

2011



Department of the Treasury
Internal Revenue Service

Instructions for Form 945

Annual Return of Withheld Federal Income Tax

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

What's New

Form 945 webpage. The IRS has created a page on IRS.gov for information about Form 945 and its instructions, at www.irs.gov/form945. Information about any recent developments affecting Form 945 will be posted on that page.

Federal tax deposits must be made by electronic funds transfer. Beginning January 1, 2011, you must use electronic funds transfer to make all federal tax deposits (such as deposits of employment tax, excise tax, and corporate income tax). Forms 8109 and 8109-B, Federal Tax Deposit Coupon, cannot be used after December 31, 2010. Generally, electronic funds transfers are made using the Electronic Federal Tax Payment System (EFTPS). If you do not want to use EFTPS, you can arrange for your tax professional, financial institution, payroll service, or other trusted third party to make 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 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 section 11 of Pub. 15 (Circular E), Employer's Tax Guide (for use in 2011). To get more information about EFTPS or to enroll in EFTPS, visit the EFTPS website at www.eftps.gov, or call 1-800-555-4477. You can also get Pub. 966, The Secure Way to Pay Your Federal Taxes.

Reminders

Correcting a previously filed Form 945. If you discover an error on a previously filed Form 945, make the correction using Form 945-X, Adjusted Annual Return of Withheld Federal Income Tax or Claim for Refund. Form 945-X is a stand-alone form, meaning taxpayers can file Form 945-X when an error is discovered. For more information, get the Instructions for Form 945-X or visit IRS.gov and type *Correcting Employment Taxes* in the search box.

Paid preparers must sign Form 945. Paid preparers must complete and sign the paid preparer's section of Form 945.

Credit or debit card payments. Payors can pay the balance due shown on Form 945 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.

How to get forms and publications. You can get most IRS forms and publications by accessing the IRS website

at IRS.gov or by calling the IRS at 1-800-TAX-FORM (1-800-829-3676).

Telephone help. You can call the IRS Business and Specialty Tax Line toll free at 1-800-829-4933 for answers to your questions about completing Form 945, tax deposit rules, or obtaining an employer identification number (EIN).

Additional information. Pub. 15 (Circular E), Employer's Tax Guide, explains the rules for withholding, depositing, and reporting federal income tax. Pub. 15-A, Employer's Supplemental Tax Guide, includes information on federal income tax withholding from pensions, annuities, and Indian gaming profits. For information on withholding from gambling winnings, see the Instructions for Forms W-2G and 5754.

For a list of employment tax products, visit the IRS website at www.irs.gov/businesses and select "Employment Taxes" under the **Businesses Topics** heading.

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

Form 945 webpage. For more information about the latest developments on Form 945 and its instructions, go to www.irs.gov/form945.

Purpose of Form 945

Use Form 945 to report withheld federal income tax from nonpayroll payments. Nonpayroll payments include:

- Pensions (including distributions from tax-favored retirement plans, for example, section 401(k), section 403(b), and governmental section 457(b) plans), and annuities;
- Military retirement;
- Gambling winnings;
- Indian gaming profits;
- Voluntary withholding on certain government payments; and
- Backup withholding.

Report all federal income tax withholding from nonpayroll payments or distributions annually on one Form 945. **Do not** file more than one Form 945 for any calendar year.

All federal income tax withholding reported on Forms 1099 (for example, Form 1099-R or 1099-MISC) or Form W-2G must be reported on Form 945. **Do not**

report federal income tax withholding from wages on Form 945.

All employment taxes and federal income tax withholding reported on Form W-2, Wage and Tax Statement, must be reported on Form 941 or Form 944, Form 943 for agricultural employees, Schedule H (Form 1040) for household employees, or Form CT-1 for railroad employees.

Do not report on Form 945 federal income tax withheld on distributions to participants from nonqualified pension plans (including **nongovernmental** section 457(b) plans) and some other deferred compensation arrangements that are treated as wages and are reported on Form W-2. Report such withholding on Form 941 or Form 944. See Pub. 15 (Circular E) for more information.

Compensation paid to H-2A visa holders. Generally, compensation of \$600 or more paid to foreign agricultural workers who entered the country on H-2A visas is reported on Form W-2 and Form 943, Employer's Annual Tax Return for Agricultural Employees. However, if an H-2A visa worker did not provide the employer with a taxpayer identification number, the employee is subject to backup withholding. The employer must report the wages and backup withholding on Form 1099-MISC, Miscellaneous Income. The employer must also report the backup withholding on line 2 of Form 945.

Who Must File

If you withhold federal income tax (including backup withholding) from nonpayroll payments, you must file Form 945. See *Purpose of Form 945*, earlier. You do not have to file Form 945 for those years in which you do not have a nonpayroll tax liability. **Do not** report on Form 945 withholding that is required to be reported on Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons.

When to File

For 2011, file Form 945 by January 31, 2012. However, if you made deposits on time in full payment of the taxes for the year, you may file the return by February 10, 2012. Your return will be considered timely filed if it is properly addressed and mailed First-Class or sent by an IRS-designated private delivery service on or before the due date. See Pub. 15 (Circular E) for more information on IRS-designated private delivery services.

Where to File

In the list below, find the location of your legal residence, principal place of business, office, or agency. Send Form 945 to the address listed for your location.



Where you file depends on whether or not you are including a payment with the return.

If you are in . . .	Without a payment . . .	With a payment . . .	
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 45999-0042	Internal Revenue Service P. O. Box 804524 Cincinnati, OH 45280-4524
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 84201-0042	Internal Revenue Service P. O. Box 105153 Atlanta, GA 30348-5153
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 105288 Atlanta, GA 30348-5288	
If you are filing Form 945 for an exempt organization or government entity (federal, state, local, or Indian tribal government), use the following addresses, regardless of your location:	Department of the Treasury Internal Revenue Service Ogden, UT 84201-0042	Internal Revenue Service P.O. Box 105153 Atlanta, GA 30348-5153	

Employer Identification Number (EIN)

If you do not have an EIN, you may apply for one online. Go to IRS.gov and click on *Apply for an Employer Identification Number (EIN) Online*. You may also apply for an EIN by calling 1-800-829-4933, or you can fax or mail Form SS-4, Application for Employer Identification Number, to the IRS.

Penalties and Interest

There are penalties for filing Form 945 late and for paying or depositing taxes late, unless there is reasonable cause. See section 11 of Pub. 15 (Circular E) for more information on deposit penalties. There are also penalties for failure to furnish information returns (for example, Forms 1099-MISC, 1099-R, or W-2G) to payees and failure to file copies with the IRS. Interest is charged on taxes paid late at a rate set by law.

If you receive a notice about penalties and interest after you file this return, send us an explanation and we will determine if you meet reasonable-cause criteria. Do **not** attach an explanation when you file your return.

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 945 or Form 945-X.



If amounts that must be withheld are not withheld or are not deposited or paid to the United States Treasury, the **trust fund recovery penalty** may apply. The penalty is the full amount of any unpaid trust fund tax. This penalty may apply when these unpaid taxes cannot be immediately collected from the employer or business. The trust fund recovery penalty may be imposed on all persons who are determined by the IRS to have been responsible for collecting, accounting for, and paying over these taxes, and who acted willfully in not doing so. "Willfully" in this case means voluntarily, consciously, and intentionally. A responsible person acts willfully if the person knows that the required actions are not taking place.

Voluntary Income Tax Withholding

States must allow unemployment compensation recipients to elect to have federal income tax withheld at a 10% rate in 2012. Recipients paid under the Railroad Unemployment Insurance Act may also elect withholding at a 10% rate in 2012.

Recipients of any of the following federal payments may request federal income tax withholding in 2012 at a rate of 7%, 10%, 15%, or 25% on:

- Social security and Tier 1 railroad retirement benefits,
- Certain crop disaster payments, and
- Commodity Credit Corporation loans.

The payee may request withholding on Form W-4V, Voluntary Withholding Request, or you may develop your own substitute form. Any voluntary withholding on these payments must be reported on Form 945 (and on the required information return—Form 1099-G, Form SSA-1099, or Form RRB-1099) and is subject to the deposit rules.

Depositing Withheld Taxes

Deposit all nonpayroll (Form 945) withheld federal income tax, including backup withholding, by electronic funds transfer. Combine all Form 945 taxes for deposit purposes. **Do not** combine deposits for Forms 941, 943, 944, or Form CT-1 with deposits for Form 945.

Generally, the deposit rules that apply to Form 941 also apply to Form 945. However, because Form 945 is an annual return, the rules for determining your deposit schedule (discussed below) are different from those for Form 941. See section 11 of Pub. 15 (Circular E) for a detailed discussion of the deposit rules.

Determining Your Deposit Schedule

There are two deposit schedules—**monthly** or **semiweekly**— for determining when you must deposit withheld federal income tax. These schedules tell you when a deposit is due after a tax liability arises (that is, you make a payment subject to federal income tax withholding, including backup withholding). Before the beginning of each calendar year, you must determine which of the two deposit schedules you must use.

For 2012, you are a monthly schedule depositor for Form 945 if the total tax reported on your 2010 Form 945 (line 3) was \$50,000 or less. If the total tax reported for 2010 exceeded \$50,000, you are a semiweekly schedule depositor.



If you are a monthly schedule depositor and accumulate a \$100,000 liability or more on any day during a calendar month, your deposit schedule changes on the next day to semiweekly for the remainder of the year and for the following year. For more information, see the \$100,000 Next-Day Deposit Rule in section 11 of Pub. 15 (Circular E).

Specific Instructions

State Code

Beginning January 1, 2011, the IRS will use business days to determine the timeliness of deposits. Business days are any day that is not a Saturday, Sunday, or legal holiday in the District of Columbia. Legal holidays in the District of Columbia for 2011 are listed below.

- January 17— Birthday of Martin Luther King, Jr.
- February 21— Washington's Birthday
- April 15— District of Columbia Emancipation Day
- May 30— Memorial Day
- July 4— Independence Day
- September 5— Labor Day
- October 10— Columbus Day
- November 11— Veterans' Day
- November 24— Thanksgiving Day
- December 26— Christmas Day (observed)

To provide transitional relief for 2011, the IRS will not assert penalties for federal tax deposits due during calendar year 2011 that are untimely solely because the depositor treated a statewide legal holiday as if it were a legal holiday in the District of Columbia. See Notice 2010-87, 2010-52 I.R.B. 908, available at www.irs.gov/irb/2010-52_IRB/ar12.html.

If you made your deposits by electronic funds transfers in a state other than that shown in your address on Form 945, enter the state code for the state where you initiated the electronic funds transfers in the box provided in the upper-left corner of Form 945. Use the two-letter U.S. Postal Service state abbreviation as the state code. Enter the code "MU" in the state code box if you deposit in more than one state. If you deposit in the same state as shown in your address, do not make an entry in this box. If you receive a notice because you treated a statewide legal holiday as if it were a legal holiday in the District of Columbia, respond to the notice citing the statewide legal holiday and applicable deposit amount.



Legal holidays in the District of Columbia are provided in Pub. 509, Tax Calendars, and Pub. 15 (Circular E).

Line A. Final Return

If you go out of business or end operations and you will not have to file Form 945 in the future, file a final return. Be sure to check the box on line A and enter the date that final nonpayroll payments were made.

Line 1. Federal Income Tax Withheld

Enter the federal income tax that you withheld (or were required to withhold) from pensions (including distributions from tax-favored retirement plans, for example, section 401(k), section 403(b), and governmental section 457(b) plans), annuities, IRA distributions, military retirement, Indian gaming profits, and gambling winnings (regular gambling withholding

only). Also enter any voluntary amount that you withheld on certain government payments. If you are required to report federal income tax withholding on Forms 1099 (for example, Form 1099-R or 1099-MISC) or Form W-2G, you must report the federal income tax withheld on Form 945.



Federal income tax withholding reported on Form W-2 **must** be reported on Form 941, Form 943, Form 944, or Schedule H (Form 1040), as appropriate.

Line 2. Backup Withholding

Enter any backup withholding, including backup withholding on gambling winnings.

Regulated investment companies (RICs) and real estate investment trusts (REITs) must report any backup withholding on Form 945 in the year that the dividends are actually paid. This includes January payments of dividends declared during October, November, and December of the prior year. See the Instructions for Form 1099-DIV for special reporting requirements.

Line 3. Total Taxes

Add lines 1 and 2. If total taxes are \$2,500 or more, the amount reported on line 3 must equal the total liability for the year reported on line 7M of the Monthly Summary of Federal Tax Liability, or line M of Form 945-A.

Line 4. Total Deposits

Enter your total Form 945 deposits for the year, including any overpayment that you applied from filing Form 945-X and any overpayment that you applied from your 2010 return.

Line 5. Balance Due

You do not have to pay if line 5 is under \$1. Generally, you should have a balance due only if your total taxes for the year (line 3) are less than \$2,500. If you made payments under the accuracy of deposits rule, see section 11 of Pub. 15 (Circular E). Enter your EIN, "Form 945," and "2011" on your check or money order and make it payable to the "United States Treasury." Complete Form 945-V, Payment Voucher, if you are making a payment with Form 945. If line 3 is \$2,500 or more and you deposited all taxes when due, the amount on line 5 should be zero.



If you did not make required deposits (by electronic funds transfer) and instead pay these amounts with your return, you may be subject to a penalty.

Line 6. Overpayment

If you deposited more than the correct amount for the year, you can have the overpayment refunded or applied to your next return by checking the appropriate box. The IRS may apply your overpayment to any past due tax account under your EIN. If line 6 is under \$1, we will send a refund or apply it to your next return only on written request.

Line 7. Monthly Summary of Federal Tax Liability



This is a summary of your monthly tax liability, not a summary of deposits made. If line 3 is less than \$2,500, **do not** complete line 7 or Form 945-A.

Complete line 7 only if you were a **monthly schedule depositor** for the entire year and line 3 is \$2,500 or more. See *Determining Your Deposit Schedule*, earlier.



The amount entered on line 7M must equal the amount reported on line 3.

Report your liabilities on Form 945-A instead of on line 7 if either of the following apply.

- You were a **semiweekly schedule depositor** during 2011. **Do not** complete entries A through M of line 7. Instead, complete and file Form 945-A with Form 945.
- You were a **monthly schedule depositor** for 2011 and during any month you accumulated nonpayroll taxes of \$100,000 or more. Because this converted you to a semiweekly schedule depositor for the remainder of 2011 (and for 2012), you must report your liabilities on Form 945-A for the entire year. **Do not** complete entries A through M of line 7. For more information, see the *\$100,000 Next-Day Deposit Rule* in section 11 of Pub. 15 (Circular E).

Third-Party Designee

If you want to allow any individual, corporation, firm, organization, or partnership to discuss your 2011 Form 945 with the IRS, check the "Yes" box in the Third-Party Designee section of Form 945. Also, enter the name, phone number, and any five-digit personal identification number (PIN) for the specific person to speak with — not the name of the firm who prepared your return.

By checking the "Yes" box, you are authorizing the IRS to speak with the designee to answer any questions relating to the information reported on your tax return. You are also authorizing the designee to:

- Give the IRS any information that is missing from your return,
- Call the IRS for information about the processing of your return or the status of your refund or payments,
- Receive copies of notices or transcripts related to your return upon request, and
- Respond to certain IRS notices about math errors, offsets, and return preparation.

You are not authorizing the designee to receive any refund check, bind you to anything (including additional tax liability), or otherwise represent you before the IRS. If you want to expand the 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 2011 Form 945. If you or your designee wants to terminate the authorization, write to the IRS office for your locality using the address for *Where to File (Without a payment)*, in the chart earlier.

Who Must Sign

Form 945 must be signed 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 partner, member, or officer having knowledge of its affairs.
- **Single member LLC treated as a disregarded entity** — The owner of the limited liability company (LLC).
- **Trust or estate** — The fiduciary.

Form 945 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 945 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, available at www.irs.gov/irb/2005-28_IRB/ar16.html.

Paid Preparer Use Only

A paid preparer must sign Form 945 and provide the information in the *Paid Preparer Use Only* section if the preparer was paid to prepare Form 945 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, enter your Preparer Tax Identification Number (PTIN) in the space provided. Include your complete address. If you work for a firm, enter the firm's name and the EIN of the firm. You can apply for a PTIN online or by filing Form W-12, IRS Paid Preparer Tax Identification Number (PTIN) Application and Renewal. For more information about applying for a PTIN online, visit the IRS website at www.irs.gov/ptin. 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 federal income tax withholding is required on certain payments.

Privacy Act and Paperwork Reduction Act Notice.

We ask for the information on Form 945 to carry out the Internal Revenue laws of the United States. We need it to

figure and collect the right amount of tax. Sections 3402, 3405, and 3406 of the Internal Revenue Code require taxpayers to pay over to the IRS federal income tax withheld from certain nonpayroll payments and distributions, including backup withholding. Form 945 is used to report these withholdings. Section 6011 requires you to provide the requested information if the tax applies to you. Section 6109 requires you to provide your identification number. If you fail to provide this information in a timely manner, or provide false or fraudulent information, you may be subject to penalties and interest.

You do not have to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law.

Generally, tax returns and return information are confidential, as required by section 6103. However, section 6103 allows or requires the Internal Revenue Service to disclose or give the information shown on your tax return to others described in the Code. For example, we may disclose your tax information to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. commonwealths and possessions to administer their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

The time needed to complete and file Form 945 will vary depending on individual circumstances. The estimated average time is: **Recordkeeping**, 7 hr., 9 min.; **Learning about the law or the form**, 47 min.; and **Preparing and sending the form to the IRS**, 56 min. If you have comments concerning the accuracy of these time estimates or suggestions for making Form 945 simpler, we would be happy to hear from you. You can email us at taxforms@irs.gov. Enter "Form 945 Comment" on the subject line. Or write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:M:S, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. **Do not** send Form 945 to this address. Instead, see *Where to File*, earlier.
