

2017 GAPP CPP/FPC Study Group



SECTION 8:

Depositing and Reporting Withheld Taxes

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Employer Identification Numbers (EIN)

- All employers are assigned an Employer Identification Number (EIN) to ensure that all payments are credited to the correct employer
- The EIN is a nine-digit number, expressed as 00-0000000
- Must be used whenever an employer deposits taxes, files returns or communicates with the IRS or SSA
- Form SS-4, Application for Employer Identification Number
 - ☐ Can be completed either online (available immediately), Tele-TIN (available immediately), Fax-TIN (sent via fax within 4 days), mail (arrive via mail at least 4-5 weeks)
 - ☐ Must apply no later than 7 days after first wages are paid



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Employer Identification Number (EIN) Cont

- Write "applied for" and the date of application if needing to deposit taxes or file returns and have not received EIN
- Only one EIN should be applied for unless businesses are separate but affiliated then each business should apply
- Under reorganization the surviving company should use its previously assigned EIN
- If a new company results from a consolidation and it is not a reorganization then a new EIN should be applied for



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Payroll Tax Deposit Rules

- File quarterly on Form 941, Employer's Quarterly Federal Tax Return
- Filing frequency based on look back period
 - ❑ 12 month period running from July 1 of the second previous year through June 30 of the previous year
 - For 2017- July 1, 2015 – June 30, 2016
 - For 2016- July 1, 2014 - June 30, 2015
- Liability of \$50,000 or less is a monthly depositor
- Liability of more than \$50,000 is a semi-weekly depositor
- Less than \$1,000 annual depositor on Form 944
- Less than \$2,500 quarterly with 941
- More than \$100,000 due the next business day



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Deposit Rules Cont.

- New employers are classified as monthly depositors until they accumulate more than \$50,000 or they trigger the one-day deposit rule
- Monthly depositors must deposit no later than the 15th of the following month
- Semiweekly depositors must pay based on the following:
 - ❑ **Wages paid on Wednesday, Thursday or Friday- deposit due on following Wednesday**
 - ❑ **Wages paid on Saturday, Sunday, Monday or Tuesday- deposit due on following Friday**
- If tax liability reaches \$100,000 on any day during monthly or semiweekly deposit period, the taxes must be deposited by the next banking day
 - If employer was previously monthly depositor, will be semiweekly depositor going forward



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Deposit Rules Cont.

- Successor employers that keep the predecessor's EIN have the same deposit requirements as the predecessor
- Railroad and farm employers have the same look back period as the Form 944 and Form 945 filers
 - ❑ For 2017 LBP is 2015 For 2016 LBP is 2014
- Agricultural employers may be required to file both 943 and 941



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Deposit Rules Cont.

- Form **944**, Employer's Annual Federal Tax Return is for those employers with \$1,000 or less in liability
- The taxes can be deposited with the return
- The look back period for Form 944 is the second year preceding the current calendar year
 - For 2017 it would be 2015
 - For 2016 it would be 2014
- Form **945**, Annual Return of Withheld Federal Income Tax is used for non-payroll withholding. (gambling winnings, retirement pay, pension, annuity, IRAs)
 - Same look back period as Form 944
 - Deposit either monthly (\$50,000 or less) or semiweekly (more than \$50,000)



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Deposit Rules Cont.

- If accumulated tax is less than \$2500 then the employer can deposit the taxes with the 941- this is considered the Quarterly "de minimis" deposit rule
- If a Form 944 filer exceeds \$1000 in liability they no longer qualify for the exception
 - They continue to file Form 944 for that year and then file Form 941 for succeeding years
- Saturday, Sunday and Holiday due date- deposit due on next banking day
- Shortfall Rule- No penalty as long as shortfall is no more than the greater of \$100 or 2% of the entire amount due and the original deposit was made timely, and shortfall is deposited by the appropriate "make-up date"



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How to Deposit Payroll Taxes

- NAFTA North America Free Trade Implementation Act
- Electronic payments are made through Electronic Federal Tax Payment System (EFTPS)
- Once EFTPS is triggered it is required for all depository taxes
 - Including: corporate income, estimated income, and excise taxes, FUTA tax, tax withheld from nonresident aliens and foreign corporations and estimated taxes paid by certain trusts
- Same day payments must be received by 2:00 pm
- Deposit dates falling on a holiday must be initiated one day prior
- Restructuring and Reform Act 1998-require IRS to apply deposits to most recent period –reduces the chance an employer would face multiple failure to deposit penalty
- EFTPS payment options include
 - EFTPS- Direct (ACH Debit)
 - EFTPS- Through a Financial Institution (ACH Credit)



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Form 941 Employers Quarterly Federal Tax Return

- Due quarterly
- Form 941 is scannable, however, it is not printed in red like the W-2
- Form must be signed by employer
- Semiweekly depositors need to include a Schedule B, Report of Tax Liability for Semiweekly Schedule Depositors, with the 941
 - ☐ DO NOT report deposits rather than liabilities
- Form 941-M, Employer's Monthly Federal Tax Return, is often required by the IRS when employers fail to withhold or deposit taxes or file returns on time.
 - ☐ It is filed monthly rather than quarterly
 - ☐ Due by the 15th of the following month
 - ☐ Tax deposits schedule may be affected. Payments made 2 days after pay date into special deposit account (a trust fund for US Government)

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Filing Form 941

- Form 941 is due the last day of the first month following the end of each calendar quarter. (Q1 – April 30th)
- If employer has made timely deposits of all payroll tax liability for the quarter, an automatic extension to the 10th of the next month is granted. (Q1 – May 10th)
 - ☐ Check Table 8.1 on page 8-30 for filing deadlines
- If 941 due date falls on a Saturday, Sunday or holiday the due date becomes the next business day. Legal holidays include federal holidays
 - ☐ Check Table 8.2 on page 8-31 for a list of holidays for 2016-2017
- Returns are considered filed on the date of the postmark as long as the proper amount of postage has been paid
- Form 941-PR is filed by employers with employees in Puerto Rico
- Form 941-SS is filed if the employer is operating in American Samoa, Guam, Virgin Islands or the Northern Mariana Islands

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Adjustments and Corrections

- Prior to 2009 adjustments for 941s were made on 941c, Statement to Correct Information
- In 2009 and beyond adjustments are made on Form 941-X, Adjusted Employer's Quarterly Federal Tax Return or Claim for Refund
 - ☐ It is filed by itself and includes the employer's explanation of need for the adjustment
- SS or Medicare under collected and discovered after 941 is filed
 - ☐ Report underpayment on 941-X no later than the due date of the 941 for the quarter during which the error was discovered and pay underpayment at the same time
 - ☐ Note same is true on under withheld federal income tax
- Interest-free adjustments are not available if a notice from the IRS has been received

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Adjustments and Corrections Cont.

- SS and Medicare over withheld and discovered after 941 filed- employer must repay the over withheld amount or reimburse the employees by withholding less from future wages before period of limitations expires. If repayment is made in year after the year the error was made the employee is issued a Form W-2c
- Federal income tax over collected and discovered after 941 filed- either repay or reimburse employee for over withheld amount, must repay by end of calendar year, must retain employee's written statement as to the date and amount repaid
- Once repayments or reimbursements is complete the employer can complete 941-X for interest-free adjustment of overpayment



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W-2s

- Employers that pay compensation to an employee for work performed are required to provided a Form W-2 for that compensation
- Election workers
 - ☐ Receiving less than \$600, no W-2, unless SS and Medicare taxes are withheld
 - ☐ Receiving \$600 or more, reported in Box 1
 - ☐ Receiving \$1500 or more, reported in Boxes 3 and 5 as SS and Medicare wages respectively
- Undeliverable W-2s
 - ☐ If returned must be retained by employer for 4 years (either paper or electronically)
- Reissued Forms W-2
 - ☐ Write "reissued statement" on it unless it is provided electronically
 - ☐ Consider charging a fee for additional copies
- Corrected Forms W-2
 - ☐ If Copy A has not been sent to SSA
 - ✓ Write "corrected" on employee's copy, check "void" box on incorrect W-2 and send new Copy A to SSA
 - ☐ If Copy A has been sent to SSA
 - ✓ Use Form W-2c, Correct Wage and Tax Statement



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W-2s Cont.

- Copy A goes to SSA- due last day of February (if filing electronically, due March 31)
- Copies B, C, and 2 go to employee- due January 31
 - ☐ Copy B- filed with employee's federal return
 - ☐ Copy 2- filed with employee's state return
 - ☐ Copy C- for employee's records
- Copy D is for employers' record
- Employers can provide employees' copies of Form W-2 electronically
 - ☐ Employees must consent
 - ☐ If no consent, send via mail, can still maintain electronically
- Employers going out of business must file Form 941 by the end of the month following the end of the quarter during which they went out of business, Copies B, C and 2 by the same date and Copy A to SSA by second month.



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W-3

- Form W-3, Transmittal of Wage and Tax Statements, contains totals of the amounts reported on the employer's W-2 forms, acting as a "reconciliation" of those forms
- Not used for electronic filers
- Due date is the same as that for W-2
- Box-by-Box instructions can be found on pages 8-92 through 8-94



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W-2c and W-3c

- Form W-2c, Corrected Wage and Tax Statement, must be accompanied by Form W-3c, Transmittal of Corrected Wage and Tax Statements- when sent to SSA
- Box-by-Box instructions for Form W-2c found on page 8-96 to 8-97
- Box-by-Box instructions for Form W-3c found on page 8-97



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Form 1099

- Form 1099-MISC, Statement for Recipients of Miscellaneous Income is used for certain payments made to nonemployees for:
 - ☐ Service payments to non corporate entities of at least \$600 (Box 7)
 - ☐ Payments made by businesses to health care service suppliers or providers of at least \$600 (Box 6)
 - ☐ Royalty payments of at least \$10 (Box 2)
 - ☐ Payments of to an Attorney (not reportable as Attorney fees) of at least \$600 (Box 14)
 - ☐ Prizes and awards of at least \$600 (Box 2)
 - ☐ Deferrals under a Section 409A of at least \$600 (Box 15a)
 - ☐ Income under a Section 409A (Box 7 and 15b)
 - ☐ Amounts withheld as Backup Withholding (when payee fails to provide valid TIN) (Box 4)
 - ☐ Payments of wages to deceased employees' estate (Box 3)



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Form 1099 Cont.

- Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc. - used to report distributions from all types of retirement plans
 - Only amounts greater than \$10 should be reported
 - Taxable and nontaxable amounts need to be reported separately
 - If distribution is a direct rollover, should add Code G in Box 7
- 2 newer forms
- 1099 LTC long term care and accelerated death benefits
- 1099 SA Distributions from a HSA, Archer MSA or Medicare Advantage



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Filing Requirements

- Employers filing 250 or more Forms W-2 must be filed electronically
- The same threshold applies for Form 1099
- Up to 20 W-2cs/W-3cs can be completed and submitted online



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Penalties

- Failure to Deposit on Time**
- 2% of underpayment if deposited within 5 days of due date
 - 5% of underpayment if deposited within 6-15 days of due date
 - 10% of underpayment if deposited within 16-15 days after due date
 - 15% of underpayment if not paid within 10 days of employer receiving first delinquency notice
- Failure to Deposit Using EFT**
- 10% of the deposit not made with EFT



- Failure to File Information Returns**
- \$50 per return if the failure to file or provide the correct information is corrected within 30 days after the due date; max penalty \$536,000 a year (\$167,500 for small businesses)
 - \$100 per return if the failure to file or provide the correct information is corrected more than 30 days after the due date but by August 1 of the same year the return is due; max penalty \$1,609,000 a year (\$536,000 for small businesses)
 - \$260 per return if the failure to file or provide correct information is not corrected by August 1; max penalty \$3,218,500 (1,072,500 for small businesses)

- Late Filing of Employment Tax Returns**
- 5% of the amount of tax required to be shown on the return for each month or fraction of a month the return is late; up to 25% (15% per month up to max of 75% of the unpaid tax if the filing is fraudulent)

- Failure to Pay Employment Taxes**
- 5% of unpaid tax shown on the return for each month or fraction of a month that the payment is late; max 25%
 - Additional .5% per month of unpaid tax that is not shown on the return but for which the IRS has issued a notice and demand; if the tax is not paid within 21 calendar days (10 days if the amount is at least \$100,000); max 25%
 - Increase to 1% 10 days after IRS notifies of intent to levy or 1 day after demand for immediate payment or else immediate levy

- Understatement of Taxes**
- 20% of underpayment; 75% if fraudulent

- Failure to Withhold Income Tax, Social Security and Medicare Tax**
- 100% of withholding; in addition officers or employees could be personally liable for an equal amount plus possible criminal penalty up to \$10,000 and/or up to 6 years in prison

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