
TAX SERVICES

Reporting Requirements Related to Third Party Payments Of Sick Pay

DECEMBER 2011

LEGACY
PROFESSIONALS LLP
CERTIFIED PUBLIC ACCOUNTANTS

CHICAGO
(312) 368-0500

SCHERERVILLE, IN
(219) 836-1065

MINNEAPOLIS
(952) 841-3950

www.legacycpas.com

**REPORTING REQUIREMENTS RELATED TO
THIRD PARTY PAYMENTS OF SICK PAY**

The purpose of this release is to facilitate the preparation of reports required for payments of sick pay paid by a third party.

GENERAL OVERVIEW OF SICK PAY

Sick pay is subject to withholding taxes and is treated, for the most part, as a component of “regular” wages paid throughout the year. Sick payments are subject to Social Security and Medicare tax, Federal unemployment tax, and withholding of Federal income tax. Sick pay is also included as wages for purposes of some states’ unemployment tax computations.

An employer who makes sick payments directly to its employees will treat such payments as regular wages. The employer will withhold and remit the proper taxes, and report the proper amounts on the employee’s Form W-2. These rules become more complex when the payer of sick pay is a third party (for example, a Health and Welfare Fund).

FEDERAL INCOME TAX WITHHOLDING

Sick pay recipients may have Federal income tax withheld from payments received. If there is a provision in a collective bargaining agreement specifying the amount of Federal income tax to be withheld from sick pay, those provisions should be followed. If no such provision applies, the recipient may file Form W-4S (See EXHIBIT 1). Such withholding may not fall below certain minimum amounts explained under “Amount to be Withheld” in EXHIBIT 1.

SOCIAL SECURITY AND MEDICARE TAX – WITHHELD PORTION

Social Security and Medicare tax must be withheld for payments made within six calendar months following the month in which the payee last worked. It is possible that the reporting period might cover two calendar years. For example, if an employee last worked in November 2011, you will have to begin withholding FICA tax in December 2011. A W-2 will be issued for 2011. Additional sick payments made in 2012 will be subject to FICA withholding until the employee has been paid a total of six months of sick-pay benefits. After six months, withholding on subsequent payments is no longer applicable. A W-2 for 2012 will also be issued. The withholding rate for 2011 is 4.2% for the Social Security portion on a maximum wage base of \$106,800 for the first six months and 1.45% for the Medicare portion with no maximum wage base. For 2012, the Social Security rate is 4.2% on a maximum wage base of \$110,100 and 1.45% for the Medicare portion. Once compensation (including sick pay) exceeds the applicable wage base, no further tax needs to be withheld.

SOCIAL SECURITY AND MEDICARE TAX – “EMPLOYER’S SHARE”

As with regular wages, the employer must match the amount of Social Security and Medicare tax withheld from sick pay and remit the so-called “employer’s share” of Social Security and Medicare tax to the Internal Revenue Service, along with the withheld amount. The employer's Social Security rate in 2012 remains at 6.2%. The employee's rate of 4.2% was temporarily extended until February 29, 2012.

Unless legislation is passed to extend this for another year, the previous rate of 6.2% will become effective as of March 1st.

Generally, a health and welfare fund is responsible for paying the employer's share of Social Security and Medicare tax unless the fund:

- 1) withholds the employee's share of tax;
- 2) deposits the amount withheld on a timely basis; and
- 3) notifies the employer as to the amount of sick pay and the amount of Social Security and Medicare tax withheld and deposited. This notice must be provided within the time required for the deposit of the employee's share of the taxes.

If the fund complies with the above, the employer will be responsible for matching the Social Security and Medicare tax. Remember that the notification to the employer must be done on a timely basis.

FEDERAL UNEMPLOYMENT TAX

Sick pay payments made within six months following the calendar month in which the recipient last worked will be subject to Federal Unemployment Tax. If the fund is liable for the employer's share of FICA taxes it must report and make quarterly FUTA tax deposits, if required, on the payments. The fund must report amounts paid and taxes deposited annually on Form 940.

A special rule applies to sick pay payments made to employees by a third-party insurer under an insurance contract with a multiemployer plan established under a collectively bargained agreement. If the third-party insurer making the payments gives the plan (instead of the employer) the required timely notice, then the plan must pay the employer's part of the Social Security and Medicare taxes and the FUTA taxes. Similarly, if within six (6) business days of the plan's receipt of the notification, the plan gives notice to the employer for whom the employee normally works, the employer (not the plan) must pay the employer's share of the Social Security and Medicare taxes and the FUTA taxes.

FORM 941 REPORTING REQUIREMENTS

When a health and welfare fund remits both the employer and employee share of the Social Security and Medicare tax, there is no special treatment required on Form 941. The sick pay is treated as a component of compensation. EXHIBIT 2 is an example Form 941 for a fund (third party) that pays both parts of the Social Security and Medicare tax.

When the employer's share of the Social Security and Medicare tax is not to be paid by the fund, Form 941 should be filed as shown on EXHIBIT 3. Line 8 of Form 941 is used to adjust the employer's share of the FICA tax.

EXHIBIT 4 illustrates the employer's Form 941 when the payment of the "employer's share" of Social Security and Medicare tax is passed on from the welfare fund. The amount on Line 8 of EXHIBIT 4 represents the FICA tax withheld from sick pay by the welfare fund. The net of line 6e minus 8 of EXHIBIT 4 represents the "employer's share" of FICA tax passed on to the employer from the welfare fund.

ANNUAL REPORTING REQUIREMENTS

If the fund (third party) elects to pay the “employer’s share” of the Social Security and Medicare tax, it must give each sick pay recipient a Form W-2 by January 31, 2012. Also, the fund must submit Copy A of Form W-2 along with Form W-3 to the Social Security Administration by February 29, 2012. These forms are prepared as if the fund was the employer.

If the fund passes on the employer’s share of Social Security and Medicare tax to the employer, in addition to the timely interim notices previously discussed, it must give that employer certain information by January 15, 2012 (See EXHIBIT 5 for a sample transmittal). For each employee who received sick pay during the preceding year, the fund must provide:

- a) the employee’s name;
- b) the Social Security number of each employee who had any income or Social Security and Medicare taxes withheld;
- c) the amount of sick pay for each employee;
- d) the amount of income tax withheld, if any, and the amount of Social Security and Medicare taxes withheld.

The employer must then either include these amounts on the recipient’s Form W-2 or issue a separate Form W-2 for these payments and mark the third party sick pay checkbox in Box 13. If there is any income tax withheld on the payments, the employer should show that amount on Lines 2 and 14 of Form W-3 and mark the third party sick pay checkbox in Box b of the W-3. Otherwise, the employer’s annual reporting is prepared in the usual fashion (See EXHIBIT 6).

The fund (third party payer) must also file Form W-3 along with a “Recap” W-2. The W-2 should show the following (See EXHIBIT 7):

- total income tax withheld on all sick pay (Box 2);
- total sick pay paid to all recipients during the year (Box 1);
- the total amount of Social Security and Medicare tax withheld from all recipients (Boxes 4 and 6, respectively);
- the words “Third-Party Sick Pay Recap” (Box e);
- the third party sick pay checkbox (Box 13) must be marked; and
- the total of all sick pay subject to Social Security and Medicare tax (Boxes 3 and 5, respectively)

The third party payer attaches the third-party sick pay recap Form W-2 to a separate recap Form W-3, on which only boxes b, c, e, f, g, 1,2,3,4,5,6 and 13 are completed. Enter “Third-Party Sick Pay Recap” in box 13. Box 14 is used by the employer to reflect the withholding remitted by the third party payer (Health & Welfare Fund).

All W-3 and W-2 Forms must be filed with the Social Security Administration, Data Operations Center, Wilkes-Barre, PA 18769-0001. If you file by "Certified Mail", change the zip code to 18769-0002. If you do not use the U.S. Postal Service to deliver your forms, use the following address:

Social Security Administration
Data Operations Center
Attn: W-2 Process
1150 E. Mountain Drive
Wilkes-Barre, PA 18702-7997

AMOUNT TO BE WITHHELD

EXHIBIT 1

Form W-4S Request for Federal Income Tax Withholding From Sick Pay OMB No. 1545-0074

2012

Department of the Treasury
Internal Revenue Service ▶ Give this form to the third-party payer of your sick pay.

Type or print your first name and middle initial. Last name Your social security number

Home address (number and street or rural route)

City or town, state, and ZIP code

Claim or identification number (if any)

I request federal income tax withholding from my sick pay payments. I want the following amount to be withheld from each payment. (See Worksheet below.) \$

Employee's signature ▶ Date ▶

Separate here and give the top part of this form to the payer. Keep the lower part for your records.

Worksheet (Keep for your records. Do not send to the Internal Revenue Service.)

1	Enter amount of adjusted gross income that you expect in 2012	1		
2	If you plan to itemize deductions on Schedule A (Form 1040), enter the estimated total of your deductions. If you do not plan to itemize deductions, enter the standard deduction, including additional amounts for age and blindness	2		
3	Subtract line 2 from line 1	3		
4	Exemptions. Multiply \$3,800 by the number of personal exemptions	4		
5	Subtract line 4 from line 3	5		
6	Tax. Figure your tax on line 5 by using the 2012 Tax Rate Schedule X, Y, or Z on page 2. Do not use the Tax Table or Tax Rate Schedule X, Y, or Z in the 2011 Form 1040, 1040A, or 1040EZ Instructions	6		
7	Credits (child tax and higher education credits, credit for child and dependent care expenses, etc.)	7		
8	Subtract line 7 from line 6	8		
9	Estimated federal income tax withheld or to be withheld from other sources (including amounts withheld due to a prior Form W-4S) during 2012 or paid or to be paid with 2012 estimated tax payments	9		
10	Subtract line 9 from line 8	10		
11	Enter the number of sick pay payments you expect to receive this year to which this Form W-4S will apply	11		
12	Divide line 10 by line 11. Round to the nearest dollar. This is the amount that should be withheld from each sick pay payment. Be sure it meets the requirements for the amount that should be withheld, as explained under Amount to be withheld below. If it does, enter this amount on Form W-4S above	12		

General Instructions

Purpose of form. Give this form to the third-party payer of your sick pay, such as an insurance company, if you want federal income tax withheld from the payments. You are not required to have federal income tax withheld from sick pay paid by a third party. However, if you choose to request such withholding, Internal Revenue Code sections 3402(c) and 6109 and their regulations require you to provide the information requested on this form. Do not use this form if your employer (or its agent) makes the payments because employers are already required to withhold federal income tax from sick pay.

Note. If you receive sick pay under a collective bargaining agreement, see your union representative or employer.

Definition. Sick pay is a payment that you receive:

- Under a plan to which your employer is a party and
- In place of wages for any period when you are temporarily absent from work because of your sickness or injury.

Amount to be withheld. Enter on this form the amount that you want withheld from each payment. The amount that you enter:

- Must be in whole dollars (for example, \$35, not \$34.50).
- Must be at least \$4 per day, \$20 per week, or \$88 per month based on your payroll period.
- Must not reduce the net amount of each sick pay payment that you receive to less than \$10.

For payments larger or smaller than a regular full payment of sick pay, the amount withheld will be in the same proportion as your regular withholding from sick pay. For example, if your regular full payment of \$100 a week normally has \$25 (25%) withheld, then \$20 (25%) will be withheld from a partial payment of \$80.

Caution. You may be subject to a penalty if your tax payments during the year are not at least 90% of the tax shown on your tax return. For exceptions and details, see Pub. 505, Tax Withholding and Estimated Tax. You may pay tax during the year through withholding or estimated tax payments or both. To avoid a penalty, make sure that you have enough tax withheld or make estimated tax payments using Form 1040-ES, Estimated Tax for Individuals. You may estimate your federal income tax liability by using the worksheet above.

(continued on back)

AMOUNT TO BE WITHHELD

EXHIBIT 1 CONTINUED

Form W-4S (2012)

Page 2

Sign this form. Form W-4S is not valid unless you sign it.
Statement of Income tax withheld. After the end of the year, you will receive a Form W-2, Wage and Tax Statement, reporting the taxable sick pay paid and federal income tax withheld during the year. These amounts are reported to the Internal Revenue Service.
Changing your withholding. Form W-4S remains in effect until you change or revoke it. You may do this by giving a new Form W-4S or a written notice to the payer of your sick pay. To revoke your previous Form W-4S, complete a new Form W-4S and write "Revoked" in the money amount box, sign it, and give it to the payer.

Specific Instructions for Worksheet

You may use the worksheet on page 1 to estimate the amount of federal income tax that you want withheld from each sick pay payment. Use your tax return for last year and the worksheet as a basis for estimating your tax, tax credits, and withholding for this year.

You may not want to use Form W-4S if you already have your total tax covered by estimated tax payments or other withholding.

If you expect to file a joint return, be sure to include the income, deductions, credits, and payments of both yourself and your spouse in figuring the amount you want withheld.

Caution. If any of the amounts on the worksheet change after you give Form W-4S to the payer, you should use a new Form W-4S to request a change in the amount withheld.

Line 2—Deductions

Standard deduction. For 2012, the standard deduction amounts are:

Filing Status	Standard Deduction
Married filing jointly or qualifying widow(er)	\$11,900*
Head of household	\$8,700*
Single or Married filing separately	\$5,950*

*If you are age 65 or older or blind, add to the standard deduction amount the additional amount that applies to you as shown in the next paragraph. If you can be claimed as a dependent on another person's return, see *Limited standard deduction for dependents*, later.

Additional amount for the elderly or blind. An additional standard deduction of \$1,150 is allowed for a married individual (filing jointly or separately) or qualifying widow(er) who is 65 or older or blind, \$2,300 if 65 or older and blind. If both spouses are 65 or older or blind, an additional \$2,300 is allowed on a joint return (\$2,300 on a separate return if you can claim an exemption for your spouse). If both spouses are 65 or older and blind, an additional \$4,600 is allowed on a joint return (\$4,600 on a separate return if you can claim an exemption for your spouse). An additional \$1,450 is allowed for an unmarried individual (single or head of household) who is 65 or older or blind, \$2,900 if 65 or older and blind.

Limited standard deduction for dependents. If you can be claimed as a dependent on another person's return, your standard deduction is the greater of (a) \$950 or (b) your earned income plus \$300 (up to the regular standard deduction for your filing status). If you are 65 or older or blind, see Pub. 506 for additional amounts that you may claim.

Certain individuals not eligible for standard deduction. For the following individuals, the standard deduction is zero.

- A married individual filing a separate return if either spouse itemizes deductions.
- A nonresident alien individual.
- An individual filing a return for a period of less than 12 months because of a change in his or her annual accounting period.

Line 7—Credits

Include on this line any tax credits that you are entitled to claim, such as the child tax and higher education credits, credit for child and dependent care expenses, earned income credit, or credit for the elderly or the disabled.

Line 9—Tax Withholding and Estimated Tax

Enter the federal income tax that you expect will be withheld this year on income other than sick pay and any payments made or to be made with 2012 estimated tax payments. Include any federal income tax already withheld or to be withheld from wages and pensions.

Future developments. The IRS has created a page on www.irs.gov/w4s for information about Form W-4S and its instructions, at www.irs.gov/w4s. Information about any future developments affecting Form W-4S (such as legislation enacted after we release it) will be posted on that page.

2012 Tax Rate Schedules

Schedule X—Single

If line 5 is:	But not over—	The tax is:	of the amount over—
Over—			
\$0	\$8,700	\$0 + 10%	\$0
8,700	35,350	\$870 + 15%	8,700
35,350	85,650	4,867.50 + 25%	35,350
85,650	178,650	17,442.50 + 28%	85,650
178,650	388,350	43,482.50 + 33%	178,650
388,350	and greater	112,683.50 + 35%	388,350

Schedule Z—Head of household

If line 5 is:	But not over—	The tax is:	of the amount over—
Over—			
\$0	\$12,400	\$0 + 10%	\$0
12,400	47,350	\$1,240 + 15%	12,400
47,350	122,300	6,482.50 + 25%	47,350
122,300	198,050	25,220 + 28%	122,300
198,050	388,350	46,430 + 33%	198,050
388,350	and greater	109,229 + 35%	388,350

Schedule Y-1—Married filing jointly or Qualifying widow(er)

If line 5 is:	But not over—	The tax is:	of the amount over—
Over—			
\$0	\$17,400	\$0 + 10%	\$0
17,400	70,700	\$1,740 + 15%	17,400
70,700	142,700	9,735 + 25%	70,700
142,700	217,450	27,735 + 28%	142,700
217,450	388,350	48,665 + 33%	217,450
388,350	and greater	105,062 + 35%	388,350

Schedule Y-2—Married filing separately

If line 5 is:	But not over—	The tax is:	of the amount over—
Over—			
\$0	\$8,700	\$0 + 10%	\$0
8,700	35,350	\$870 + 15%	8,700
35,350	71,350	4,867.50 + 25%	35,350
71,350	108,725	13,867.50 + 28%	71,350
108,725	194,175	24,332.50 + 33%	108,725
194,175	and greater	52,531 + 35%	194,175

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 not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax

returns and return information are confidential, as required by Code section 6103.

The average time and expenses required to complete and file this form will vary depending on individual circumstances. For estimated averages, see the instructions for your income tax return.

If you have suggestions for making this form simpler, we would be happy to hear from you. See the instructions for your income tax return.

THIRD PARTY PAYS BOTH PARTS OF FICA TAX

EXHIBIT 2

Form 941 for 2011: Employer's QUARTERLY Federal Tax Return (Rev. January 2011) Department of the Treasury — Internal Revenue Service 950111 OMB No. 1545-0029

Form 941 header section containing EIN (36-1231231), Name (ABC WELFARE FUND), Trade name, and Address (2 NORTH FIRST AVENUE, CHICAGO, IL 60601).

Report for this Quarter of 2011 (Check one) section with options for quarters 1-4. Option 4 (October, November, December) is checked.

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

Part 1: Answer these questions for this quarter.

Main body of Form 941 with lines 1-15. Includes calculations for taxable wages (10,000), social security (1,040.00), and Medicare (290.00). Total taxes before adjustments are 2,330.00. Balance due is 2,330.00.

Do Not Complete Lines 6a-6d

You MUST complete both pages of Form 941 and SIGN it. For Privacy Act and Paperwork Reduction Act Notice, see the back of the Payment Voucher. Form 941 (Rev. 1-2011)

THIRD PARTY PAYS BOTH PARTS OF FICA TAX

EXHIBIT 2 CONTINUED

Name (not your trade name) ABC WELFARE FUND	Employer identification number (EIN) 36-1231231
-------------------------------------------------------	-----------------------------------------------------------

950211

Part 2: Tell us about your deposit schedule and tax liability for this quarter.

If you are unsure about whether you are a monthly schedule depositor or a semiweekly schedule depositor, see Pub. 15 (Circular E), section 11.

16 Write the state abbreviation for the state where you made your deposits OR write "MU" if you made your deposits in multiple states.

17 Check one: Line 10 on this return is less than \$2,500 or line 10 on the return for the preceding quarter was less than \$2,500, and you did not incur a \$100,000 next-day deposit obligation during the current quarter. If you meet the de minimis exception based on the prior quarter and line 10 for the current quarter is \$100,000 or more, you must provide a record of your federal tax liability. If you are a monthly schedule depositor, complete the deposit schedule below; if you are a semiweekly schedule depositor, attach Schedule B (Form 941). Go to Part 3.

You were a monthly schedule depositor for the entire quarter. Enter your tax liability for each month and total liability for the quarter, then go to Part 3.

Tax liability: Month 1

Month 2

Month 3

Total liability for quarter Total must equal line 10.

You were a semiweekly schedule depositor for any part of this quarter. Complete Schedule B (Form 941): Report of Tax Liability for Semiweekly Schedule Depositors, and attach it to Form 941.

Part 3: Tell us about your business. If a question does NOT apply to your business, leave it blank.

18 If your business has closed or you stopped paying wages Check here, and enter the final date you paid wages

19 If you are a seasonal employer and you do not have to file a return for every quarter of the year . . . Check here.

Part 4: May we speak with your third-party designee?

Do you want to allow an employee, a paid tax preparer, or another person to discuss this return with the IRS? See the instructions for details.

Yes. Designee's name and phone number

Select a 5-digit Personal Identification Number (PIN) to use when talking to the IRS.

No.

Part 5: Sign here. You MUST complete both pages of Form 941 and SIGN it.

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.



Sign your name here

Print your name here

Print your title here

Date

Best daytime phone

Paid Preparer Use Only

Check if you are self-employed . . .

Preparer's name

PTIN

Preparer's signature

Date

Firm's name (or yours if self-employed)

EIN

Address

Phone

City

State

ZIP code

THIRD PARTY DOES NOT PAY EMPLOYER'S SHARE OF FICA TAX

EXHIBIT 3

Form **941 for 2011: Employer's QUARTERLY Federal Tax Return** 950111
(Rev. January 2011) Department of the Treasury — Internal Revenue Service OMB No. 1545-0029

(EIN)
Employer identification number 36-3453453

Name (not your trade name) XYZ WELFARE FUND

Trade name (if any) _____

Address 2 SOUTH SECOND AVENUE
Number Street Suite or room number
CHICAGO IL 60602
City State ZIP code

Report for this Quarter of 2011
(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.

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: <i>Mar. 12</i> (Quarter 1), <i>June 12</i> (Quarter 2), <i>Sept. 12</i> (Quarter 3), or <i>Dec. 12</i> (Quarter 4)	1					
2	Wages, tips, and other compensation	2	*				
3	Income tax withheld from wages, tips, and other compensation	3	1,000 *				
4	If no wages, tips, and other compensation are subject to social security or Medicare tax		<input type="checkbox"/> Check and go to line 6c.				
<table border="0"> <tr> <td></td> <td style="text-align: center;"><i>Column 1</i></td> <td></td> <td style="text-align: center;"><i>Column 2</i></td> </tr> </table>					<i>Column 1</i>		<i>Column 2</i>
	<i>Column 1</i>		<i>Column 2</i>				
5a	Taxable social security wages	<u>10,000 *</u>	x .104 = <u>1,040.00</u>				
5b	Taxable social security tips	*	x .104 = *				
5c	Taxable Medicare wages & tips	<u>10,000 *</u>	x .029 = <u>290.00</u>				
5d	Add <i>Column 2</i> line 5a, <i>Column 2</i> line 5b, and <i>Column 2</i> line 5c	5d	1,330.00				
5e	Section 3121(q) Notice and Demand—Tax due on unreported tips (see instructions)	5e	*				
6a	Reserved for future use.						
6b	Reserved for future use.						
6c	Reserved for future use.	6c	2,330.00				
6d	Reserved for future use.	6d	*				
7	Current quarter's adjustment for fractions of cents	7	*				
8	Current quarter's adjustment for sick pay	8	(765.00)				
9	Current quarter's adjustments for tips and group-term life insurance	9	*				
10	Total taxes after adjustments. Combine lines 6c through 9	10	1,565.00				
11	Total deposits, including prior quarter overpayments	11	1,565.00				
12a	COBRA premium assistance payments (see instructions)	12a	*				
12b	Number of individuals provided COBRA premium assistance						
13	Add lines 11 and 12a	13	1,565.00				
14	Balance due. If line 10 is more than line 13, enter the difference and see instructions	14	*				
15	Overpayment. If line 13 is more than line 10, enter the difference	15	*				

For 2011, the employee social security tax rate is 4.2% and the Medicare tax rate is 1.45%. The employer social security tax rate is 6.2% and the Medicare tax rate is 1.45%.

Do Not Complete Lines 6a-6d

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



For Privacy Act and Paperwork Reduction Act Notice, see the back of the Payment Voucher.

Form 941 (Rev. 1-2011)

THIRD PARTY DOES NOT PAY EMPLOYER'S SHARE OF FICA TAX
EXHIBIT 3 CONTINUED

Name (not your trade name) XYZ WELFARE FUND	Employer identification number (EIN) 36-3453453
-------------------------------------------------------	-----------------------------------------------------------

950211

Part 2: Tell us about your deposit schedule and tax liability for this quarter.

If you are unsure about whether you are a monthly schedule depositor or a semiweekly schedule depositor, see Pub. 15 (Circular E), section 11.

16 IL Write the state abbreviation for the state where you made your deposits OR write "MU" if you made your deposits in multiple states.

17 Check one: Line 10 on this return is less than \$2,500 or line 10 on the return for the preceding quarter was less than \$2,500, and you did not incur a \$100,000 next-day deposit obligation during the current quarter. If you meet the de minimis exception based on the prior quarter and line 10 for the current quarter is \$100,000 or more, you must provide a record of your federal tax liability. If you are a monthly schedule depositor, complete the deposit schedule below; if you are a semiweekly schedule depositor, attach Schedule B (Form 941). Go to Part 3.

You were a monthly schedule depositor for the entire quarter. Enter your tax liability for each month and total liability for the quarter, then go to Part 3.

Tax liability: Month 1

Month 2

Month 3

Total liability for quarter Total must equal line 10.

You were a semiweekly schedule depositor for any part of this quarter. Complete Schedule B (Form 941): Report of Tax Liability for Semiweekly Schedule Depositors, and attach it to Form 941.

Part 3: Tell us about your business. If a question does NOT apply to your business, leave it blank.

18 If your business has closed or you stopped paying wages Check here, and

enter the final date you paid wages

19 If you are a seasonal employer and you do not have to file a return for every quarter of the year . . . Check here.

Part 4: May we speak with your third-party designee?

Do you want to allow an employee, a paid tax preparer, or another person to discuss this return with the IRS? See the instructions for details.

Yes. Designee's name and phone number

Select a 5-digit Personal Identification Number (PIN) to use when talking to the IRS.

No.

Part 5: Sign here. You MUST complete both pages of Form 941 and SIGN it.

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.



Sign your name here

Print your name here

Print your title here

Date

Best daytime phone

Paid Preparer Use Only

Check if you are self-employed

Preparer's name

PTIN

Preparer's signature

Date

Firm's name (or yours if self-employed)

EIN

Address

Phone

City State

ZIP code

EMPLOYER PAYS EMPLOYER'S SHARE OF FICA TAX

EXHIBIT 4

Form 941 for 2011: Employer's QUARTERLY Federal Tax Return (Rev. January 2011) Department of the Treasury—Internal Revenue Service 950111 OMB No. 1540-0029

Form 941 header section containing EIN (36-5675675), Name (ACE CONSTRUCTION CO.), Address (3 WEST THIRD AVENUE, CHICAGO, IL 60603), and other identifying information.

Report for this Quarter of 2011 (Check one) section with options for quarters 1-4. Option 4 (October, November, December) is selected.

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

Part 1: Answer these questions for this quarter.

Main body of Form 941 with numbered lines 1-15. Includes calculations for taxable wages, social security, and Medicare taxes. Line 15 includes an overpayment section with a 'Next' button.

For Privacy Act and Paperwork Reduction Act Notice, see the back of the Payment Voucher. Form 941 (Rev. 1-2011)

EMPLOYER PAYS EMPLOYER'S SHARE OF FICA TAX
EXHIBIT 4 CONTINUED

Name (not your trade name) ACE CONSTRUCTION CO.	Employer identification number (EIN) 36-5675675
-----------------------------------------------------------	-----------------------------------------------------------

950211

Part 2: Tell us about your deposit schedule and tax liability for this quarter.
 if you are unsure about whether you are a monthly schedule depositor or a semiweekly schedule depositor, see Pub. 15 (Circular E), section 11.

16 IL Write the state abbreviation for the state where you made your deposits OR write "MU" if you made your deposits in multiple states.

17 Check one: Line 10 on this return is less than \$2,500 or line 10 on the return for the preceding quarter was less than \$2,500, and you did not incur a \$100,000 next-day deposit obligation during the current quarter. If you meet the de minimis exception based on the prior quarter and line 10 for the current quarter is \$100,000 or more, you must provide a record of your federal tax liability. If you are a monthly schedule depositor, complete the deposit schedule below; if you are a semiweekly schedule depositor, attach Schedule B (Form 941). Go to Part 3.

You were a monthly schedule depositor for the entire quarter. Enter your tax liability for each month and total liability for the quarter, then go to Part 3.

Tax liability: Month 1	255.00
Month 2	255.00
Month 3	255.00
Total liability for quarter	765.00

Total must equal line 10.

You were a semiweekly schedule depositor for any part of this quarter. Complete Schedule B (Form 941): Report of Tax Liability for Semiweekly Schedule Depositors, and attach it to Form 941.

Part 3: Tell us about your business. If a question does NOT apply to your business, leave it blank.

18 If your business has closed or you stopped paying wages Check here, and enter the final date you paid wages .

19 If you are a seasonal employer and you do not have to file a return for every quarter of the year . . . Check here.

Part 4: May we speak with your third-party designee?

Do you want to allow an employee, a paid tax preparer, or another person to discuss this return with the IRS? See the instructions for details.

Yes. Designee's name and phone number

Select a 5-digit Personal Identification Number (PIN) to use when talking to the IRS.

No.

Part 5: Sign here. You MUST complete both pages of Form 941 and SIGN it.

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

X Sign your name here

Date

Print your name here

Print your title here

Best daytime phone

Paid Preparer Use Only Check if you are self-employed

Preparer's name	<input type="text"/>	PTIN	<input type="text"/>
Preparer's signature	<input type="text"/>	Date	<input type="text"/>
Firm's name (or yours if self-employed)	<input type="text"/>	EIN	<input type="text"/>
Address	<input type="text"/>	Phone	<input type="text"/>
City	<input type="text"/>	State	<input type="text"/>
		ZIP code	<input type="text"/>

EXHIBIT 5 - ANNUAL LETTER TO EMPLOYER LISTING SICK BENEFITS PAID

**XYZ HEALTH AND WELFARE FUND
1 NORTH SECOND AVENUE
CHICAGO, ILLINOIS 60602**

January 10, 2012

ACE Construction Co.
3 West Third Avenue
Chicago, IL 60603

Gentlemen:

During the past year, we have paid disability payments and withheld the indicated taxes on some of your employees as detailed on the attached listing. We are required to give you this information so that you can include these amounts on the employee's Form W-2. You should refer to the Form W-2 and W-3 instructions to determine the proper reporting requirement for these amounts.

Your tax advisor should be consulted for any questions you may have concerning this matter.

Sincerely,

John Doe
Board of Trustees
XYZ Health and Welfare Fund

Enclosure

EXHIBIT 5 (cont.) - ANNUAL LETTER TO EMPLOYER LISTING SICK BENEFITS PAID
(Page 2 of 2)

STATEMENT OF DISABILITY
PAYMENTS MADE TO EMPLOYEES OF
ACE Construction Co.
YEAR ENDED DECEMBER 31, 2012

EMPLOYEE NAME	SOCIAL SECURITY NUMBER	TOTAL SICK PAY	FEDERAL INCOME TAX WITHHELD	SOCIAL SECURITY TAX WITHHELD	MEDICARE TAX WITHHELD
James Clark	721-98-7654	\$ 4,000.00	\$ 250.00	\$ 168.00*	\$ 58.00
Joseph Smith	321-45-7890	10,500.00	2,000.00	441.00*	152.25
Kathy Jackson	351-47-6541	<u>7,800.00</u>	<u>700.00</u>	<u>327.60*</u>	<u>113.10</u>
	Total	<u>\$22,300.00</u>	<u>\$ 2,950.00</u>	<u>\$936.60</u>	<u>\$ 323.35</u>

*Temporary extension until February 29, 2012. The social security rate might increase to 6.2% from the current 4.2%. Please check our website for updated information.

EMPLOYER REPORTING REQUIREMENTS

EXHIBIT 6

DO NOT STAPLE

33333		a Control number		For Official Use Only OMB No. 1545-0046			
b Kind of Payer (Check one)		<input checked="" type="checkbox"/> 941 CT-1	<input type="checkbox"/> Military World emp.	<input type="checkbox"/> 943 Medicare govt. emp.	<input type="checkbox"/> 944	Kind of Employer (Check one)	
						<input type="checkbox"/> None apply <input type="checkbox"/> State/local non-501c	<input type="checkbox"/> 501c non-govt. <input type="checkbox"/> State/local 501c <input type="checkbox"/> Federal govt.
c Total number of Forms W-2		d Establishment number		1 Wages, tips, other compensation		2 Federal income tax withheld	
2				40000.00		8000.00	
e Employer identification number (EIN)				3 Social security wages		4 Social security tax withheld	
36-5675675				40000.00		1680.00	
f Employer's name				5 Medicare wages and tips		6 Medicare tax withheld	
ACE Construction Co.				40000.00		580.00	
g Employer's address and ZIP code 3 West Third Ave. Chicago, IL 60603				7 Social security tips		8 Allocated tips	
				9		10 Dependent care benefits	
h Other EIN used this year				11 Nonqualified plans		12a Deferred compensation	
				13 For third-party sick pay use only		13b	
15 State Employer's state ID number				14 Income tax withheld by payer of third-party sick pay		1000.00	
16 State wages, tips, etc.		17 State income tax		18 Local wages, tips, etc.		19 Local income tax	
Contact person John Doe, Comptroller				Telephone number (312) 222-3159		For Official Use Only	
Email address				Fax number			

Under penalties of perjury, I declare that I have examined this return and accompanying documents, and, to the best of my knowledge and belief, they are true, correct, and complete.

Signature: _____ Title: _____ Date: _____

Form **W-3 Transmittal of Wage and Tax Statements** **2011** Department of the Treasury Internal Revenue Service

Send this entire page with the entire Copy A page of Form(s) W-2 to the Social Security Administration. Do not send any payment (cash, checks, money orders, etc.) with Forms W-2 and W-3.

Reminder

Separate Instructions. See the 2011 Instructions for Forms W-2 and W-3 for information on completing this form.

Purpose of Form

A Form W-3 Transmittal is completed only when paper Copy A of Form(s) W-2, Wage and Tax Statement, is being filed. Do not file Form W-3 electronically to the Social Security Administration (see below). All paper forms must comply with IRS standards and be machine readable. Photocopies are not acceptable. Use a Form W-3 even if only one paper Form W-2 is being filed. Make sure both the Form W-3 and Form(s) W-2 show the correct tax year and Employer Identification Number (EIN). Make a copy of this form and keep it with Copy D (For Employer) of Form(s) W-2 for your records.

Electronic Filing

The Social Security Administration (SSA) strongly suggests employers report Form W-3 and W-2 Copy A electronically instead of on paper. SSA provides two free options on its Business Services Online (BSO) website:

- **W-2 Online.** Use fill-in forms to create, save, print, and submit up to 20 Forms W-2 at a time to SSA.
- **File Upload.** Upload wage files to SSA that you have created using payroll or tax software that formats the files according to SSA's Specifications for Filing Forms W-2 Electronically (EFW2).

For more information, go to www.socialsecurity.gov/employer and select "First Time Filers" or "Returning Filers" under "BEFORE YOU FILE."

When To File

Mail any paper Forms W-2 under cover of this Form W-3 Transmittal by February 29, 2012. Electronic filers or uploads are filed through SSA's Business Services Online (BSO) internet site and will be on time if submitted by April 2, 2012.

Where To File Paper Forms

Send this entire page with the entire Copy A page of Form(s) W-2 to:

Social Security Administration
Data Operations Center
Wilkes-Barre, PA 18769-0001

Note. If you use "Certified Mail" to file, change the ZIP code to "18769-0002." If you use an IRS-approved private delivery service, add "ATTN: W-2 Process, 1150 E. Mountain Dr." to the address and change the ZIP code to "18702-7997." See Publication 15 (Circular E), Employer's Tax Guide, for a list of IRS-approved private delivery services.

For Privacy Act and Paperwork Reduction Act Notice, see the back of Copy D of Form W-2.

Cat. No. 101597

EMPLOYER REPORTING REQUIREMENTS - SEPARATE W-2s

EXHIBIT 6 CONTINUED

22222		Void <input type="checkbox"/>	Employee's social security number 777-88-9999		For Official Use Only OMB No. 1545-0006		REGULAR WAGES			
b Employer identification number (EIN) 36-5675675					1 Wages, tips, other compensation 30000.00		2 Federal income tax withheld 7000.00			
c Employer's name, address, and ZIP code ACE Construction Co. 3 West Third Avenue Chicago, IL 60603					3 Social security wages 30000.00		4 Social security tax withheld 1260.00			
					5 Medicare wages and tips 30000.00		6 Medicare tax withheld 435.00			
					7 Social security tips		8 Allocated tips			
d Control number					9		10 Dependent care benefits			
e Employee's first name and initial Thomas		Last name Smith		Suff.		11 Nonqualified plans		12a See instructions for box 12		
f Employee's address and ZIP code 4 East Fourth Avenue Chicago, IL 60604					13 Retiree employee <input type="checkbox"/> Retirement plan <input type="checkbox"/> Strike pay <input type="checkbox"/>		12b		12c	
					14 Other		12d		12e	
					15 State Employer's state ID number IL		16 State wages, tips, etc. 30000.00		17 State income tax 900.00	
									20 Locality name	

Form **W-2** Wage and Tax Statement **2011** Department of the Treasury—Internal Revenue Service
 Copy A For Social Security Administration — Send this entire page with For Privacy Act and Paperwork Reduction Act Notice, see back of Copy D.

22222		Employee's social security number 777-88-9999		OMB No. 1545-0006		SICK PAY				
b Employer identification number (EIN) 36-5675675					1 Wages, tips, other compensation 10000.00		2 Federal income tax withheld 1000.00			
c Employer's name, address, and ZIP code ACE Construction Co. 3 West Third Avenue Chicago, IL 60603					3 Social security wages 10000.00		4 Social security tax withheld 420.00			
					5 Medicare wages and tips 10000.00		6 Medicare tax withheld 145.00			
					7 Social security tips		8 Allocated tips			
d Control number					9		10 Dependent care benefits			
e Employee's first name and initial Thomas		Last name Smith		Suff.		11 Nonqualified plans		12a		
f Employee's address and ZIP code 4 East Fourth Avenue Chicago, IL 60604					13 Retiree employee <input type="checkbox"/> Retirement plan <input type="checkbox"/> Strike pay <input checked="" type="checkbox"/>		12b		12c	
					14 Other		12d		12e	
					15 State Employer's state ID number IL		16 State wages, tips, etc. 10000.0		17 State income tax	
									20 Locality name	

Form **W-2** Wage and Tax Statement **2011** Department of the Treasury—Internal Revenue Service
 Copy 1—For State, City, or Local Tax Department

THIRD PARTY REPORTING REQUIREMENTS

EXHIBIT 7

DO NOT STAPLE

33333		a Control number		For Official Use Only OMB No. 1545-0006				
b Kind of Payer (Check one)	941 <input checked="" type="checkbox"/>	Military <input type="checkbox"/>	943 <input type="checkbox"/>	944 <input type="checkbox"/>	Kind of Employer (Check one)	None apply <input type="checkbox"/>	501c non-govt. <input type="checkbox"/>	Third-party sick pay (Check if applicable)
	OT-1 <input type="checkbox"/>	Harid. emp. <input type="checkbox"/>	Medicare govt. emp. <input type="checkbox"/>			State/local non-501c <input type="checkbox"/>	State/local 501c <input type="checkbox"/>	
c Total number of Forms W-2: 1		d Establishment number		1 Wages, tips, other compensation: 10000.00		2 Federal income tax withheld: 1000.00		
e Employer identification number (EIN): 36-3453453				3 Social security wages: 10000.00		4 Social security tax withheld: 420.00		
f Employer's name: XYZ Welfare Fund				5 Medicare wages and tips: 10000.00		6 Medicare tax withheld: 145.00		
g Employer's address and ZIP code: 1 South Second Avenue Chicago, IL 60602				7 Social security tips		8 Allocated tips		
				9		10 Dependent care benefits		
				11 Nonqualified plans		12a Deferred compensation		
h Other EIN used this year				13 For third-party sick pay use only: Third Party Sick Pay Recap		12b		
i State: Employer's state ID number				14 Income tax withheld by payer of third-party sick pay				
15 State wages, tips, etc.		17 State income tax		16 Local wages, tips, etc.		19 Local income tax		
Contact person				Telephone number		For Official Use Only		
Email address				Fax number				

Under penalties of perjury, I declare that I have examined this return and accompanying documents, and, to the best of my knowledge and belief, they are true, correct, and complete.

Signature _____ Title _____ Date _____

Form **W-3 Transmittal of Wage and Tax Statements 2011** Department of the Treasury Internal Revenue Service

Send this entire page with the entire Copy A page of Form(s) W-2 to the Social Security Administration. Do not send any payment (cash, checks, money orders, etc.) with Forms W-2 and W-3.

Reminder

Separate instructions. See the 2011 Instructions for Forms W-2 and W-3 for information on completing this form.

Purpose of Form

A Form W-3 Transmittal is completed only when paper Copy A of Form(s) W-2, Wage and Tax Statement, is being filed. Do not file Form W-3 alone. Do not file Form W-3 for Form(s) W-2 that were submitted electronically to the Social Security Administration (see below). All paper forms must comply with IRS standards and be machine readable. Photocopies are not acceptable. Use a Form W-3 even if only one paper Form W-2 is being filed. Make sure both the Form W-3 and Form(s) W-2 show the correct tax year and Employer Identification Number (EIN). Make a copy of this form and keep it with Copy D (For Employer) of Form(s) W-2 for your records.

Electronic Filing

The Social Security Administration (SSA) strongly suggests employers report Form W-3 and W-2 Copy A electronically instead of on paper. SSA provides two free options on its Business Services Online (BSO) website:

- **W-2 Online.** Use fill-in forms to create, save, print, and submit up to 20 Forms W-2 at a time to SSA.
- **File Upload.** Upload wage files to SSA that you have created using payroll or tax software that formats the files according to SSA's Specifications for Filing Forms W-2 Electronically (EFW2).

For more information, go to www.socialsecurity.gov/employer and select "First Time Filers" or "Returning Filers" under "BEFORE YOU FILE."

When To File

Mail any paper Forms W-2 under cover of this Form W-3 Transmittal by February 29, 2012. Electronic fill-in forms or uploads are filed through SSA's Business Services Online (BSO) Internet site and will be on file if submitted by April 2, 2012.

Where To File Paper Forms

Send this entire page with the entire Copy A page of Form(s) W-2 to:
**Social Security Administration
Data Operations Center
Wilkes-Barre, PA 18769-0001**

Note. If you use "Certified Mail" to file, change the ZIP code to "18769-0002." If you use an IRS-approved private delivery service, add "ATTN: W-2 Process, 1150 E. Mountain Dr." to the address and change the ZIP code to "18702-7997." See Publication 15 (Circular E), Employer's Tax Guide, for a list of IRS-approved private delivery services.

For Privacy Act and Paperwork Reduction Act Notice, see the back of Copy D of Form W-2.
Cat No. 10159Y

THIRD PARTY REPORTING REQUIREMENTS

EXHIBIT 7 CONTINUED

22222		Employee's social security number		For Official Use Only OMB No. 1545-0008			
b Employer identification number (EIN) 36-3453453				1 Wages, tips, other compensation 10000.00		2 Federal income tax withheld 1000.00	
c Employer's name, address, and ZIP code XYZ Welfare Fund 1 South Second Avenue Chicago, IL 60602				3 Social security wages 10000.00		4 Social security tax withheld 420.00	
				5 Medicare wages and tips 10000.00		6 Medicare tax withheld 145.00	
				7 Social security tips		8 Allocated tips	
d Control number				9		10 Dependent care benefits	
e Employee's first name and initial Third-Party Sick		Last name Pay Recap		Surt.		11 Nonqualified plans	
f Employee's address and ZIP code				12a See instructions for box 12		12b	
				13 <input type="checkbox"/> In-house employee <input type="checkbox"/> Retiree or annuitant <input checked="" type="checkbox"/> Former employee		13c	
				14 Other		13d	
15 State Employer's state ID number		16 State wages, tips, etc.		17 State income tax		18 Local wages, tips, etc.	
						19 Local income tax	
						20 Locality name	

Form **W-2** Wage and Tax Statement **2011** Department of the Treasury — Internal Revenue Service
 For Privacy Act and Paperwork Reduction Act Notice, see back of Cover D.

22222		Employee's social security number		OMB No. 1545-0008			
b Employer identification number (EIN)				1 Wages, tips, other compensation		2 Federal income tax withheld	
c Employer's name, address, and ZIP code				3 Social security wages		4 Social security tax withheld	
				5 Medicare wages and tips		6 Medicare tax withheld	
				7 Social security tips		8 Allocated tips	
d Control number				9		10 Dependent care benefits	
e Employee's first name and initial		Last name		Surt.		11 Nonqualified plans	
f Employee's address and ZIP code				12a See instructions for box 12		12b	
				13 <input type="checkbox"/> In-house employee <input type="checkbox"/> Retiree or annuitant <input type="checkbox"/> Former employee		13c	
				14 Other		13d	
15 State Employer's state ID number		16 State wages, tips, etc.		17 State income tax		18 Local wages, tips, etc.	
						19 Local income tax	
						20 Locality name	

Form **W-2** Wage and Tax Statement **2011** Department of the Treasury — Internal Revenue Service
 Copy 1 — For State, City, or Local Tax Department