

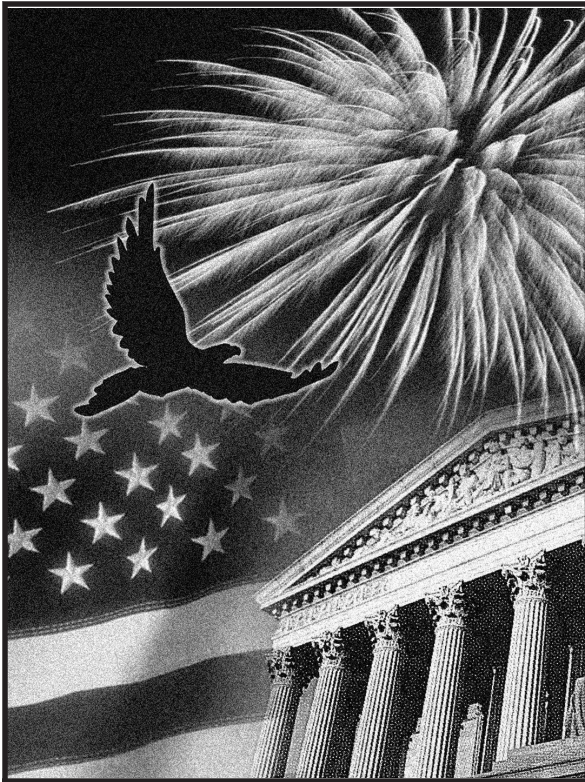


## Publication 51

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# (Circular A), Agricultural Employer's Tax Guide

For use in **2023**



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## Future Developments

For the latest information about developments related to Pub. 51, such as legislation enacted after it was published, go to [IRS.gov/Pub51](https://www.irs.gov/pub51).

## What's New

**Social security and Medicare tax for 2023.** The rate of social security tax on taxable wages, including qualified sick leave wages and qualified family leave wages paid in 2023 for leave taken after March 31, 2021, and before October 1, 2021, is 6.2% each for the employer and employee or 12.4% for both. Qualified sick leave wages and qualified family leave wages paid in 2023 for leave taken after March 31, 2020, and before April 1, 2021, aren't subject to the employer share of social security tax; therefore, the tax rate on these wages is 6.2%. The social security wage base limit is \$160,200.

The Medicare tax rate is 1.45% each for the employee and employer, unchanged from 2022. There is no wage base limit for Medicare tax.

or Schedule F (Form 1040) as sole proprietors. Each spouse must also file a separate Schedule SE (Form 1040) to pay self-employment taxes, as applicable.

Spouses using the qualified joint venture rules are treated as sole proprietors for federal tax purposes and generally don't need an EIN. If employment taxes are owed by the qualified joint venture, either spouse may report and pay the employment taxes due on the wages paid to the employees using the EIN of that spouse's sole proprietorship. Generally, filing as a qualified joint venture won't increase the spouses' total tax owed on the joint income tax return. However, it gives each spouse credit for social security earnings on which retirement benefits are based and for Medicare coverage without filing a partnership return.

**Note.** If your spouse is your employee, not your partner, you must withhold and pay federal income, social security, and Medicare taxes for them. However, the wages aren't subject to FUTA tax.

For more information on qualified joint ventures, go to [IRS.gov/QJV](https://www.irs.gov/QJV).

**Exception—Community income.** If you and your spouse wholly own an unincorporated business as community property under the community property laws of a state, foreign country, or U.S. possession, you can treat the business either as a sole proprietorship (of the spouse who carried on the business) or a partnership. You may still make an election to be taxed as a qualified joint venture instead of a partnership. See [Exception—Qualified joint venture](#), earlier in this section.

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## 3. Wages and Other Compensation

Cash wages that you pay to employees for farmwork are generally subject to social security tax and Medicare tax. You may also be required to withhold, deposit, and report Additional Medicare Tax. See [section 4](#) for more information. If the wages are subject to social security and Medicare taxes, they're also subject to federal income tax withholding. You're liable for the payment of these taxes to the federal government whether or not you collect them from your employees. If, for example, you withhold less than the correct tax from an employee's wages, you're still liable for the full amount. You may also be liable for FUTA tax, which isn't withheld by you or paid by the employee. FUTA tax is discussed in [section 10](#). Cash wages include checks, money orders, and any kind of money or cash.

For more information on what payments are considered taxable wages, see Pub. 15.

**Noncash wages (including commodity wages).** Noncash wages include food, lodging, clothing, transportation passes, farm products, or other goods or commodities. Noncash wages paid to farmworkers, including commodity wages, aren't subject to social security taxes, Medicare taxes, or federal income tax withholding. However, you

and your employee can agree to have federal income tax withheld on noncash wages.

Noncash wages, including commodity wages, are treated as cash wages if the substance of the transaction is a cash payment. Noncash wages treated as cash wages are subject to social security taxes, Medicare taxes, and federal income tax withholding.

Report the value of noncash wages in box 1 of Form W-2 together with cash wages. Noncash wages for farmwork are subject to federal income tax unless a specific exclusion applies. Don't show noncash wages in box 3 or 5 of Form W-2 (unless the substance of the transaction is a cash payment and they're being treated as cash wages).

**Other compensation.** Pubs. 15-A and 15-B discuss other forms of compensation that may be taxable.

**Family members.** Generally, the wages that you pay to family members who are your employees are subject to social security and Medicare taxes, federal income tax withholding, and FUTA tax. However, certain exemptions may apply for your child, spouse, or parent. See the table, [How Do Employment Taxes Apply to Farmwork](#), in section 12.

**Household employees.** The wages of an employee who performs household services, such as a maid, babysitter, gardener, or cook, in your home aren't subject to social security and Medicare taxes if you pay that employee cash wages of less than \$2,600 in 2023.

Social security and Medicare taxes don't apply to cash wages for housework in your private home if it was done by your spouse or your child under age 21. Nor do the taxes apply to housework done by your parent unless:

- You have a child (including an adopted child or stepchild) living in your home who is under age 18 or has a physical or mental condition that requires care by an adult for at least 4 continuous weeks in the calendar quarter services were performed; and
- You're a widow or widower, or divorced and not remarried, or have a spouse in the home who, because of a physical or mental condition, can't care for your child for at least 4 continuous weeks in the calendar quarter services were performed.

For more information, see Pub. 926.



*Wages for household work are generally not a deductible farm expense. See Nondeductible Pay in chapter 4 of Pub. 225 for more information.*

**Share farmers.** You don't have to withhold or pay social security and Medicare taxes on amounts paid to share farmers under share-farming arrangements.

**Compensation paid to H-2A visa holders.** Report compensation of \$600 or more paid to foreign agricultural workers who entered the country on H-2A visas in box 1 of Form W-2 but don't report it as social security wages (box 3) or Medicare wages (box 5) on Form W-2 because compensation paid to H-2A workers for agricultural labor

performed in connection with this visa isn't subject to social security and Medicare taxes. On Form W-2, don't check box 13 (Statutory employee), as H-2A workers aren't statutory employees.

An employer isn't required to withhold federal income tax from compensation paid to an H-2A worker for agricultural labor performed in connection with this visa but may withhold if the worker asks for withholding and the employer agrees. In that case, the worker must give the employer a completed Form W-4. Federal income tax withheld should be reported in box 2 of Form W-2.

These reporting rules apply when the H-2A worker provides their TIN to the employer. If the H-2A worker doesn't provide a TIN and the total annual wages to the H-2A worker are at least \$600, the employer is required to backup withhold. See the Instructions for Forms 1099-MISC and 1099-NEC and the Instructions for Form 945.

For more information on foreign agricultural workers on H-2A visas, go to [IRS.gov/H2A](https://www.irs.gov/H2A).

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## 4. Social Security and Medicare Taxes

Generally, you must withhold social security and Medicare taxes on all cash wage payments that you make to your employees. You may also be required to withhold Additional Medicare Tax. For more information, see [Additional Medicare Tax withholding](#), later.

### The \$150 Test or the \$2,500 Test

All cash wages that you pay to an employee during the year for farmwork are subject to social security and Medicare taxes and federal income tax withholding if either of the two tests below is met.

- You pay cash wages to an employee of \$150 or more in a year for farmwork (count all cash wages paid on a time, piecework, or other basis). The \$150 test applies separately to each farmworker that you employ. If you employ a family of workers, each member is treated separately. Don't count wages paid by other employers.
- The total that you pay for farmwork (cash and non-cash) to all your employees is \$2,500 or more during the year.

**Exceptions.** Annual cash wages of less than \$150 you pay to a **seasonal** farmworker aren't subject to social security and Medicare taxes, or federal income tax withholding, even if you pay \$2,500 or more to all your farmworkers. However, these wages count toward the \$2,500 test for determining whether other farmworkers' wages are subject to social security and Medicare taxes.

A seasonal farmworker is a worker who:

- Is employed in agriculture as a hand-harvest laborer,

- Is paid piece rates in an operation that is usually paid on a piece-rate basis in the region of employment,
- Commutes daily from their permanent home to the farm, and
- Had been employed in agriculture less than 13 weeks in the preceding calendar year.

## Social Security and Medicare Tax Withholding

The tax rate for social security is 6.2% (amount withheld each for the employer and employee (12.4% total). The social security wage base limit is \$160,200. The tax rate for Medicare is 1.45% (amount withheld) each for the employee and employer (2.9% total). There is no wage base limit for Medicare tax; all covered wages are subject to Medicare tax.

Social security and Medicare taxes apply to most payments of sick pay, including payments made by third parties such as insurance companies. For details, see section 6 of Pub. 15-A.



*Qualified sick leave wages and qualified family leave wages for leave taken after March 31, 2020, and before April 1, 2021, aren't subject to the employer share of social security tax; therefore, the tax rate on these wages is 6.2%. Qualified sick leave wages and qualified family leave wages for leave taken after March 31, 2021, and before October 1, 2021, are subject to both the employer share (6.2%) and employee share (6.2%) of social security tax (12.4% total).*



*For purposes of this publication, all references to "sick pay" mean ordinary sick pay, not "qualified sick leave wages" under the FFCRA, as amended by the COVID-related Tax Relief Act of 2020, and the ARP.*

**Additional Medicare Tax withholding.** In addition to withholding Medicare tax at 1.45%, you must withhold a 0.9% Additional Medicare Tax from wages you pay to an employee in excess of \$200,000 in a calendar year. You're required to begin withholding Additional Medicare Tax in the pay period in which you pay wages in excess of \$200,000 to an employee and continue to withhold it each pay period until the end of the calendar year. Additional Medicare Tax is only imposed on the employee. There is no employer share of Additional Medicare Tax. All wages that are subject to Medicare tax are subject to Additional Medicare Tax withholding if paid in excess of the \$200,000 withholding threshold.

For more information on what wages are subject to Medicare tax, see the chart, Special Rules for Various Types of Services and Payments, in section 15 of Pub. 15. For more information on Additional Medicare Tax, go to [IRS.gov/ADMTfaqs](https://www.irs.gov/ADMTfaqs).

**Employee share paid by employer.** If you would rather pay a household or agricultural employee's share of the social security and Medicare taxes without withholding

**Filing corrections to Forms W-2 and W-3.** When adjustments are made to correct wages and social security and Medicare taxes because of a change in the wage totals reported for a previous year, you also need to file Form W-2c and Form W-3c. Forms W-2c may be created and submitted to the SSA over the Internet. For more information, go to the SSA's Employer W-2 Filing Instructions & Information website at [SSA.gov/employer](https://www.ssa.gov/employer).

For additional information about the procedure for adjusting employment taxes, see the Instructions for Form 943-X or go to [IRS.gov/CorrectingEmploymentTaxes](https://www.irs.gov/CorrectingEmploymentTaxes). Also see Treasury Decision 9405, 2008-32 I.R.B. 293, available at [IRS.gov/irb/2008-32\\_IRB#TD-9405](https://www.irs.gov/irb/2008-32_IRB#TD-9405).

**Note.** Current period adjustments for fractions of cents, sick pay, and group-term life insurance are reported on your Form 943.

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## 10. Federal Unemployment (FUTA) Tax

The Federal Unemployment Tax Act (FUTA), with state unemployment systems, provides for payments of unemployment compensation to workers who have lost their jobs. Most employers pay both a federal and a state unemployment tax. For a list of state unemployment agencies, go to the U.S. Department of Labor's website at [oui.doleta.gov/unemploy/agencies.asp](https://oui.doleta.gov/unemploy/agencies.asp). Only the employer pays FUTA tax; it isn't withheld from the employees' wages. For more information, see the Instructions for Form 940.

For 2023, you must file Form 940 if you:

- Paid cash wages of \$20,000 or more to farmworkers during any calendar quarter in 2022 or 2023, or
- Employed 10 or more farmworkers during at least some part of a day (whether or not at the same time) during any 20 or more different weeks in 2022 or 20 or more different weeks in 2023.

To determine whether you meet either test above, you must count wages paid to aliens admitted on a temporary basis to the United States to perform farmwork, also known as H-2A visa workers. However, wages paid to H-2A visa workers aren't subject to the FUTA tax.

Generally, farmworkers supplied by a [crew leader](#), as defined earlier in section 2, are considered employees of the farm operator for purposes of the FUTA tax unless (a) the crew leader is registered under the Migrant and Seasonal Agricultural Worker Protection Act; or (b) substantially all of the workers supplied by the crew leader operate or maintain tractors, harvesting or crop-dusting machines, or other machines provided by the crew leader. Therefore, if (a) or (b) applies, the farmworkers are generally employees of the crew leader.

You must deposit FUTA tax by EFT. The deposit rules for FUTA tax are different from those for income, social security, and Medicare taxes. See [Deposit rules for FUTA tax](#), later in this section.

**FUTA tax rate.** The FUTA tax rate is 6.0% for 2023. The tax applies to the first \$7,000 you pay to each employee as wages during the year. The \$7,000 is the federal wage base. Your state wage base may be different.

Generally, you can take a credit against your FUTA tax for amounts you paid into state unemployment funds. The credit may be as much as 5.4% of FUTA taxable wages. If you're entitled to the maximum 5.4% credit, the FUTA tax rate after credit is 0.6%. You're entitled to the maximum credit if you paid your state unemployment taxes in full, on time, and on all the same wages as are subject to FUTA tax, and as long as the state isn't determined to be a credit reduction state. See the Instructions for Form 940 to determine the credit.

In some states, the wages subject to state unemployment tax are the same as the wages subject to FUTA tax. However, certain states exclude some types of wages from state unemployment tax, even though they're subject to FUTA tax (for example, wages paid to corporate officers, certain payments of sick pay by unions, and certain fringe benefits). In such a case, you may be required to deposit more than 0.6% FUTA tax on those wages. See the Instructions for Form 940 for further guidance.

**Successor employer.** If you acquired a business from an employer who was liable for FUTA tax, you may be able to count the wages that employer paid to the employees who continue to work for you when you figure the \$7,000 FUTA tax wage base. See the Instructions for Form 940.

**Deposit rules for FUTA tax.** For deposit purposes, figure FUTA tax quarterly. Determine your FUTA tax liability by multiplying the amount of taxable wages paid during the quarter by 0.6%. This amount may need to be adjusted, however, depending on your entitlement to the credit for state unemployment contributions. See the Instructions for Form 940. When an employee's wages reach \$7,000 for the calendar year, don't figure any additional FUTA tax for that employee.

If your total FUTA tax for the quarter (plus any undeposited FUTA tax from prior quarters) is more than \$500, you must deposit the FUTA tax by EFT, as explained in [section 7](#), by the last day of the month following the end of the quarter. If the amount is \$500 or less, you don't have to deposit it, but you must add it to the amount of tax for the next quarter to determine whether a deposit is required for that quarter.

If your liability for the fourth quarter (plus any undeposited amount from any earlier quarter) is over \$500, deposit the entire amount by the due date of Form 940 (January 31). If it is \$500 or less, you can make a deposit, pay the tax with a credit card or debit card, or pay the tax with a check or money order with your Form 940 by January 31. If you file Form 940 electronically, you can *e-file* and use EFW to pay the balance due. For more information on paying your taxes with a credit or debit card or using EFW, go to [IRS.gov/Payments](https://www.irs.gov/Payments).

**Filing Form 940.** File your 2022 Form 940 by January 31, 2023. If you make deposits on time in full payment of