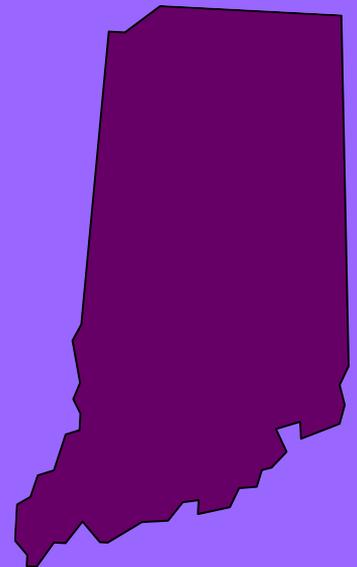


# Employment Tax Responsibilities

**SBOA School for IN Township Officials  
September 26, 2012**



**Presenter:  
Raelane Hoff  
FSLG Specialist**



# Resources

USEFUL TELEPHONE NUMBERS**WEBSITES**EMAIL**PUBLICATIONS		
TELEPHONE	WEBSITES	PUBLICATIONS
Gov't Entity Customer Service/Inquiries Mon-Fri, 8:00-5:00 Local Time <b>877-829-5500</b>	Federal State & Local Governments <a href="http://www.irs.gov/govt">www.irs.gov/govt</a>	Publication 15-A Employer's Supplemental Tax Guide Publication 15-B Employer's Tax Guide to Fringe Benefits
Employment Tax Returns/Notices Mon-Fri, 7:00-7:00 your Local Time <b>800-829-4933</b>	Archived Webinars, live panel discussions, National Phone Forums <a href="http://www.irsvideos.gov/governments">www.irsvideos.gov/governments</a>	Publication 963 Federal, State Reference Guide
Form 1099 & Form W-2 Reporting Mon-Fri, 8:30-4:30 Eastern Time <b>866-455-7438</b>	Understanding your IRS Notice or Letter <a href="http://www.irs.gov/notices">www.irs.gov/notices</a>	Publication 1281 Backup Withholding Requirements Publication 966 EFTPS Guide
Electronic Federal Tax Payment System (EFTPS) Customer Service 24/7 <b>800-555-4477</b>	Subscribe to FSLG Newsletter (Semi-annual) <a href="https://public.govdelivery.com/accounts/USIRS/subscriber">https://public.govdelivery.com/accounts/USIRS/subscriber</a>	Publication 463 Travel Entertainment Gift & Car Expense
Tax Forms and Publications <b>800-829-3676</b>	Social Security Administration <a href="http://www.ssa.gov">www.ssa.gov</a>	Publication 510 Excise Taxes
Excise Tax Assistance <b>866-699-4096</b>		Publication 4255 IRS Tax Help
SSN or EIN & Name Mismatch Mon-Fri, 7:30-7:00 Eastern Time <b>866-255-0654</b>	<b>SECTION 218 INFORMATION</b> State Social Security Administrator Tom Parker <b>317-233-4146</b> Email: <a href="mailto:tparker@inprs.in.gov">tparker@inprs.in.gov</a>	Taxable Fringe Benefit Guide* Quick Reference Guide for Public Employers*
Identity Theft Hotline <b>800-908-4490</b>		
TTY/TDD Hearing Impaired Telephone <b>800-829-4059</b>		
Individual's Customer Service <b>800-829-1040</b>	<b>EMAIL ADDRESSES</b>	
Recorded Tax & Refund Information <b>800-829-4477</b>	FSLG: General Employment Tax Questions <a href="mailto:tege_ask.fslg@irs.gov">tege_ask.fslg@irs.gov</a>	
	Employee Plans & Retirement Questions <a href="mailto:retirementplanquestions@irs.gov">retirementplanquestions@irs.gov</a>	*Available at Federal State & Local Government website
	Information Reporting Help (Form 1099 & Form W-2) <a href="mailto:mccirp@irs.gov">mccirp@irs.gov</a>	

# Independent Contractor vs. Employee





# EMPLOYEE DEFINED:

- **IRC 3121(d) and Reg. 31.3121(d)-1**
  - Any individual under usual common law rules
  - Any individual who performs services for pay for any person:
  - Statutory Employees
    - Continued on next slide

# EMPLOYEE (Continued)

- Any individual who performs services that are included under an agreement entered into under Section 218 of Social Security Act
  - ENTERED INTO BETWEEN GOVERNMENTAL AGENCY AND THE SOCIAL SECURITY ADMINISTRATION



# COMMON LAW STANDARD

- Worker is subject to the will and control of the business:
  - not only as to what work shall be done but also
  - how work shall be done
    - Continued



# COMMON LAW STANDARD

- Employer-employee relationship exists when the business for which the services are performed has the right to direct and control the worker who performs the services
- NOTE: Employer does not have to exercise the right for this to apply



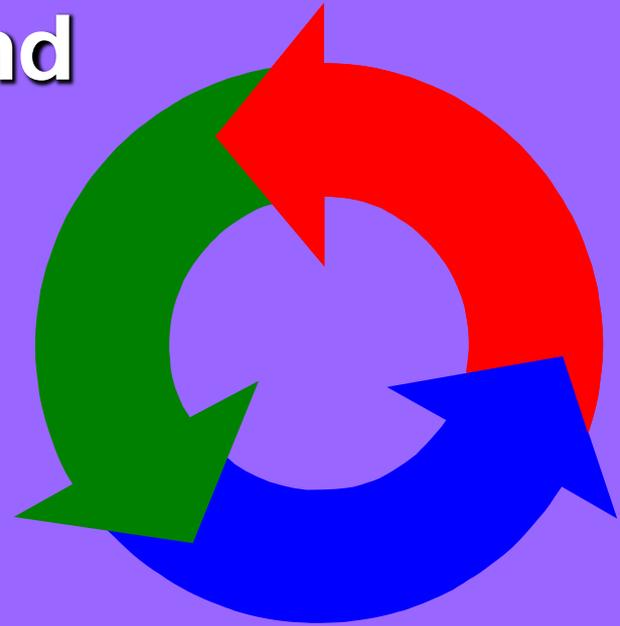
# What is a 218 Agreement?

- Agreement between State and SSA for Social Security and Medicare Coverage
- Voluntary
- Most originated in 1950's-can still be modified
- Agreements cover positions, therefore, any worker filling that position is covered
- Contact Tom Parker at INPERS to obtain a copy and answer questions as to who is covered by it

# Categories of Evidence

Facts that provide evidence of the degree of control and independence fall into three categories.

- ▣ Behavioral Control
- ▣ Financial Control
- ▣ Relationship of the Parties





# Behavioral Control

- Are instructions provided?
- Who determines work schedule—hours/days, locations etc?
- Is training provided?
- Are there required methods or procedures to follow?
- What assistants are hired to help with the work?
- Who decides where to purchase supplies and services?



# Financial Control

- Who provides the office space, supplies, computer, and other business equipment?
- Are there unreimbursed business expenses?
- Who pays assistants?
- What is payment arrangement (i.e. hourly rate, monthly or by job)?
- Does the worker advertise services?
- Does the worker seek additional business opportunities and work in the relevant market?
- **Is there an opportunity to make a profit or loss as a result of business decisions?**



# Relationship of the Parties

- Does the payer provide benefits (paid leave, health, life, pension, etc)?
- Is the worker covered by payer's insurance?
- Is there a continuous relationship?
- Is there a written contract?
- Are the services provided an integral part of the business operation?

# Independent Contractor

•Some Factors that may indicate A Worker IS AN Independent contractor

- *Makes own schedule*
- *Buys own products*
- *Has own phone number*
- *Furnishes own supplies*
- *Furnishes own equipment*
- *Makes a profit or loss as a result of his own business decisions*





# Employees...

•Some Factors that may indicate A worker IS AN employee

- *Required to wear uniforms*
- *Required to work certain hours*
- *Does not handle own sales receipts*
- *Does not make own appointments*
- *Owner provides training*
- *Owner provides equipment, supplies and materials*
- *Can quit job without liability to employer*
- *Stands no risk of loss*

**WHO ARE  
GOVERNMENT  
EMPLOYEES?**

# GOVERNMENT EMPLOYEES



## Government Workers: Employees or Independent Contractors?

The question of whether someone who works for you is an employee or an independent contractor has important tax consequences. If you have employees, you have liability to pay and withhold Federal income tax, social security and Medicare taxes, and Federal unemployment tax, report wages and issue statements to employees. For independent contractors, generally no withholding is required.

For most workers, whether in the private or public sector, the same common-law tests are applied to determine whether someone is an employee or an independent contractor. However, there are special rules that apply to determine whether certain groups of government workers are employees, and additional rules that create exceptions to general rules for income tax, social security and Medicare tax withholding.

In general, someone who performs services for you is your employee if you can control what will be done and how it will be done. To make this determination requires an analysis of all the relevant facts. The courts have considered many facts in deciding whether a worker is an independent contractor or an employee. These facts fall into three main categories:

- Behavioral control,
- Financial control, and
- Type of relationship

These facts and relevant examples are discussed in detail in [Publication 15-A](#), and at the [Independent Contractor or Employee?](#) page. There are specific laws, however, that apply to certain categories of government workers. Some government workers may be deemed to be employees by law, and others may be considered employees but are subject to special legal provisions for withholding income, social security and Medicare taxes. Some of the important special rules are discussed below.

**Workers Covered by a Section 218 Agreement:** Some state and local government employees are covered by a voluntary agreement between their state and the Social Security Administration (SSA) to provide social security coverage for workers. If a position is covered by the Section 218 Agreement, any worker who holds that position is an employee and subject to social security and Medicare tax under the terms of the agreement.

The following are some types of workers that are covered by special rules:

**Public Officials:** Internal Revenue Code section 3401(c) indicates that an "officer, employee, or elected official" of government is an employee for income tax withholding purposes. If this is the case, generally these workers will also be employees for social security and Medicare tax purposes; however, in some special cases the law or a Section 218 Agreement may specify otherwise.

**Elected Officials:** Elected officials are employees for income tax purposes under the section 3401(c) provision that applies to public officials. They are subject to a degree of control that typically makes them employees under the common law, and are subject to social security and Medicare taxes. Very few elected officials could be considered independent contractors.

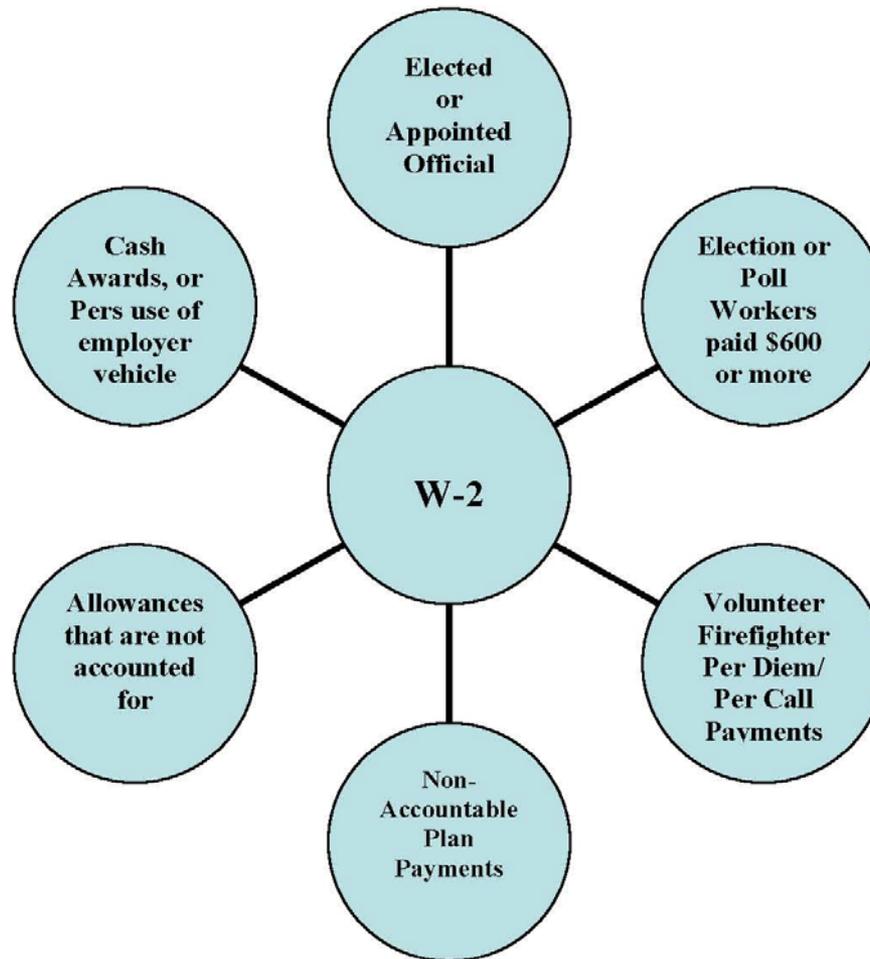
**Fee-Basis Officials:** A fee-basis public official receives and retains remuneration directly from the public. This work is considered self-employment under IRC 1402(c)(2)(E) and these individuals are not employees with respect to this work. An official who receives salary, even if it is called "fees," is a common-law employee and is subject to social security and Medicare withholding. Fee-basis individuals are subject to self-employment tax.

A Position compensated by salary and fees is considered a fee-basis position if the fees are the principal



# GOVERNMENTAL ENTITY EMPLOYEES

- Elected and Appointed Officials
- Volunteer Firefighters
- Election Workers
- All Groups under a Section 218 Agreement



The above chart is meant to provide you with a job aide to assist in determining when you should be issuing a W-2. This graph is not all inclusive.

# Elected & Appointed Officials



## Classification of Elected and Appointed Officials

### Government Officials as Employees

Generally, any individual who serves as a public officer is an employee of the government for whom he or she serves. Therefore, the government entity is responsible for withholding and paying Federal income tax, social security and Medicare taxes, and issues a Form W-2, Wage and Tax Statement, to the public official.

### Public Officials and Public Officers

Although there is no precise definition for the term "public official" or "public officer," the courts have generally held that anyone who exercises significant authority pursuant to public laws is a public officer. This includes any official who administers or enforces public laws, whether the individual is elected by the public or appointed to an office.

Generally, if there is any provision in a public law which authorizes the employment of the individual, and the individual is hired or elected under this authority, the individual is considered an employee of the state or political subdivision to which the provision applies.

The following facts indicate that an office is a "public office":

- The office was created by the constitution or through legislation, or by a municipality or other body with authority conferred by the legislature.
- The office was delegated a portion of the powers of a government body.
- The powers conferred and the duties to be discharged are defined either directly or indirectly law or through legislative authority.
- The duties are performed independently and without control of a superior power other than the law.
- The office has some permanency and continuity, and the officer takes an official oath.

Examples of public officers are: the President and the Vice President; a governor or mayor; the secretary of state; a member of a legislative body, such as a state legislature, county commission, city council, school board, utility or hospital district; a judge, a justice of the peace, a county or city attorney, a marshal, a sheriff, a constable and a registrar of deeds; tax collectors and assessors; and members of advisory boards and committees.

If there is not any authority in a public law to hire or elect someone, a determination must be made using common-law rules.

### Common-Law Rules

In applying the common-law rules, the IRS considers whether the recipient of the services, in this case a government body, has behavioral and financial control over the worker and evaluates the type of relationship between the parties.

Behavioral controls are evidenced by facts, which indicate whether the service recipient has a right to direct or control how the worker performs the tasks for which he or she is hired. Facts, which illustrate the right to control how a worker performs a task, include the provision of training or instruction.

Financial controls are evidenced by facts that indicate whether the service recipient has a right to direct or control the financial aspects of the worker's activities. These include whether the individual has a significant investment and unreimbursed expenses, makes services available to the relevant market,



# Elected & Appointed Officials

- Elected Officials are **ALWAYS** Employees for Federal Income Tax Withholding--IRC 3401(c)
- Elected and Appointed officials will usually be employees for FICA Withholding--IRC 3121(d)(2), due to these factors:
  - **Position established by law**
  - **Duties defined by statute**
  - **Performs duties as a public official**
  - **Responsible to the public**
  - **Paid out of governmental funds**

# Elected & Appointed Officials

## Examples

- Mayor
- City Attorney
- Judge or Justice of the Peace
- Building Inspector
- Board Members (Township, Health, Drainage, Council, etc)
- Road Commissioner
- Animal Control Officer



# VOLUNTEER FIREFIGHTERS

- Volunteer firefighters are employees for tax purposes if they meet the common law tests
- All employment tax rules apply
- Per diem/Per call, Training/Meeting payments—considered wages—subject to all employment taxes
- Allowance or Reimbursement of protective fire clothing—follows accountable plan rules, non-taxable with receipt
- Allowance or Reimbursement of mileage—commuting to fire station is personal, taxable to employee



# Employee or Independent?

- Funding for the work is through a Grant
- Careful analysis should be made to determine if common law factors are present
- Form SS-8 can be submitted for determination of treatment

# GOVERNMENTAL ENTITY EMPLOYEES

- Effective 4/1/86, State and local government employees who are not covered for social security under a Section 218 Agreement or by mandatory law, and who were hired or rehired after March 31, 1986, are subject to mandatory Medicare only coverage
- Effective 7/1/91, full social security is mandatory, for all State and local government employees who are not covered by a qualified retirement system—IRC 3121(d)(4)



# Independent Contractor vs. Employee

- **Publication 1779** Provides factors used to help determine worker status as either an independent contractor or an employee
- **SS-8** Can be filed by firm or worker with Internal Revenue Service to determine worker status

# Independent Contractor/Employee

## The bottom line:

Each case is dependent on the exact facts and circumstances and the evaluation of the control factors...

If you have an employer-employee relationship, it makes no difference how it is labeled

**The substance of the relationship, not the label nor source of funding, govern the worker's status**



# Voluntary Classification Settlement Program (VCSP)

- Allows eligible taxpayers who are not under audit to voluntarily reclassify their workers as employees for future tax periods
- Taxpayer pays reduced amount for employment tax due
- Must meet certain criteria to apply
- Not available for workers covered under the Taxpayer's Section 218 agreement
- More information available at FSLG website

# Employer's Responsibilities When Hiring Employees

- **Form I-9 (INS)**  
...Verify eligibility to work
- **Form W-4 (IRS)**
- **New Hire Report (State)**



# Form W-4 Reporting Rules

- If the employee fails to submit a W-4, withhold at SINGLE with 0 allowances.



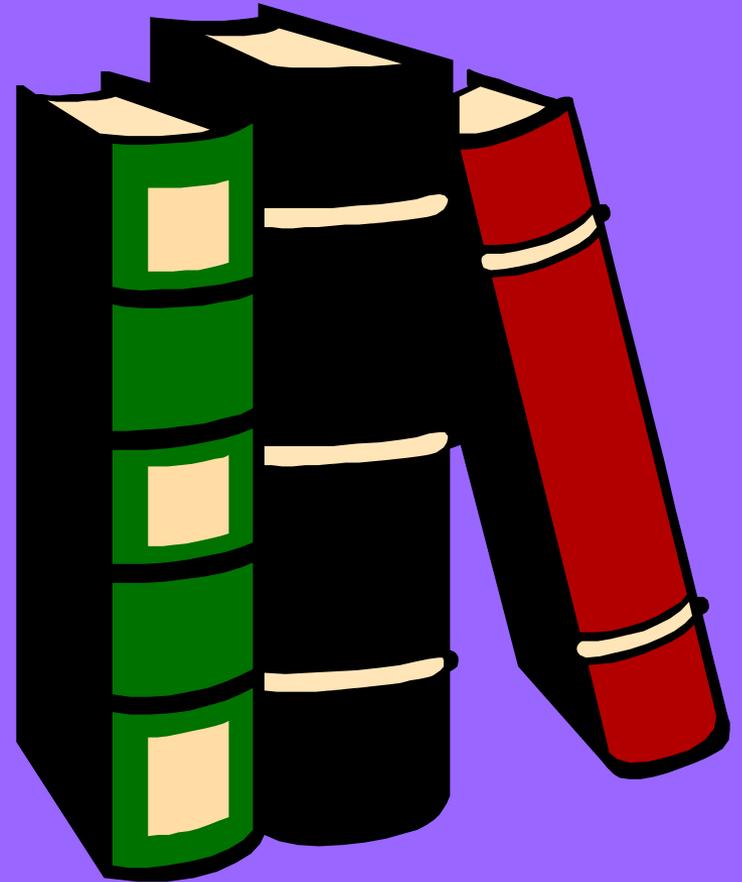


# Employer's Obligations

- **Withhold, pay and deposit payroll taxes (Federal Income & FICA)**
- **Maintain books & records**
- **Notify IRS of any changes in the business**
- **File reporting forms**

# Employer Recording Requirements

- Maintain books & records
- Keep all payroll records for a minimum of 4 years.



# Books and Records

Data elements required in payroll records  
(per individual):

- Name
- Social Security Number
- Home Address
- Date Hired
- Date Terminated/Reason for termination

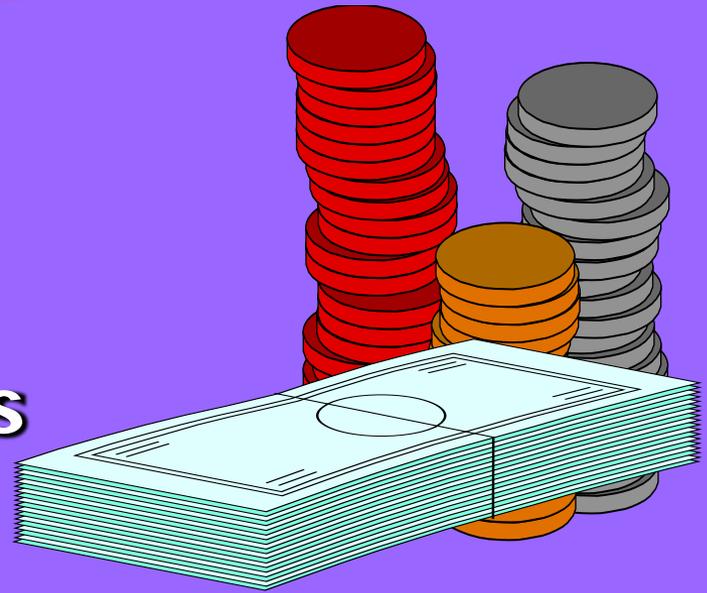
By Pay Date:

- Check number
- Date Paid
- Gross Earnings
- Description and amount of each deduction
- Net Earnings

<b>BOB JONES</b>	<b>2048</b>
DATE _____	
PAY TO THE ORDER OF _____	\$ _____
	_____ DOLLARS
<b>FIRST NATIONAL BANK</b>	
_____	
⑆ 21 661 77 ⑈ 964 76 ⑈ 2121	

# Payroll Statement to Each Employee

- Gross amount of wages
- Amounts deducted from wages
- Description of deductions From wages
- Net amount of wages
- Year-to-date wages is optional





# Cash Wages

- **Cash**
- **Salary**
- **Vacation Pay**
- **Sick Leave**
- **Per Diems/Per  
Call Stipends**



# Non-Cash Wages

- **Fringe Benefits**
- **Fair market value of non-cash payments (i.e., meals, lodging or personal use of business car)**



# DO I NEED TO FILE A 941 RETURN?

Form **941 for 2012: Employer's QUARTERLY Federal Tax Return** 950112  
(Rev. January 2012) Department of the Treasury — Internal Revenue Service OMB No. 1545-0029

Employer identification number (EIN)  -  -

Name (and your trade name)

Trade name (if any)

Address  
 Number  Street  Suite or room number   
 City  State  ZIP code

Report for this Quarter of 2012 (Check one.)  
 1: January, February, March  
 2: April, May, June  
 3: July, August, September  
 4: October, November, December  
 Prior-year forms are available at [www.irs.gov/form941](http://www.irs.gov/form941).

Read the separate instructions before you complete Form 941. Type or print within the boxes.

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

1 Number of employees who received wages, tips, or other compensation for the pay period including: Mar. 12 (Quarter 1), June 12 (Quarter 2), Sept. 12 (Quarter 3), or Dec. 12 (Quarter 4) **1**

2 Wages, tips, and other compensation **2**

3 Income tax withheld from wages, tips, and other compensation **3**

4 If no wages, tips, and other compensation are subject to social security or Medicare tax  Check and go to line 6.

	Column 1		Column 2	
5a Taxable social security wages	<input type="text"/>	x .104 =	<input type="text"/>	<input type="text"/>
5b Taxable social security tips	<input type="text"/>	x .104 =	<input type="text"/>	<input type="text"/>
5c Taxable Medicare wages & tips	<input type="text"/>	x .029 =	<input type="text"/>	<input type="text"/>
5d Add Column 2 line 5a, Column 2 line 5b, and Column 2 line 5c				<input type="text"/>
5e Section 3121(g) Notice and Demand—Tax due on unreported tips (see instructions)				<input type="text"/>
6 Total taxes before adjustments (add lines 3, 5d, and 5e)				<input type="text"/>
7 Current quarter's adjustment for fractions of cents				<input type="text"/>
8 Current quarter's adjustment for sick pay				<input type="text"/>
9 Current quarter's adjustments for tips and group-term life insurance				<input type="text"/>
10 Total taxes after adjustments. Combine lines 6 through 9				<input type="text"/>
11 Total deposits for this quarter, including overpayment applied from a prior quarter and overpayment applied from Form 941-X or Form 944-X				<input type="text"/>
12a COBRA premium assistance payments (see instructions)				<input type="text"/>
12b Number of individuals provided COBRA premium assistance	<input type="text"/>			<input type="text"/>
13 Add lines 11 and 12a				<input type="text"/>
14 Balance due. If line 10 is more than line 13, enter the difference and see instructions				<input type="text"/>
15 Overpayment. If line 13 is more than line 10, enter the difference <input type="text"/>				<input type="text"/>

Check one:  Apply to next return.  Used a refund.

**▶ You MUST complete both pages of Form 941 and SIGN it.** **Next ▶▶▶**

For Privacy Act and Paperwork Reduction Act Notice, see the back of the Payment Voucher. Cat. No. 17001Z Form **941** (Rev. 1-2012)

# WHO MUST FILE F. 941

- Employers subject to withholding income tax
- Employers subject to withholding Social Security and Medicare taxes
- Seasonal Employers - only quarters in which they pay wages or have tax liability



# Employer's Quarterly Federal Tax Return (Form 941)

- **Use Form 941 to report**
  - **Wages, tips, plus other compensation subject to income tax withholding, Social Security and Medicare**
- **Due in the month following the close of the calendar quarter**



# **DUE DATES OF F. 941**

## **■ QUARTERLY TAX RETURN**

- April 30**
- July 31**
- October 31**
- January 31**

# Form 944 Employer's Annual Federal Tax Return

- **Employment tax liability is < \$1,000**
- **IRS will notify those who qualify for Form 944**
- **Can request to file Form 941 (must write by March 15, 2012 or call by April 1, 2012)**
- **Due 1/31/XX after the end of calendar year**

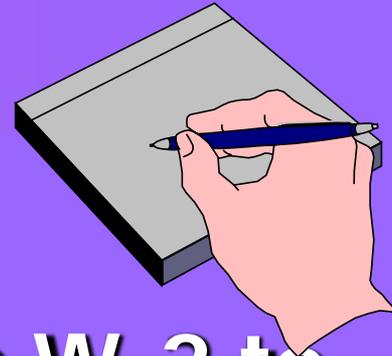


# Summary of Federal Payroll Taxes For Calendar Year 2012

- **Income tax withholding based on W-4**
- **Social Security**
  - ▣ **6.2% (ER) + 4.2% (EE) = 10.4%**  
**(Form 941 and Form 944)**
  - ▣ **for the first \$110,100 in wages**
- **Medicare**
  - ▣ **1.45% (ER) + 1.45% (EE) = 2.9%**  
**(Form 941 and Form 944)**
  - ▣ **No Limit**

# Wage and Tax Statements

## Form W-3/W-2



- **You must furnish a form W-2 to each employee by January 31**
- **File W-2s and W-3 cover sheet to the Social Security Administration by February 28**

# What Payroll Taxes to Deposit?

## Quarterly/Monthly/Semi Weekly Deposits

- **Federal Income Tax (FIT)- IRS**
- **Employer's and Employee's Social Security & Medicare (FICA)**

# Depositing Taxes

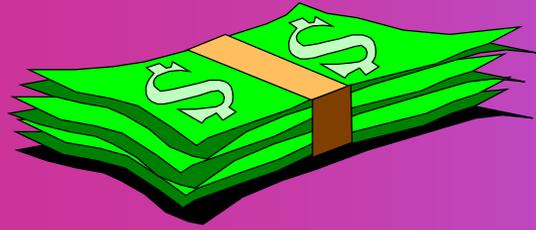
There are three types of Depositors:

- Monthly
- Quarterly – *Form 944 ONLY*
- Semi-Weekly

Based on the amount of liability for the four quarters in the period starting July 1, 2010 to June 30, 2011. (Lookback period)

# LOOKBACK PERIOD

- **JULY 1 to JUNE 30 of prior years (ie. 7/1/10 through 6/30/11)**
- **\$50,000 or less vs. >\$50,000**
- **DETERMINES YOUR DEPOSIT SCHEDULE**
  - **MONTHLY OR SEMIWEEKLY**



# Depositing Taxes

You are a **Monthly** depositor if:

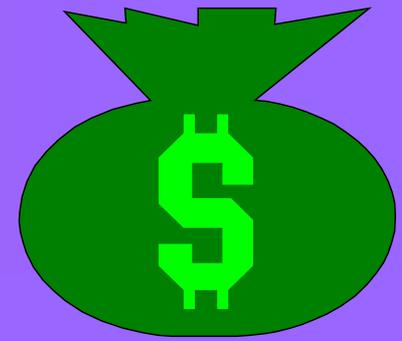
- Your total taxes for the lookback period is less than \$50,000.
- Deposit taxes on the 15th day of the next month.
- A new employer is a monthly schedule depositor if annual liability over \$1,000.



# DEPOSITING TAXES

- You are a Quarterly depositor **ONLY** if:
  - You file a Form 944 and your liability is \$2,500 or more for the year but less than \$2,500 for the quarter
  - Deposit by the end of the month following the month after the quarter.
  - Form 941 filers ***CANNOT Deposit quarterly.***

# Depositing Taxes



You are a **Semi-weekly** depositor if you meet one of these two conditions:

- Total taxes for the lookback period is greater than \$50,000.
- The \$100,000 rule was applied any time this year.

# DEPOSIT RULES:

## **PAYMENT WITH RETURN**

- LIABILITY **LESS** THAN **\$2,500**
- **NO SEMIWEEKLY DEPOSITOR CAN SEND A PAYMENT WITH THEIR FORM 941**

# DEPOSIT RULES (CONT'D)

## **PAYMENT WITH RETURN**

***Monthly Depositor*** - \$\$ can exceed \$2,500 if employer meets:

- Not more than \$100/2% rule

**AND**

- Shortfall paid by due date Form 941



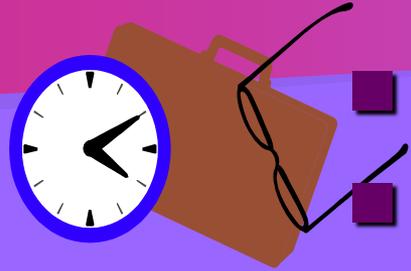
# How to Make Payroll Tax Deposits?

- **Electronic Federal Tax Payment System (EFTPS)**
- **[www.eftps.gov](http://www.eftps.gov)**
- **Available 24/7 all year**
- **Free**
- **Payments are initiated by the Taxpayer**

# How to Make Payroll Tax Deposits? EFTPS

- **Deposit may be made by telephone or internet**
- **Can schedule payment up to 120 days in advance of due date**
- **Must make deposit by 8:00PM ET the day before deposit is due to avoid penalties**

# Penalties and Interest



- 2% - if deposit is 1-5 days late
- 5% - if deposit is 6-15 days late
- 10% - if deposit is more than 16 days late
- 15% - 10 days after receiving a notice
- 10% - paying with return or directly to the IRS
- 10% - for not using EFTPS if required

# Form 1099-MISC

FORM 1099 MISC REMINDERS FOR STATE & LOCAL GOVERNMENTS		
<b>WHO MUST FILE:</b>	<b>DO ISSUE:</b>	<b>DON'T ISSUE:</b>
Any entity conducting a trade or business is required to file Form 1099. Government Agencies and non-profit organizations are also required to file Form 1099.	<u>Payments of \$600 or more FOR:</u> Services Rents Medical Services (Corp. Included) Attorney Services (Corp. Included)	<u>Payments of \$600 or more for:</u> Products Workmen's Compensation Storage Telephone
<b>SECURING VENDOR INFORMATION</b>	<u>Payments of \$10 or more FOR</u> Royalties	<u>Payments of \$600 or more TO:</u>
<b>WHAT INFORMATION IS NEEDED:</b>	<b>WHO GENERALLY RECEIVES</b>	Governmental Agencies Rental Agencies Corporations (Except MEDICAL & ATTORNEYS)
Owner's Name (if sole proprietor), Legal Business Name, Mailing Address Taxpayer Identification Number	Individuals, Partnerships, Estates, Trusts Medical and Attorney Corporations	
<b>WHEN TO GET INFORMATION:</b>	<b>CAUTION: Do NOT automatically treat a payee as a corporation simply because the payee's name ends with " LLC", "Company" or "Co."</b>	
Obtain vendor information up front; don't wait until year-end. Forms 1099 are required to be issued once payments total \$600 or more.	<b>EXAMPLES OF REPORTABLE PAYMENTS</b>	
<b>WHY GET THE INFORMATION:</b>	<b>NON-EMPLOYEE COMPENSATION</b> (Form 1099 MISC, Box 7)	<b>MEDICAL &amp; HEALTH CARE SERVICES</b> (1099 MISC, Box 6, includes Corporations)
If your vendor fails to supply an identification number, you must withhold 28% and pay it over to the IRS on Form 945. This is called BACKUP WITHHOLDING TAX. If you do not backup withhold, you may be liable for this tax.	Advertising Auto Repair Construction Custodial / Maintenance Landscapers, Locksmiths Photographers, Printing Services Professional Services Accountants Appraisers Architects <b>Attorneys Fees (Includes Corporations)*</b> Consultants Engineers Referees Rubbish Removal	Ambulance Services Dentists Doctors For-Profit Hospitals Lab Services Optometrists Private Duty Nurses Psychiatrists, Psychologists Rehabilitation Centers Therapists
<b>HOW TO GET THE INFORMATION:</b>		<b>RENTS -(Form 1099 MISC, Box 1)</b>
Form W9 or substitute		Office Space Parking Lot Space Welfare Rental Assistance (to Landlords) Equipment
<b>DUE DATES FOR FORMS 1099</b>		
Copy B to RECIPIENTS by January 31st Copy A to IRS by February 28th		

\*If compensation then enter income in box 7. If not able to determine percentage of compensation from gross payment, then total in box 14

# Required Forms for Vendor Payments

- W-9 or substitute form (Rev. 12-2011)
- Form 1099-MISC
- Form 945 for Backup Withholding of Tax



# What is a W-9 and why is it needed?

- Required for reportable payments of \$600 or more
- Payee certifies he/she is not subject to backup withholding or is exempt
- Provides information to prepare Form 1099

**Failure to obtain, when required, results in liability for 28% backup withholding**

**Request for Taxpayer  
 Identification Number and Certification**

**Give Form to the  
 requester. Do not  
 send to the IRS.**

Name (as shown on your income tax return)

Business name/disregarded entity name, if different from above

Check appropriate box for federal tax classification:  
 Individual/sole proprietor     C Corporation     S Corporation     Partnership     Trust/estate

Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ \_\_\_\_\_  Exempt payee

Other (see instructions) ▶ \_\_\_\_\_

Address (number, street, and apt. or suite no.)      Requester's name and address (optional)

City, state, and ZIP code

List account number(s) here (optional)

Print or type  
 See Specific Instructions on page 2.

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Social security number**

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**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

**Employer identification number**

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**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

**Sign Here**      Signature of U.S. person ▶      Date ▶

**General Instructions**

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

**Purpose of Form**

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of **effectively connected income**.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

One or  
more owners

# LLC's and Reportable payments

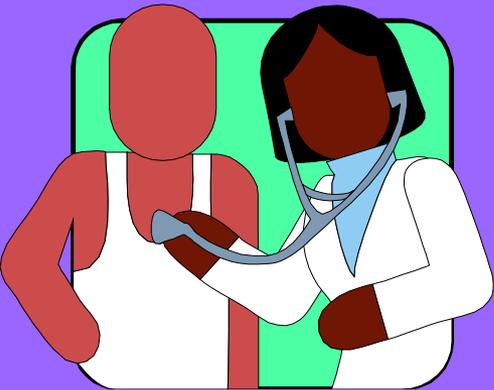
- An LLC may be taxed as either a sole proprietorship, a partnership, or a corporation
- Obtain a W-9 from the payee to determine their status
- report payments to sole proprietors and partnerships; and, in some cases, to corporations

# Information Returns



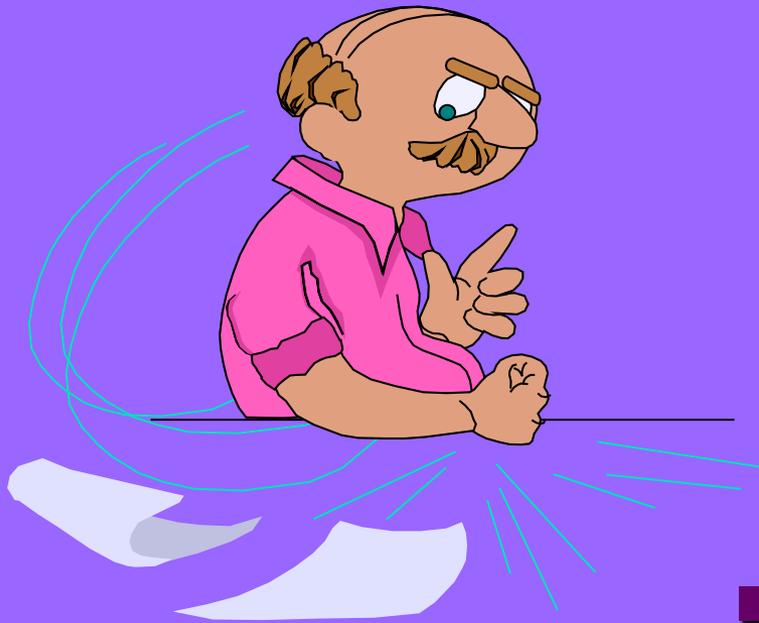
## Form 1099-MISC

- Payments of \$600 or more
- Rents
- Services performed by Individuals who are NOT your Employees, i.e:
  - Subcontractors
  - Attorneys
  - Medical payments
- Combination of services and product





# Payments that should not be reported on Form 1099-MISC



- payments to employees; such as fringe benefits or travel reimbursements (*note: if not paid as part of an accountable plan, travel reimbursements and auto expenses should be included in wages and reported on W-2*)
- generally, payments to corporations

# Form 1099-MISC

## Box 1 - Rents

- Real estate rentals  
(unless paid to Real Estate Agent)
- Machine rentals
- Rental assistance payments made to landlords or owners of housing projects

# Form 1099-MISC

## Box 3 - Other Income

- Other income not reportable in one of the other boxes of the form.
- Prizes and awards that are not for services performed.
- Various damage payments.
- See Form 1099-MISC Instructions for additional items to be reported.

# Form 1099- MISC

## Box 7 - Nonemployee Compensation

- Payment for services of a person who is not your employee (may include parts or materials in some instances),
- Fee splits between professionals,
- Professional service fees – ex. attorneys (including corporations), architects and accountants
- Prizes and awards for services performed as a nonemployee

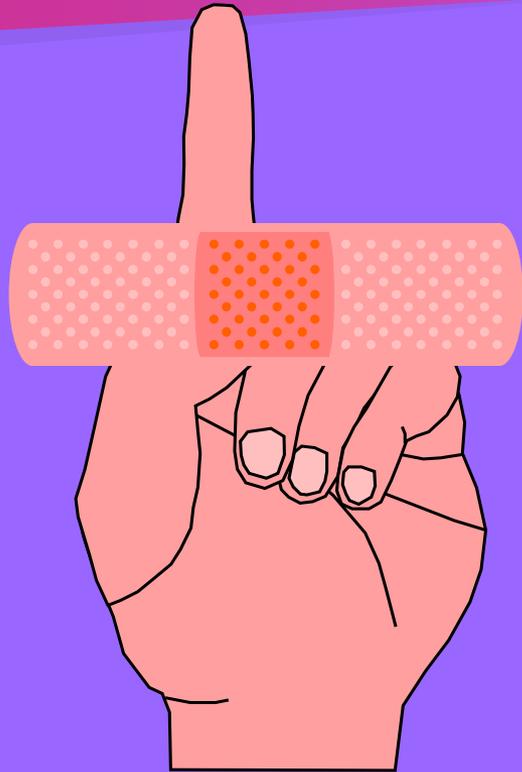
# Payments to Attorneys

- Treasury Regulation 1.6045-5 requires reporting payments to attorneys (individuals, partnerships and corporations)
  - gross proceeds, and
  - payments for services of attorneys
- this change was effective for 1998 and later years
- Settlement payments that are in attorney and claimant names may require Form 1099MISC to both parties



# Form 1099-Misc Box 6

## Medical and Healthcare Payments



- Report payments of \$600 or more in Box 6
- Report payments to all individuals, partnerships, and corporations
- Medical payments include doctor fees, drug testing, lab fees, physical therapy, etc.
- \* Do not report payments to *pharmacies or tax exempt hospitals*



# General Exemptions to Filing Form 1099-MISC

- Payments for only merchandise
- Payments of rent to real estate agents acting as an agent for the owner
- Payments to a corporation
  - Exceptions:
    - Payments to medical and health care providers
    - Payments to Attorneys for legal services



# When to File Forms 1099-MISC

- Report payments on calendar year basis
- Provide copy of Form 1099 MISC to recipient by Jan. 31 of the following year
- File with IRS by Feb. 28 of the following year
- Use Form 1096 transmittal form to submit Forms 1099 to IRS
- Maintain copies for three years from the due date (4 years if back up withholding applies)

# COMMON QUESTIONS

- Can I file an extension to file Forms 1099?
  - Form 8809 (file by Jan 31 for a 30 day extension)
- What if I file the information returns late?
  - Penalties apply unless reasonable cause

# Form 1099-Misc Penalties

## Failure to Furnish Form to Recipient

Correctly file by March 31 **\$30/return**

Correctly file after March 31 but before or on August 1  
**\$60/return**

Correctly file after August 1 **\$100/return**

## Failure to File with IRS

**\$100\*** for every 1099-Misc Form

\*Penalty amount can be less if filed by due dates  
above

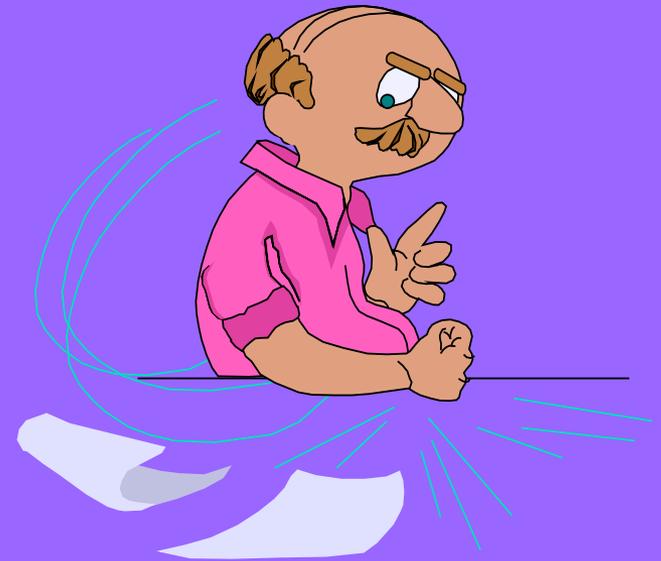
# IMPORTANT

Common Errors that prevent issuance of "correct" or "required" information returns

- Failure to obtain identifying information before making payment *(use Form W-9 Dec. 2011)*
- Failure to aggregate payments from all expense categories *(use vendor files)*
- Assuming payee is a corporation:
  - because name is "Company or Associates"
  - because an EIN is furnished

# NO W-9 INFORMATION

- No TIN
- Backup Withholding applies to payments at 28%
- File 945
- TIP!! Get the W-9 information before job is awarded





# Form 945

## Annual Return of Withheld Federal Income Tax

- Form 945 is used to report and pay backup withholding to the IRS.
  - This is an annual return, due 1/31 of the following year
  - ordinary deposit rules apply
  - (However, see Instructions for Form 945 to determine your deposit schedule)
  - make Form 945 deposits separate from Form 941 deposits

# How to report Backup Withholding

- Report withholding to payee and to IRS in Box 4 of Form 1099-MISC
- This applies even though the amount of the payment may be below the normal threshold for filing Form 1099.
- Send Copies A of all paper Forms 1099 to the IRS with Form 1096.

# Online TIN Matching Program

- Registered Users can verify if Name/TIN on Form W-9 from vendor is valid
- Reduces Name/TIN mismatches on Form 1099 reporting
- May establish reasonable cause for penalty abatement

# FEDERAL STATE AND LOCAL GOVERNMENTS and

## PUBLIC ENTITIES

### WORKING TOGETHER



## "HAND IN HAND"