Attention:

Form 941-M is not for general public use and should only be filed with an IRS compliance representative, when provided directly to the employer by the IRS.

Instructions for Form 941-M

Department of the Treasury
Internal Revenue Service

(Rev. January 2006)

Employer's MONTHLY Federal Tax Return

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

What's New

Social security wage base for 2006. Stop withholding social security tax after an employee reaches **$94,200** in taxable wages. (There is no limit on the amount of wages subject to Medicare tax.)

Telephone help. If you have questions about completing Form 941-M, call the IRS toll free at 1-800-829-4933 on Monday through Friday from 7 a.m. to 10 p.m. local time (Alaska and Hawaii follow Pacific time).

General Instructions

Purpose of form. Use Form 941-M to report monthly: (a) federal income tax you withheld from wages, tips, distributions from **nonqualified** pension plans (including nongovernmental section 457(b) plans), supplemental unemployment compensation benefits, and third-party payments of sick pay; and (b) social security and Medicare taxes. If you report just one kind of tax, fill in only the lines that apply.

CAUTION *Form 941-M is **not** for general public use and should **only** be filed directly with an IRS compliance representative.*

Who must file. File Form 941-M if you are required to report federal income taxes withheld, social security taxes, and Medicare taxes on a monthly basis with an IRS compliance representative. The IRS may require monthly returns on Form 941-M and payments of tax from any employer who has not complied with the requirements for the filing of returns or the paying or depositing of taxes reported on quarterly returns. **Do not** file monthly returns unless you received written notification from the IRS to do so. A preaddressed return envelope and blank Form 941-M will be mailed to you before your first monthly return is due and for each month thereafter. If you no longer expect to pay amounts subject to tax reportable on Form 941-M, check the box on line 16 and enter the date that you last paid wages.

When to file. Form 941-M for any month is due by the 15th day of the following month. If the due date for filing a return falls on a Saturday, Sunday, or legal holiday, you may file the return on the next business day.

Where to file. File Form 941-M, with any payment due, **using the preaddressed envelope** furnished to you. Keep a duplicate Form 941-M for your records.

Forms W-4. In the past, you had to routinely send the IRS any Form W-4 claiming complete exemption from withholding if $200 or more in weekly wages was expected or claiming more than 10 allowances. Employers no longer have to submit these Forms W-4 to the IRS. However, Forms W-4 are still subject to review. When requested by the IRS, you must make specified 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 letter from the IRS requiring you to submit a copy of Form W-4 for one or more of your named employees. For details, see section 9 of Pub. 15 (Circular E), Employer's Tax Guide.

Form W-5. Each eligible employee wishing to receive any advance earned income credit (EIC) payments must give you a completed Form W-5, Earned Income Credit Advance Payment Certificate. The employer's requirement to notify certain employees about the EIC can be met by giving each eligible employee Notice 797, Possible Federal Tax Refund Due to the Earned Income Credit (EIC). See section 10 of Pub. 15 (Circular E) and Pub. 596, Earned Income Credit (EIC), for more information.

Form W-2. By January 31, furnish Forms W-2 to employees who worked for you during the previous year. If an employee stops working for you before the end of the year, furnish Form W-2 to the employee any time after employment ends but no later than January 31 of the following year. However, if the employee asks you for Form W-2, furnish the completed form within 30 days after the request or the final wage payment, whichever is later. Send Copy A of all Forms W-2, Wage and Tax Statement, issued for the year with a Form W-3, Transmittal of Wage and Tax Statements, filed on paper, to the Social Security Administration (SSA) by the last day of February. If you file Forms W-2 electronically, file them with SSA by the last day of March.

CAUTION *If you file a final return on Form 941-M, you are also required to furnish Form W-2 to your employees by the last day of the month in which the final Form 941-M is due. File Copy A of Forms W-2 and Form W-3 with the Social Security Administration by the last day of the month following the month your final Form 941-M was due. See the Instructions for Forms W-2 and W-3 for details*

Penalties and interest. There are penalties for filing a return late and paying or depositing taxes late, unless there is reasonable cause. There are also penalties for failure to: (a) furnish Forms W-2 to employees and file copies with the SSA and (b) deposit taxes when required. (Do not attach an explanation of why the return is late to Forms W-2 sent to the SSA.) In addition, there are penalties for willful failure to file returns and pay taxes when due and for filing false returns or submitting bad checks. Interest is charged on taxes paid late at the rate set by law. See Pub. 15 (Circular E) for additional information.

CAUTION *A trust fund recovery penalty may apply if federal income, social security, and Medicare taxes that must be withheld are not withheld or are not paid. This penalty is the full amount of any unpaid trust fund tax. This penalty may apply to you if 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 be responsible for collecting, accounting for, and paying over these taxes, and who acted willfully in not doing so.*

*A **responsible person** can be an officer or employee of a corporation, a partner or employee of a partnership, an accountant, a volunteer director/trustee, or any employee of a sole proprietorship. A responsible person also may include one who signs checks for the business or otherwise has authority to cause the spending of business funds. **Willfully** means voluntarily, consciously, and intentionally.*

Related publications. Pub. 15 (Circular E) explains the rules for withholding, paying, depositing, and reporting federal income tax, social security and Medicare taxes, and federal unemployment (FUTA) tax on wages. See Pub. 15-A, Employer's Supplemental Tax Guide, for information on sick pay paid by third-party payers. Pub. 51 (Circular A), Agricultural Employer's Tax Guide, explains rules for employers of farmworkers. These publications are available by calling

If you fail to make deposits as required and instead pay the taxes with Form 941-M, you may be subject to a penalty.

Line 13—Overpayment. If line 11 is more than line 10, write the difference in line 13. **Never** make an entry in both lines 12 and 13.

If you deposited more than the correct amount for a month, you can have the overpayment refunded (applies only to March, June, September, and December Forms 941-M) or applied to your next return. Show any amount applied in the Record of Federal Tax Liability and Deposits on your next return.

If line 13 is under $1, we will send a refund or apply it to your next return only on written request.

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

Special deposit account. Do not make deposits using the Electronic Federal Tax Payment System (EFTPS) or Form 8109, Federal Tax Deposit Coupon, and **do not** complete line 14, Record of Federal Tax Liability and Deposits, if you are required to have a special deposit account under section 7512(b). If you have received, by hand delivery, Form 2481, Notice To Make Special Deposits of Taxes, you are required to deposit in a separate bank account any taxes collected or required by law to be collected. Your deposit must be made not later than the end of the **second banking day** after any taxes were required to be collected from your employees. The taxes deposited must be kept in the account until paid with any employer tax that may be due. The account must be designated as a special fund in trust for the United States, payable to the "United States Treasury" by you as trustee. For the definition of the term "bank," see Form 2481.

Federal tax deposits. If you are not required to have a special deposit account, in general, you must deposit your tax liability at an authorized financial institution with Form 8109 or by using EFTPS. For more information on the deposit rules and the electronic deposit requirements, see section 11 of Pub. 15 (Circular E).

Line 14—Record of Federal Tax Liability and Deposits. If you are required to deposit taxes using the Federal Tax Deposit System, complete both columns of the record. In the tax liability column, include federal income tax withheld plus both the employer and employee shares of social security and Medicare taxes minus advance EIC payment (if any) for each date of payment (payday). Enter each deposit amount in the numbered entry space corresponding to the date of deposit.

Line 14a—Total tax liability for the month. The amount of this line must equal line 10 (Total taxes after adjustment for advance EIC). Otherwise, you may be subject to a penalty for failure to make deposits of taxes.

Part 3: Tell us about your business.

In Part 3, answer only those questions that apply to your business. If a question does not apply, leave it blank and go to Part 4.

Line 16—If Your Business Has Closed . . .

If you go out of business or stop paying wages, you must file a **final return**. To tell IRS that a particular Form 941 is your final return, check the box on line 16 and enter the date you last paid wages in the space provided.

Line 17—If You Are a Seasonal Employer . . .

If you hire employees seasonally—such as for summer or winter only—check the box on line 17. Checking the box tells IRS not to expect Form 941-M from you every month because you have not paid wages regularly. However, you must check the box **every time** you file a Form 941-M. Also, be sure to check the box in the upper right corner of page 1 of Form 941-M that corresponds to the month reported.

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

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

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

- give us any information that is missing from your return,
- call us for information about processing your return, and
- respond to certain IRS notices that you have shared with your designee about math errors and return preparation. IRS will **not** send notices to your designee.

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

The authorization will automatically **expire** 1 year from the due date for filing your Form 941-M. If you or your designee want to terminate the authorization, write to the IRS office for your locality using the "Without a payment" address under *Where Should You File* on page 4 in the Instructions for Form 941.

Part 5: Sign here—Who Must Sign the Form 941-M?

Form 941-M must be signed as follows.

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

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

Part 6: For Paid Preparers Only (optional)

You may complete Part 6 if you were paid to prepare Form 941-M and are not an employee of the filing entity. Sign in the space provided and give the filer a copy of the return in addition to the copy to be filed with the IRS. Do not complete Part 6 if you are filing the return as a reporting agent and have a valid Form 8655, Reporting Agent Authorization, on file with the IRS.

How to Order Forms and Publications from the IRS

Call 1-800-829-3676.

Visit the IRS website at *www.irs.gov.*

Privacy Act and Paperwork Reduction Act Notice

We ask for the information on Form 941-M to carry out the Internal Revenue laws of the United States. We need it to figure and collect the right amount of tax. Subtitle C, Employment Taxes, of the Internal Revenue Code imposes employment taxes on wages, including income tax withholding. Form 941-M is used to determine the amount of the taxes that you owe. Section 6011 requires you to provide the requested information if the tax is applicable to you. Section 6109 requires you to provide your employer identification number (EIN). If you fail to provide this information in a timely manner, you may be subject to penalties and interest. If you do not file this information, or provide incomplete or fraudulent information, you may be subject to penalties and/or criminal prosecution.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books 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 IRS to disclose or give the information shown on your tax return to others as 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, and the District of Columbia for use in administering 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 941-M will vary depending on individual circumstances. The estimated average time is: Recordkeeping, 14 hrs., 35 min.; Learning about the law or the form, 1 hr., 0 min.; Preparing, copying, assembling, and sending the form to the IRS, 1 hr., 16 min. If you have comments concerning the accuracy of these time estimates or suggestions for making Form 941-M simpler, we would be happy to hear from you. You can write to: Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6406, Washington, DC 20224.

Do not send Form 941-M to this address. Instead, use the preaddressed envelope furnished to you.