

Lesson 7: Form 945

Hello and welcome back to our lesson on Form 945. We have been working our way through understanding Form 1099 reporting under chapter 61 and talked more about those forms and processes over the last few lessons. We had not started discussion at all about Form 945, which is the tax return used to report backup withholding and deposits to the IRS. This lesson will provide a brief overview to explain Form 945 – especially, because it relates to employer reporting. Let's start!

Form 945 is called the Annual Return of Withheld Federal Income Tax. Generally, payors use it to report withheld federal income tax from nonpayroll payments, which include, –

- pensions,
- military retirement,
- gambling winnings,
- certain government payments on which the recipient elected voluntary income tax withholding,
- Dividends and other distributions by an Alaska Native Corporation where the recipient elected voluntary income tax withholding; and
- payments subject to backup withholding.

Payors that withhold federal income tax, including backup withholding, from nonpayroll payments, must file Form 945. If the payor does not have a nonpayroll tax liability for a calendar year, meaning it did not withhold any federal income tax from nonpayroll payments, then it generally does not have to report on Form 945 for that year. There are many organizations that choose to file a “zero” return to avoid receiving a notice asking for the Form 945 and the resulting letter to explain why a return is not required. Also, if the payor is required to report federal withholding on Form 1042, Annual Withholding Tax Return for U.S. Source Income of Non-U.S. Persons, then generally, that same federal withholding is not required on Form 945.

Payors that file Form 945 may also be required to file Form 945-A, Annual Record of Federal Tax Liability. Now, let's take a look at the rules.

First, payors must file Form 945 by January 31 in the year following the calendar year in which it had a federal income tax liability for nonpayroll payments, meaning income tax was withheld from the nonpayroll items paid. So, a payor with backup withholding liability in 2019 would have to file Form 945 by January 31, 2020. Now, if the payor made its deposits on time and in full payment of taxes for the year, then the payor is permitted to file Form 945 by February 10, 2020. You may have heard this referred to as the 10 day grace period.

Now, what is required to be on this Form 945? This form pretty much reports any federal income tax withheld for the calendar year, backup withholding applied for the calendar year, and the total deposits for the calendar year. It is a way for the payor to say to the IRS – here are my tax liabilities for the calendar year, here is what I deposited to you, and here is the status of what the payor owes or does not owe to the IRS in tax liability for the calendar year. So, all in all, a fairly simple form.

Like most other forms, the IRS encourages payors to file Form 945 electronically; however, they are allowed to file on paper. Where to file is included in the instructions to this form and published by the IRS.

Last, let's talk about penalties and interest. There are penalties for filing Form 945 late and for remitting deposits to the IRS late. In such a case, the IRS charges interest on taxes paid late at a rate that is set by law. The IRS also assesses penalties for failure to file information returns and failure to furnish payee statements to payees. If the payor has reasonable cause for the delay in both cases, it may use Form 843 to request abatement of assessed penalties or interest.

And that is about it for Form 945 – the form where a payor reports its backup withholding liability. In our next lesson, we will begin our journey through chapter 3 reporting on Form 1042 and 1042-S. See you then!