How to meet your Federal employer tax requirements

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This fact sheet will help you understand various Internal Revenue Service regulations and publications as they apply to your marine business. It is not a substitute for IRS regulations and publications, or for expert counsel you may obtain from the IRS or professional tax practitioners.

As an employer, you are responsible for the collection and payment to IRS of certain taxes relating to wages and salaries paid to your employees. These include income taxes, Social Security taxes (FICA), and Federal unemployment taxes (FUTA). Some of the qualifications, procedures, forms, and reporting requirements that are involved with employer taxes are explained below.

Who are employees?

Whether or not you have employees depends on the job relationships between you and your potential employees—regardless of how you pay them, the conditions under which they work, or any written contracts to the contrary. If you are paying people who fit the following description (from Tax Guide for Commercial Fishermen—see "References"), then you have employees, and you are an employer:

"[E]very individual who performs services subject to the will and control of an employer, both as to what shall be done and how it shall be done, is an employee. . . . so long as the employer has the legal right to control both the method and the result of the services."

The 1976 Tax Reform Act provides a special exception for fishermen: When a fishing vessel has a crew of less than ten, and each receives payment in the form of a share of the catch or a share of the proceeds from the catch, each crew member is to be treated as a self-employed person.

Income tax withholding

As an employer, you should have an employer identification number (use Form SS-4), and you must withhold income tax from wages you pay an employee if wages (whether paid in cash or in kind) for any payroll period exceed the amount of withholding allowances for that pay period. However, you should not withhold income tax from the wages of an employee who filed a Form W-4E (Exemption from Withholding), certifying that he or she had no income tax liability last year and anticipates none for the current year.

If you are a fisherman and if your fishing crew is considered self-employed according to the 1976 Tax Reform Act, they are liable for their own income tax, and the vessel owner or operator must file only information returns on the crew.

The amount you withhold is computed on gross wages, without reduction for meals, lodging, and other payments in kind. See the IRS Circular E section on "Reporting and Paying Employer Taxes." It provides details on forms, rates, procedures, deadlines, etc.

Social Security taxes

The Federal Insurance Contributions Act (FICA) provides for a Federal system for old age, survivors, disability, and hospital insurance to be financed through Social Security taxes. Except for income from cash tips, these taxes are levied on both you and your employee.

Federal unemployment tax

You are subject to Federal unemployment tax if, during the current or preceding calendar year, you:

1. paid wages of $1,500 or more in any calendar quarter or
2. had one or more employees for some portion of at least one day during each of 20 different calendar weeks, whether consecutive or not.

Count individuals on vacation and sick leave as employees. These conditions apply to unemployment tax but not to Social Security tax or withholding of income tax.

Fishermen employers will be exempt from FUTA tax unless either of the following two conditions are met:

You, as employer, are liable for the collection and payment of the employee's share, as well as the payment of your own (employer's) share, of the FICA tax. You must withhold it from your employee's wages, whether paid in cash or in kind, in much the same manner as income tax, described earlier.

Meals, lodging, and other payments in kind are subject to FICA taxes as are wages paid in cash.

However, you withhold nothing for Social Security taxes. This means that an employee pays Social Security taxes on every dollar of income up to the limitation for the year. Circular E provides a table showing the amount to withhold from the employee. Your tax rate is 5.85%, and your employee's tax rate is 5.85%. (These rates include .9% for hospital insurance.)

The wages subject to these taxes are limited to the first $15,300 of wages you pay each employee during the calendar year 1976.
1. The services performed were related to catching salmon or halibut for commercial purposes, or
2. The services were performed on a vessel of more than ten net tons.

If you are liable for the FUTA tax, an annual return must be filed on Form 940 on or before January 31 following the close of the calendar year for which the tax is due. Any tax still due is payable with the return.

Additional information on depositing or filing requirements or determining your tax liability may be found in Circular E and the instructions to Form 940.

Paying and reporting income tax withheld and Social Security taxes

You are required to follow two sets of instructions regarding employer taxes. One set covers tax payments; the other, the reporting of these payments.

Businesses must pay employer taxes, usually on a quarterly basis with deposits at an authorized commercial bank or a Federal Reserve Bank, or by payment directly to the IRS. Income taxes and Social Security taxes paid as deposits (to banks or the Federal Reserve Bank) should be accompanied by Federal Tax Deposit Form 501. Federal unemployment taxes should be accompanied by Federal Tax Deposit Form 508.

Table 1 lists the deposit rules that apply to withheld income tax and Social Security taxes (FICA). (Note that these rules do not include Federal Unemployment Taxes.)

Marine businesses that withhold income taxes or social security taxes are required to file a quarterly report on Form 941, by the end of the month following the end of the quarter—at the IRS center that serves your area.

Reporting and paying

Federal unemployment taxes (FUTA)

To determine whether you must make a deposit for any of the first three quarters in a year, multiply that part of the first $4,200 of each employee’s annual wages that you paid during the quarter by .005. If this (plus the amount subject to deposit for any prior quarter but not deposited) is more than $100, deposit it during the first month following the quarter. If it is $100 or less, you do not have to deposit it, but you must add it to the amount subject to deposit for the next quarter. For these quarterly deposits, use Federal Tax Deposit Form 508.

At the end of the year, if the tax reportable on Form 940, less amounts deposited for the year, is more than $100, you must deposit the entire amount on or before January 31. If your remaining (FUTA) tax for the year (less any deposits) is $100 or less, you may either deposit the tax or pay it with Form 940.

Other employer responsibilities

Employers must give W-2 forms to each of their employees by January 31. You should keep copy A of Form W-2 for the annual submission with Form W-3, a transmittal form. See IRS Circular E for more details.

You must keep all records pertinent to the preceding taxes available for inspection by IRS officers. No particular form is prescribed for such records, but they should include:

1. The amounts and dates of all wage payments subject to these taxes;
2. The names, addresses, and occupations of employees receiving such payments;
3. The periods of their employment;
4. The periods for which they are paid while absent because of sickness or personal injuries and the amount and weekly rate of such payments;
5. Their Social Security account numbers, which are also their taxpayer identifying numbers;
6. Their income tax withholding exemption certificates (Forms W-4 and W-4E);
7. Your employer identification number;
8. Duplicate copies of quarterly and annual returns filed; and
9. The dates and amounts of deposits made, if any.

You should keep such records at least four years after the date the tax to which they relate becomes due or is paid, whichever is later.

Reference materials

FICA—Federal Insurance Contributions Act; provides for a Federal system for old age, survivors, disability, and hospital insurance to be financed through Social Security taxes. FUTA—Federal Unemployment Tax Act; provides Federal funds for administration of the state unemployment programs.

Employee—Any individual who performs services subject to the will and control of an employer, both as to what shall be done and how it shall be done.

Employer taxes—Taxes computed on the wages of employees to be collected and deposited by the employer: income, Social Security (FICA), and Federal unemployment taxes (FUTA).

Table 1.—Summary of deposit rules for withheld income tax and Social Security taxes (excludes FUTA)

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<tr>
<th>Deposit Rule</th>
<th>Deposit Due</th>
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<tbody>
<tr>
<td>1. If at the end of a quarter, the total undeposited taxes are less than $200:</td>
<td>No deposit necessary; but pay balance directly to the IRS with your quarterly return, or make a deposit if you prefer.</td>
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<tr>
<td>2. If at the end of a quarter, the total undeposited taxes are $200 or more:</td>
<td>On or before last day of next month. If $2,000 or more, see rule 4.</td>
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<td>3. If at the end of any month (except the last month of a quarter), cumulative undeposited taxes for the quarter are $200 or more, but less than $2,000:</td>
<td>Within 15 days after end of month. (For the first 2 months of the quarter, no deposit is required if you previously made a deposit for a quarter-monthly period that occurred during the month under the $2,000 rule in rule 4, below.)</td>
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<tr>
<td>4. If at the end of any quarter-monthly period, cumulative undeposited taxes for the quarter are $2,000 or more:</td>
<td>Within 3 banking days after the quarter-monthly period ends.</td>
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