an operation that is usually paid on a piece-rate basis in the region of employment,
- Commutes daily from their permanent home to the farm, and
- Had been employed in agriculture less than 13 weeks in the preceding calendar year.

Social Security and Medicare Tax Withholding

The tax rate for social security is 6.2% (amount withheld) each for the employer and employee (12.4% total). The social security wage base limit is \$160,200. The tax rate for Medicare is 1.45% (amount withheld) each for the employee and employer (2.9% total). There is no wage base limit for Medicare tax;

all covered wages are subject to Medicare tax.

Social security and Medicare taxes apply to most payments of sick pay, including payments made by third parties such as insurance companies. For details, see section 6 of Pub. 15-A.



Qualified sick leave wages and qualified family leave wages for leave taken after March 31, 2020, and before April 1, 2021, aren't subject to the employer share of social security tax; therefore, the tax rate on these wages is 6.2%. Qualified sick leave wages and qualified family leave wages for leave taken after March 31, 2021, and before October 1, 2021, are subject to both the employer share (6.2%) and employee share (6.2%) of social security tax (12.4% total).



For purposes of this publication, all references to "sick pay" mean ordinary sick pay, not "qualified sick leave wages" under the FFCRA, as amended by the COVID-related Tax Relief Act of 2020, and the ARP.

Additional Medicare Tax withholding. In addition to withholding Medicare tax at 1.45%, you must withhold a 0.9% Additional Medicare Tax from wages you pay to an employee in excess of \$200,000 in a calendar year. You're required to begin withholding Additional Medicare Tax in the pay period in which you pay wages in excess of \$200,000 to an employee and continue to withhold it each pay period until the end of the calendar year. Additional Medicare Tax is only imposed on the employee. There is no employer share of Additional Medicare Tax. All wages that are subject to Medicare tax are subject to Additional Medicare Tax withholding if paid in excess of the \$200,000 withholding threshold.

For more information on what wages are subject to Medicare tax, see the chart, Special Rules for Various Types of Services and Payments, in section 15 of Pub. 15. For more information on Additional Medicare Tax, go to [IRS.gov/ADMTfaqs](https://www.irs.gov/ADMTfaqs).

Employee share paid by employer. If you would rather pay a household or agricultural employee's share of the social security and Medicare taxes without withholding them from the employee's wages, you may do so. If you don't withhold the taxes, however, you must still pay them on behalf of the employee. Any **employee** social security and Medicare taxes that you pay are additional income to the employee. Include it in box 1 of the employee's Form W-2, but don't count it as social security and Medicare wages and don't include it in boxes 3 and 5. Also, don't count the additional income as wages for FUTA tax purposes. Different rules apply to employer payments of social security and

Medicare taxes for non-household and non-agricultural employees. See section 7 of Pub. 15-A.

Example. Gavrielle operates a small family fruit farm. Gavrielle employs day laborers in the picking season to allow Gavrielle time to get the crops to market. Gavrielle doesn't deduct the employees' share of social security and Medicare taxes from their pay; instead, Gavrielle pays it on their behalf. When Gavrielle prepares the employees' Forms W-2, Gavrielle adds each employee's share of social security and Medicare taxes that Gavrielle paid to the employee's wage income (box 1 of Form W-2), but doesn't include it in box 3 (social security wages) or box 5 (Medicare wages and tips).

For 2022, Gavrielle paid Dan \$1,000 during the year. Gavrielle enters \$1,076.50 in box 1 of Dan's Form W-2 (\$1,000 wages plus \$76.50 social security and Medicare taxes

paid for Dan). Gavrielle enters \$1,000.00 in boxes 3 and 5 of Dan's Form W-2.

Withholding social security and Medicare taxes on nonresident alien employees. In general, if you pay wages to nonresident alien employees, you must withhold social security and Medicare taxes as you would for a U.S. citizen or resident alien. However, see Pub. 515 for exceptions to this general rule. One such exception is for foreign agricultural workers on H-2A visas, who are exempt from social security and Medicare taxes. See *Compensation paid to H-2A visa holders* in section 3.

Religious exemption. An exemption from social security and Medicare taxes is available to members of a recognized religious sect opposed to insurance. This exemption is available only if both the employee and the employer are members of the sect. For more information, see Pub. 517.

5. Federal Income Tax Withholding

Farm operators and crew leaders must withhold federal income tax from the wages of farmworkers if the wages are subject to social security and Medicare taxes. The amount to withhold is figured on gross wages before taking out social security and Medicare taxes, union dues, etc. You may use one of several methods to determine the amount of federal income tax withholding. They're discussed in Pub. 15-T.

Redesigned Form W-4. The IRS redesigned Form W-4 for 2020 and subsequent years. Before 2020, the value of a withholding allowance was tied to the amount of the personal exemption. Due to changes in the law, taxpayers can no longer claim personal exemptions or dependency exemptions; therefore, Form W-4 no longer asks an employee to report the number of withholding

allowances that they are claiming. The revised Form W-4 is divided into five steps. Step 1 and Step 5 apply to all employees. In Step 1, employees enter personal information like their name and filing status. In Step 5, employees sign the form. Employees who complete only Step 1 and Step 5 will have their withholding figured based on their filing status's standard deduction and tax rates with no other adjustments. If applicable, in Step 2, employees increase their withholding to account for higher tax rates due to income from other jobs in their household. Under Step 2, employees either enter an additional amount to withhold per payroll period in Step 4(c) or check the box in Step 2(c) for higher withholding rate tables to apply to their wages. In Step 3, employees decrease their withholding by reporting the annual amount of any credits they will claim on their income tax return. In Step 4, employees may increase or decrease their withholding based on the annual amount of other income or

deductions they will report on their income tax return and they may also request any additional federal income tax they want withheld each pay period.

Employees who have submitted Form W-4 in any year before 2020 aren't required to submit a new form merely because of the redesign. Employers will continue to figure withholding based on the information from the employee's most recently submitted Form W-4. The withholding tables in Pub. 15-T allow employers to figure withholding based on a Form W-4 for 2019 or earlier, as well as the redesigned Form W-4. While you may ask your employees first paid wages before 2020 that have not yet submitted a redesigned Form W-4 to submit new Forms W-4 using the redesigned version of the form, you should explain to them that they're not required to do this and if they don't submit a new Form W-4, withholding will continue based on a valid Form W-4 previously

submitted. All newly hired employees must use the redesigned form. Similarly, any other employees who wish to adjust their withholding must use the redesigned form.

Pub. 15-T provides an optional computational bridge to treat 2019 or earlier Forms W-4 as if they were 2020 or later Forms W-4 for purposes of figuring federal income tax withholding. This computational bridge allows you to use computational procedures and data fields for a 2020 and later Form W-4 to arrive at the equivalent withholding for an employee that would have applied using the computational procedures and data fields on a 2019 or earlier Form W-4. See *How To Treat 2019 and Earlier Forms W-4 as if They Were 2020 or Later Forms W-4* in the *Introduction* section of Pub. 15-T.

More information. For more information about the redesigned Form W-4 and regulations that provide guidance for employers concerning income tax withholding

from employees' wages, see Treasury Decision 9924, 2020-44 I.R.B. 943, available at [IRS.gov/irb/2020-44_IRB#TD-9924](https://www.irs.gov/irb/2020-44_IRB#TD-9924). For information about Form W-4, go to [IRS.gov/FormW4](https://www.irs.gov/FormW4). Employer instructions on how to figure employee withholding are provided in Pub. 15-T, available at [IRS.gov/Pub15T](https://www.irs.gov/Pub15T).

Using Form W-4 to figure withholding. To know how much federal income tax to withhold from employees' wages, you should have a Form W-4 on file for each employee. Encourage your employees to file an updated Form W-4 for 2023, especially if they owed taxes or received a large refund when filing their 2022 tax return.

Ask all new employees to give you a signed Form W-4 when they start work. Make the form effective with the first wage payment. If a new employee doesn't give you a completed Form W-4 in 2023 (including an employee who previously worked for you and was

rehired in 2023, and who fails to furnish a Form W-4), treat the new employee as if they had checked the box for Single or Married filing separately in Step 1(c) and made no entries in Step 2, Step 3, or Step 4 of the 2023 Form W-4. An employee who was paid wages before 2020 and who failed to furnish a Form W-4 should continue to be treated as single and claiming zero allowances on a 2019 Form W-4. If you use the optional computational bridge, described earlier under Redesigned Form W-4, you may treat this employee as if they had checked the box for Single or Married filing separately in Step 1(c), and made no entries in Step 2 and Step 3, an entry of \$8,600 in Step 4(a), and an entry of zero in Step 4(b) of the 2023 Form W-4.

Form in Spanish. You can provide Formulario W-4(SP) in place of Form W-4 to your Spanish-speaking employees. For more information, see Pub. 17(SP). The rules

discussed in this section that apply to Form W-4 also apply to Formulario W-4(SP).

Electronic system to receive Form W-4.

You may establish a system to electronically receive Forms W-4 from your employees. See Regulations section 31.3402(f) (5)-1(c), Pub. 15-A, and Pub. 15-T for more information.

Effective date of Form W-4. A Form W-4 for 2022 or earlier years remains in effect for 2023 unless the employee gives you a 2023 Form W-4. When you receive a new Form W-4 from an employee, don't adjust withholding for pay periods before the effective date of the new form. If an employee gives you a Form W-4 that replaces an existing Form W-4, begin withholding no later than the start of the first payroll period ending on or after the 30th day from the date you received the replacement Form W-4. For exceptions, see *Exemption from federal income tax withholding, IRS review of requested Forms*

W-4, and Invalid Forms W-4, later in this section.



A Form W-4 that makes a change for the next calendar year won't take effect in the current calendar year.

Completing Form W-4. The amount of any federal income tax withholding must be based on filing status, income (including income from other jobs), deductions, and credits. Your employees may not base their withholding amounts on a fixed dollar amount or percentage. However, an employee may specify a dollar amount to be withheld each pay period in addition to the amount of withholding based on filing status and other information reported on Form W-4.

Employees that are married filing jointly and have spouses that also currently work, or employees that hold more than one job at the same time, should account for their higher tax rate by completing Step 2 of their 2023 Form W-4. Employees also have the option to

report on their 2023 Form W-4 other income they will receive that isn't subject to withholding and other deductions they will claim in order to increase the accuracy of their federal income tax withholding.

See Pub. 505 for more information about completing Form W-4. Along with Form W-4, you may wish to order Pub. 505 for use by your employees.

Don't accept any withholding or estimated tax payments from your employees in addition to withholding based on their Form W-4. If an employee wants additional withholding, they should submit a new Form W-4 and, if necessary, pay estimated tax by filing Form 1040-ES or by using EFTPS to make estimated tax payments.

Exemption from federal income tax withholding. Generally, an employee may claim exemption from federal income tax withholding because they had no federal income tax liability last year and expect none

this year. See the Form W-4 instructions for more information. However, the wages are still subject to social security and Medicare taxes. See also *Invalid Forms W-4*, later in this section.

A Form W-4 claiming exemption from withholding is effective when it is given to the employer and only for that calendar year. To continue to be exempt from withholding, an employee must give you a new Form W-4 by February 15. If the employee doesn't give you a new Form W-4 by February 15, begin withholding as if they had checked the box for Single or Married filing separately in Step 1(c) and made no entries in Step 2, Step 3, or Step 4 of the 2023 Form W-4. If the employee provides a new Form W-4 claiming exemption from withholding on February 16 or later, you may apply it to future wages but don't refund any taxes withheld while the exempt status wasn't in place.

Withholding income taxes on the wages of nonresident alien employees. In general, you must withhold federal income taxes on the wages of nonresident alien employees. However, see Pub. 515 for exceptions to this general rule. Also see *Compensation paid to H-2A visa workers* in section 3.

Withholding adjustment for nonresident alien employees. Nonresident aliens may not claim the standard deduction on their tax return; therefore, employers must add an amount to the wages of nonresident alien employees performing services within the United States in order to figure the amount of federal income tax to withhold from their wages. The amount is added to their wages solely for calculating federal income tax withholding. The amount isn't included in any box on the employee's Form W-2 and doesn't increase the income tax liability of the employee. The amount also doesn't increase

the social security tax or Medicare tax liability of the employer or the employee, or the FUTA tax liability of the employer. See *Withholding Adjustment for Nonresident Alien Employees* in the *Introduction* section of Pub. 15-T for the amount to add to their wages for the payroll period.

Supplemental wage payment. The adjustment for determining the amount of federal income tax withholding for nonresident alien employees doesn't apply to a supplemental wage payment (see *Supplemental wages*, later in this section) if the 37% mandatory flat rate withholding applies or if the 22% optional flat rate withholding is being used to calculate income tax withholding on the supplemental wage payment.

Nonresident alien employee's Form W-4. When completing Forms W-4, nonresident aliens are required to:

- Not claim exemption from income tax withholding (even if they meet both of the conditions to claim exemption from withholding listed in the Form W-4 instructions);
- Request withholding as if they're single, regardless of their actual filing status;
- Not claim the child tax credit or credit for other dependents in Step 3 of Form W-4 (if the nonresident alien is a resident of Canada, Mexico, or South Korea, or a student from India, or a business apprentice from India, they may claim, under certain circumstances (see Pub. 519), the child tax credit or credit for other dependents); and
- Write "Nonresident Alien" or "NRA" in the space below Step 4(c) of Form W-4.

If you maintain an electronic Form W-4 system, you should provide a field for nonresident aliens to enter nonresident alien status instead of writing “Nonresident Alien” or “NRA” in the space below Step 4(c) of Form W-4. You should instruct nonresident aliens to see Notice 1392, Supplemental Form W-4 Instructions for Nonresident Aliens, before completing Form W-4.

Form 8233. If a nonresident alien employee claims a tax treaty exemption from withholding, the employee must submit Form 8233 with respect to the income exempt under the treaty, instead of Form W-4. For more information, see the Instructions for Form 8233 and *Pay for Personal Services Performed under Withholding on Specific Income* in Pub. 515.

IRS review of requested Forms W-4.

When requested by the IRS, you must make original Forms W-4 available for inspection by an IRS employee. You may also be directed to

send certain Forms W-4 to the IRS. You may receive a notice from the IRS requiring you to submit a copy of Form W-4 for one or more of your named employees. Send the requested copy or copies of Form W-4 to the IRS at the address provided and in the manner directed by the notice. The IRS may also require you to submit copies of Form W-4 to the IRS as directed by a revenue procedure or notice published in the Internal Revenue Bulletin. When we refer to Form W-4, the same rules apply to Formulario W-4(SP), its Spanish translation.

After submitting a copy of the requested Form W-4 to the IRS, continue to withhold federal income tax based on that Form W-4 if it is valid (see *Invalid Forms W-4*, later in this section). However, if the IRS later notifies you in writing that the employee isn't entitled to claim exemption from withholding or a claimed amount of deductions or credits, withhold federal income tax based on the

effective date, employee's permitted filing status, and withholding instructions specified in the IRS notice (commonly referred to as a "lock-in letter").

Initial lock-in letter. The IRS uses information reported on Form W-2 to identify employees with withholding compliance problems. In some cases, if a serious underwithholding problem is found to exist for a particular employee, the IRS may issue a lock-in letter to the employer specifying the employee's permitted filing status and providing withholding instructions for the specific employee. You'll also receive a copy for the employee that identifies the permitted filing status and provides a description of the withholding instructions you're required to follow and the process by which the employee can provide additional information to the IRS for purposes of determining the appropriate withholding and/or modifying the specified filing status. You must furnish the employee

copy to the employee within 10 business days of receipt if the employee is employed by you as of the date of the notice. You may follow any reasonable business practice to furnish the employee copy to the employee. Begin withholding based on the notice on the date specified in the notice.

Implementation of lock-in letter. When you receive the notice specifying the permitted filing status and providing withholding instructions, you may not withhold immediately on the basis of the notice. You must begin withholding tax on the basis of the notice for any wages paid after the date specified in the notice. The delay between your receipt of the notice and the date to begin the withholding on the basis of the notice permits the employee time to contact the IRS.

Seasonal employees and employees not currently performing services. If you receive a notice for an employee who isn't

currently performing services for you, you're still required to furnish the employee copy to the employee and withhold based on the notice if any of the following apply.

- You're paying wages for the employee's prior services and the wages are subject to income tax withholding on or after the date specified in the notice.
- You reasonably expect the employee to resume services within 12 months of the date of the notice.
- The employee is on a leave of absence that doesn't exceed 12 months or the employee has a right to reemployment after the leave of absence.

Termination and rehire of employees. If you must furnish and withhold based on the notice and the employment relationship is terminated after the date of the notice, you must continue to withhold based on the notice

if you continue to pay any wages subject to income tax withholding. You must also withhold based on the notice or modification notice (explained next) if the employee resumes the employment relationship with you within 12 months after the termination of the employment relationship.

Modification notice. After issuing the notice specifying the permitted filing status and providing withholding instructions, the IRS may issue a subsequent notice (modification notice) that modifies the original notice. The modification notice may change the permitted filing status and withholding instructions. You must withhold federal income tax based on the effective date specified in the modification notice.

New Form W-4 after IRS notice. After the IRS issues a notice or modification notice, if the employee provides you with a new Form W-4 claiming complete exemption from withholding or a completed Form W-4 that

results in less withholding than would result under the IRS notice or modification notice, disregard the new Form W-4. You must withhold based on the notice or modification notice unless the IRS notifies you to withhold based on the new Form W-4. If the employee wants to put a new Form W-4 into effect that results in less withholding than required, the employee must contact the IRS.

If, after you receive an IRS notice or modification notice, your employee gives you a new completed Form W-4 that results in more withholding than would result under the notice or modification notice, you must withhold tax based on the new Form W-4. Otherwise, disregard any subsequent Forms W-4 provided by the employee and withhold based on the IRS notice or modification notice.