

1991



Department of the Treasury
Internal Revenue Service

Instructions for Form 940

Employer's Annual Federal Unemployment (FUTA) Tax Return

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

Paperwork Reduction Act

Notice.—We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping . . . 14 hr., 21 min.

Learning about the law or the form . . . 12 min.

Preparing and sending the form to the IRS . . . 26 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form more simple, we would be happy to hear from you. You can write to both the **Internal Revenue Service**, Washington, DC 20224, Attention: IRS Reports Clearance Officer, T:FP; and the **Office of Management and Budget**, Paperwork Reduction Project (1545-0028), Washington, DC 20503. Do not send the tax form to either of these offices. Instead, see the instructions for Where To File on page 2.

Items You Should Note

Credit Reduction State.—For 1991, Michigan is a credit reduction state. If you pay any wages that are subject to the unemployment compensation laws of the state of Michigan, you must file Form 940, instead of Form 940-EZ, described next.

Form 940-EZ.—You may be able to use Form 940-EZ. It is a simplified version of Form 940. Generally, employers who pay all unemployment contributions to only one state in a timely manner and do not have taxable FUTA wages that are exempt from state

unemployment tax, can use Form 940-EZ. For more details, get Form 940-EZ. Do not file Form 940 if you have already filed Form 940-EZ for 1991.

FUTA Tax Rate.—The FUTA tax rate is scheduled to remain at 6.2% for years 1991 through 1995.

Revised Part III.—The Computation of Tentative Credit, previously Part V, was combined with Part III and is labeled line 3.

Final and Amended Returns.—Checkboxes have been added for you to mark if this is your final return or an amended return.

General Instructions

Purpose of Form.—The Federal Unemployment Tax Act (FUTA), together with state unemployment systems, provides for payments of unemployment compensation to workers who have lost their jobs. Most employers pay both a Federal and state unemployment tax. Use this form for your annual FUTA tax report. **Only the employer pays this tax.**

Who Must File

In General.—You must file this form if you were not a household or agricultural employer during 1990 or 1991, and you: (a) paid wages of \$1,500 or more in any calendar quarter or (b) had one or more employees for some part of a day in any 20 different weeks. Count all regular, temporary, and part-time employees. A partnership should not count its partners. If there is a change in ownership or other transfer of business during the year, each employer who meets test (a) or (b) must file. Neither should report wages paid by the other.

Organizations described in section 501(c)(3) of the Internal Revenue Code do not have to file.

Household Employers.—You do not have to file this form unless you paid

cash wages of \$1,000 or more in any calendar quarter in 1990 or 1991 for household work in a private home, local college club, or a local chapter of a college fraternity or sorority. **Note:** See **Pub. 926, Employment Taxes for Household Employers**, for more information.

Agricultural Employers.—You must file Form 940 if either of the following applies to you:

1. You paid cash wages of \$20,000 or more to farmworkers during any calendar quarter in 1990 or 1991.

2. You employed 10 or more farmworkers during some part of a day (whether or not at the same time) for at least one day during any 20 different weeks in 1990 or 1991.

Count aliens admitted to the United States on a temporary basis to perform farmwork to determine if you meet either of the tests. However, wages paid to these aliens are not subject to FUTA tax before 1993.

Completing Form 940

Employers Who Are Not Required To Deposit FUTA Tax.—If your total FUTA tax for the year is \$100 or less, you do not have to deposit the tax. Make your FUTA tax payment when you file Form 940. If you do not have to deposit FUTA tax and you:

(a) made all required payments to state unemployment funds by the due date of Form 940,

(b) are required to make payments to the unemployment fund of only one state, and

(c) paid wages subject to Federal unemployment tax that are also subject to state unemployment tax, complete Parts I and II. Otherwise, complete Parts I and III.

Employers Who Are Required To Deposit FUTA Tax.—If you meet tests (a), (b), and (c) above, complete Parts I, II, and IV.

Otherwise, complete Parts I, III, and IV.

Not Liable for FUTA Tax.—If you receive Form 940 and are not liable for FUTA tax for 1991, write “Not Liable” across the front, sign the return, and return it to the IRS. If you will not have to file returns in the future, check the box above Part I indicating that you will not have to file Form 940 in the future. Then complete and sign the return.

Due Date.—Form 940 for 1991 is due by January 31, 1992. However, if you deposited all tax due on time, you have 10 more days to file.

Where To File.—

If your principal business, office or agency is located in:	File with the Internal Revenue Service Center at:
Florida, Georgia, South Carolina	Atlanta, GA 39901
New Jersey, New York (New York City and counties of Nassau, Rockland, Suffolk, and Westchester)	Holtsville, NY 00501
New York (all other counties), Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	Andover, MA 05501
Illinois, Iowa, Minnesota, Missouri, Wisconsin	Kansas City, MO 64999
Delaware, District of Columbia, Maryland, Pennsylvania, Puerto Rico, Virginia, Virgin Islands	Philadelphia, PA 19255
Indiana, Kentucky, Michigan, Ohio, West Virginia	Cincinnati, OH 45999
Kansas, New Mexico, Oklahoma, Texas	Austin, TX 73301
Alaska, Arizona, California (counties of Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, and Yuba), Colorado, Idaho, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming	Ogden, UT 84201
California (all other counties), Hawaii	Fresno, CA 93888
Alabama, Arkansas, Louisiana, Mississippi, North Carolina, Tennessee	Memphis, TN 37501

If you have no legal residence or principal place of business in any IRS district, file with the Internal Revenue Service Center, Philadelphia, PA 19255.

Employer’s Name, Address, and Identification Number.—Use the

preaddressed Form 940 mailed to you. If you must use a form that is not preaddressed, type or print your name, trade name, address, and employer identification number on it.

See **Pub. 583**, Taxpayers Starting a Business, for details on how to make tax deposits, file a return, etc., if these are due before you receive your employer identification number.

Identifying Your Payments.—On balance due payments of \$100 or less made to the IRS (Part II, line 5, and Part III, line 9) and Federal tax deposit payments, write your employer identification number, “Form 940,” and the tax period to which the payment applies on your check or money order. This will help ensure proper crediting of your account.

Penalties and Interest.—Avoid penalties and interest by making tax deposits when due, filing a correct return, and paying the proper amount of tax when due. The law provides penalties for late deposits and late filing unless you show reasonable cause for the delay. If you file late, attach an explanation to the return. See **Circular E**, Employer’s Tax Guide, for information on penalties.

There are also penalties for willful failure to pay tax, keep records, make returns, and filing false or fraudulent returns.

Credit for Contributions Paid Into State Funds.—You can claim credit for amounts you pay into a certified state (including Puerto Rico and the Virgin Islands) unemployment fund by the due date of Form 940. Your FUTA tax will be higher if you do not pay the state contributions timely.

Note: Be sure to enter your state reporting number where required on Form 940. This number is needed for the IRS to verify your state contributions.

“Contributions” are payments that state law requires you to make to an unemployment fund because you are an employer. These payments are “contributions” only to the extent that they are not deducted or deductible from the employees’ pay.

Do not take credit for penalties, interest, or special administrative taxes which are not included in the contribution rate the state assigned to you. Also, do not take credit for voluntary contributions paid to obtain a lower assigned rate.

If you have been assigned an experience rate lower than 5.4% (.054) by a state for the whole or part of the year, you are entitled to an additional credit. This **additional** credit is equal to the difference between actual payments and the amount you would have been required to pay at 5.4%.

The total credit allowable may not be more than 5.4% of the total taxable FUTA wages eligible for credit.

Special Credit for Successor Employers.—If you are claiming special credit as a successor employer, see section 3302(e) or Circular E, for the conditions you must meet.

Amended Returns.—If you are amending a previously filed return, complete a new Form 940, using the amounts that should have been used on the original return, and sign the return. Attach a statement explaining why you are filing an amended return. Be sure to use a Form 940 for the year you are amending. If you are correcting a 1990 or prior year form, write “Amended Return” at the top of the form. To amend a 1991 Form 940, check the amended return box above Part I. File the amended return with the Internal Revenue Service Center where you filed the original return.

Specific Instructions

You must answer questions A and B (check the box in C only if it applies), complete Part I and the other Parts that apply, and sign the return.

Note: If you have been assigned a 0% experience rate by your state so that there are no required contributions to the state unemployment fund, check the “Yes” box in question A and write “0% rate” on the dollar amount line.

Use Part II only if you checked the “Yes” boxes in questions A and B and did not check the box in C. Otherwise, skip Part II and complete Part III.

Complete Part IV if your total tax for the year is more than \$100.

Box C.—Check this box **ONLY** if you pay any wages that are taxable for FUTA tax but are exempt from your state’s unemployment tax.

Part I.—Computation of Taxable Wages

Line 1—Total payments.—Enter the total payments you made to employees during the calendar year, even if they are not taxable. Include salaries, wages, commissions, fees, bonuses, vacation allowances, amounts paid to temporary or part-time employees, and the value of goods, lodging, food, clothing, and noncash fringe benefits. Include the amount of tips reported to you in writing by your employees. Also, include contributions to a 401(k) pension plan. Enter the amount before any deductions.

How the payments are made is not important in determining if they are wages. Thus, you may pay wages for piecework or as a percentage of profits, and you may pay wages hourly, daily, weekly, monthly, or yearly. You may pay wages in cash or some other way, such as goods, lodging, food, or clothing. For items other than cash, use the fair market value at the time of payment.

Line 2—Exempt payments.—“Wages” and “employment” as defined for FUTA purposes do not include every payment and every kind of service an employee may perform. In general, payments excluded from wages and payments for services excepted from employment are not subject to tax. You may deduct these exempt payments from total payments only if you explain them on line 2.

Enter payments for the following items:

(1) Agricultural labor, if you did not meet either of the tests in **Agricultural Employers** on page 1.

(2) Benefit payments for sickness or injury under a worker’s compensation law.

(3) Household service if you did not pay cash wages of \$1,000 or more in any calendar quarter in 1990 or 1991.

(4) Certain family employment.

(5) Certain fishing activities.

(6) Noncash payments for farmwork or household services in a private home that are included on line 1. Only cash wages to these workers are taxable.

(7) Value of certain meals and lodging.

(8) Cost of group-term life insurance.

(9) Payments attributable to the employee’s contributions to a sick pay plan.

(10) Any other exempt service or pay.

For more information, see Circular E.

Line 3.—Enter the total amounts over \$7,000 you paid each employee. For example, if you have 10 employees to whom you paid \$8,000 each during the year, enter \$80,000 on line 1 and \$10,000 on line 3. Only the first \$7,000 paid to your employee is subject to FUTA tax. Do not use the state wage limitation for this entry.

Line 5—Total taxable wages.—If any part of these wages is exempt from state unemployment taxes, you must fill out Part III. For example, if you pay wages to corporate officers in a state that exempts these wages from its unemployment taxes (these wages are taxable for FUTA tax), you would check the box in C on page 1 and complete Part III.

Line 6—Computation of credit reduction.—Enter the amount of wages included on line 5 subject to the unemployment compensation laws of the state of Michigan. The wages shown on line 6 cannot exceed the total taxable wages shown on line 5. If no wages are subject to these laws, enter “none” on line 6. Multiply the wages by the rate shown.

The amount of this adjustment increases the FUTA tax by reducing the credit otherwise allowable against the FUTA tax for contributions made to state unemployment funds. However, the increase cannot be more than the credit otherwise allowable.

Part II.—Tax Due or Refund

Use this part only if you checked “Yes” for both questions A and B on Form 940, and did not check the box in C. The tax rate of .008 gives you credit for your payments to your state’s unemployment fund.

The amount on line 2 is the additional tax resulting from credit reduction attributable to wages paid that are subject to the unemployment tax laws of the state of Michigan.

Part III.—Tax Due or Refund

Use this part if you do not qualify for Part II. Failure to provide this information could increase your tax.

Line 3.—Complete this schedule if you checked the “No” box in either question A or B on Form 940, or if you checked the box in C. If you have been assigned an experience rate by your state of 0% or more, but less than 5.4% for all or part of the year, use columns (a) through (i). If you have not been assigned any experience rate by your state, use columns (a), (b), (c), and (i) only. If you have been assigned a rate of 5.4% or higher, use columns (a), (b), (c), (d), (e) and (i) only. If you were assigned an experience rate for only part of the year or the rate was changed during the year, complete a separate line for each rate period.

If you need additional lines, attach a separate statement with a similar format.

Column (a).—Enter the name of the state(s) that you were required to pay contributions to (including Puerto Rico and the Virgin Islands).

Column (b).—Enter the state reporting number that was assigned to you when you registered as an employer with each state.

Column (c).—Enter the taxable payroll on which you must pay taxes to the unemployment fund of each state in column (a). If your experience rate is 0%, enter the amount of wages that you would have had to pay on if the rate had not been granted.

Columns (d) and (e).—Your “state experience rate” is the rate at which the state taxes your payroll for state unemployment purposes. This rate may be adjusted from time to time based on your “experience” with the state tax fund, that is, unemployment compensation paid to your former employees and other factors. If you do not know your rate, contact your state unemployment insurance service. The state experience rate can be stated as a percent or a decimal.

Column (h).—Subtract column (g) from column (f). If zero or less, enter “0.”

Column (i).—Enter the contributions actually paid into the state fund by the due date of Form 940. Do not include any special assessments, surtaxes, surcharges, etc., used by the state to pay interest on unrepaid

advances from the Federal Government.

Line 3a.—Enter the totals of columns (c), (h), and (i) on this line. The total of all amounts reported in column (i) should equal the amount entered under question A at the top of Form 940.

Line 3b.—Add line 3a, columns (h) and (i) only. If you file Form 940 after its due date and any contributions in column (i) were made after the due date, your credit for late contributions is limited to **90%** of their amount. For example, if \$1,500 of state contributions was paid on time, and \$1,000 was paid after the due date for filing Form 940, the total tentative credit on line 3b would be \$2,400 (\$1,500 + \$900 (90% of \$1,000)). This is assuming there is no additional credit in column (h).

Note: *If you are receiving additional credit (column (h)) because your state experience rate is less than 5.4%, the additional credit is not subject to the 90% limitation.*

Line 4.—Enter the smaller of Part III, line 3b, or Part III, line 2. This is the credit allowable for your payments to state unemployment funds. If you do not have to make payments to the state, enter "0" on this line.

Lines 5 and 6.—Enter the amount from Part I, line 6 on line 5. Subtract

this amount from line 4. The result on line 6 is your allowable credit for payments to the state.

Part IV.—Record of Federal Tax Liability

Complete this part if your total tax (Part II, line 3, or Part III, line 7) is over \$100. To figure your FUTA tax liability **for each of the first 3 quarters of 1991**, multiply by .008 that part of the first \$7,000 of each employee's annual wages you paid during the quarter. Enter this amount under that quarter.

Your liability for the 4th quarter is the total tax (Part II, line 3 or Part III, line 7) minus your liability for the first 3 quarters of the year. The total liability must equal your total tax. Otherwise, you may be charged a failure to deposit penalty figured on your average liability.

Depositing FUTA tax.—Generally, FUTA taxes are deposited on a quarterly basis. If your liability for any of the first 3 quarters of 1991 (plus any undeposited amount of \$100 or less from any earlier quarter) is over \$100, deposit it by the last day of the first month following the close of the quarter. If it is \$100 or less, you may carry it to the next

quarter; a deposit is not required. If your liability for the 4th quarter (plus any undeposited amount from any earlier quarter) is over \$100, deposit the entire amount by January 31, 1992. If it is \$100 or less, you can either make a deposit or pay it with your Form 940 by January 31, 1992.

Note: *The total amount of all deposits must be shown in Part II, line 4 or Part III, line 8.*

If you deposited the correct amounts, following these rules, the balance due with Form 940 will never be more than \$100.

Deposit FUTA tax in an authorized financial institution or the Federal Reserve bank for your area. To avoid a possible penalty, do not mail deposits directly to the IRS. Records of your deposits will be sent to the IRS for crediting to your business accounts. See **Identifying Your Payments** on page 2.

You must use **Form 8109**, Federal Tax Deposit Coupon, when making each tax deposit. The IRS will send you a book of deposit coupons when you apply for an employer identification number. Follow the instructions in the coupon book. If you do not have coupons, see Circular E.