

POINTERS ON NEW FORM 941

I'm sure you're well aware by now the IRS has made some significant changes to Form 941, *Employer's Quarterly Federal Tax Return*, effective with the first quarter 2005 tax return filing. To help with the return preparation, here is a brief summary of the key changes to the return and some general guidance in return preparation.

■ **Design**

Form changes include more white space and a different layout, making the questions harder to miss. A checkbox in the upper right hand corner eliminates the possibility of taxpayers copying information from a previous quarter and forgetting to change the quarter. A new paid preparer section helps the IRS to identify preparers who may need additional education on how to properly complete the form.

■ **Tax deposits**

Beginning in 2005, taxpayers must provide the state abbreviation (or "MU" if there are multiple deposit states) where deposits are made on Part 2 of Form 941. Previously, only those businesses making their payroll deposits in states other than the state shown as the IRS address of record were required to report the state abbreviation.

■ **Number of employees**

Taxpayers must now report the number of employees as of the 12th day of the last month of *each* quarter. Previously, taxpayers only completed this section in the first quarter.

■ **Page 1, Part 1**

The Form 941 instructions note taxpayers should enter on Part 1, line 2 (Wages, tips and other compensation) amounts which would be reported on Form W-2, box 1. The instructions also note that excise tax withheld from golden parachute payments should be included in the amount reported on Part 1, line 3 (Total income tax withheld from wages, tips, and other compensation). All Social Security, Medicare and withholding tax adjustments are now reported on Part 1, line 7. There are separate lines for adjustments to: sick pay (line 7b), tips and group-term life insurance (line 7c), current year withholding (line 7d) and prior quarter Social Security and Medicare taxes (line 7e).

■ **New Schedules**

Form 941 now includes Schedule D, *Report of Discrepancies Caused by Acquisitions, Statutory Mergers, or Consolidation*. Employers can use Schedule D to explain certain discrepancies (caused by acquisitions, statutory mergers and consolidations) between Forms W-2 (Copy A) and Forms 941 for the totals of Social Security wages, Medicare wages and tips, Social Security tips, federal income tax withheld, and advance earned income credit payments. Note not every employer experiencing a

merger or acquisition should file Schedule D. Mergers, acquisitions, and other reorganizations generally fall into one of three categories for employment tax reporting purposes: (1) statutory mergers and consolidations, (2) acquisitions that satisfy the requirements for predecessor-successor status, or (3) other acquisitions. Only employers in the first two categories with discrepancies should file Schedule D.

■ **Schedule B**

The Schedule B, *Report of Tax Liability for Semiweekly Schedule Depositors*, has been updated to reflect many of the changes noted in the *Design* section above. Semiweekly depositors must review this schedule closely as the IRS uses it to determine if taxpayers have deposited their federal employment tax liabilities on time. If Schedule B is not properly completed, the IRS may propose an "averaged" failure-to-deposit penalty. Many taxpayers make the mistake of listing their *tax deposits* on Schedule B rather than their "tax liabilities" and end up receiving IRS penalty notices several months later which cover all ensuing tax periods. The tax liabilities you report on Schedule B should include any adjustments you report on Part 1, lines 7d through 7g.

■ **Signature**

The signature of the taxpayer (e.g., officer, president, owner) is required on Form 941, Part 5 (page two). A spokesperson for the IRS has indicated completion of Part 6 (For paid preparers only) is completely optional.

- **Due date.** According to an IRS official, the IRS expects employers to use the form for the first quarter of 2005 (generally due April 30th). Although the IRS will accept submissions from taxpayers who accidentally use the old form, the official said there is no reason for taxpayers to continue using the old version.

This Hot Topic is an informative publication for our clients and friends of the Firm. It is designed to provide accurate information on the subject matter covered. We recommend you consult with your legal and other advisors to determine if the information is applicable in your specific circumstances. If these advisors are not available to you, please feel free to contact Barry N. Finkelstein, CPA at 972/934-1577 or e-mail at info@facpa.com.