

26 CFR 601.602: *Forms and instructions.*  
(Also Part I, §§ 6011, 6051, 6071, 6081;  
301.6011-2T, 31.6051-1, 31.6071(a)-1, 31.6081  
(a)-1)

## **Rev. Proc. 96-57**

### **SECTION 1. PURPOSE**

.01 This revenue procedure provides automatic extensions of time for (1) furnishing Form W-2, Wage and Tax Statement, to employees and (2) filing Form W-2, with the Social Security Administration (SSA) as provided in §§ 31.6051-1(d)(2)(ii) and 31.6081(a)-1(a)(3)(ii) of the Employment Tax Regulations. These automatic extensions also apply to Form 499R-2/W-2PR, Withholding Statement; Form W-2VI, U.S. Virgin Island Wage and Tax Statement; Form W-2GU, Guam Wage and Tax Statement; and Form W-2AS, American Samoa Wage and Tax Statement. These automatic extensions are only available to "Qualified Employers," as defined below.

### **SECTION 2. BACKGROUND**

.01 Section 6011(a) of the Internal Revenue Code provides that any person made liable for any tax, or for the collection of the tax, must make a return or statement according to the forms or regulations prescribed by the Secretary.

.02 Section 31.6011(a)-1 prescribes Form 941 as the form to use for persons required to make a quarterly return under the Federal Insurance Contributions Act.

.03 Section 31.6011(a)-4 prescribes Form 941 as the form to use for persons required to make a quarterly return of income tax withheld from wages.

.04 Section 31.6011(a)-6 provides that an employer who ceases to pay wages reportable on Form 941 shall file a final Form 941.

.05 Section 31.6071(a)-1 provides that Form 941 generally must be filed on or before the last day of the first calendar month following the quarter for which it is made.

.06 Section 6051(a) provides that (1) every person required to deduct and withhold income tax, or who would have been required to deduct and withhold if the employee had claimed no more than 1 withholding exemption, or (2) every employer engaged in a trade or business who pays remuneration for services performed by an employee, must furnish a written statement to an employee regarding the remuneration paid to the employee during the calen-

dar year. Section 31.6051-1(a) provides that the statement is Form W-2. Form W-2 must be furnished to the employee on or before January 31 of the following calendar year. If the employee's employment is terminated before the close of the calendar year, however, and the employee requests the Form W-2 in writing, the Form W-2 must be furnished to the employee within 30 days of the later of the written request from the employee or the last payment of wages, provided such 30-day period ends before January 31.

.07 Section 31.6051-1(d)(1)(ii) provides that, effective January 1, 1997, an employer who is required to file a final Form 941 must furnish Forms W-2 to its employees on or before the date required for filing the final Form 941. If the final Form 941 is a monthly return, as described in § 31.6011(a)-5, the Forms W-2 must be furnished on or before the last day of the month in which the final Form 941 is required to be filed.

.08 Section 31.6071(a)-1(a)(3)(ii) provides that, effective January 1, 1997, an employer who is required to file a final Form 941 must file Forms W-2 on or before the last day of the second calendar month following the period for which the final Form 941 is filed.

.09 Section 301.6011-2T(b)(2) of the temporary Regulations on Procedure and Administration provides that if an employer is required to file 250 or more Forms W-2, Forms 499R-2/W-2PR, Forms W-2VI, Forms W-2GU, or Forms W-2AS in a calendar year, the employer must file these forms on magnetic media. The 250 return threshold applies separately to each type of form. Employers who file less than 250 of these forms in a calendar year may file their forms on magnetic media with SSA, but are not required to do so.

.10 SSA prepares the magnetic media specifications (Specifications) for filing Forms W-2 and updates them annually. SSA updates the Specifications generally by July of the year to which they apply, and prints them in Technical Information Bulletin-4 (TIB-4). Employers may obtain the Specifications by contacting their Magnetic Media Coordinator (call 1-800-SSA-1213 for the number of the local coordinator). Employers using a personal computer and a modem can download the TIB-4 from either of two electronic bulletin board systems: SSA-BBS (410-965-1133) or IRP-BBS(IRS) (304-264-7070). Employers can gener-

ally obtain the Specifications by either of these methods in July of the current year.

.11 SSA mails the TIB-4 to those employers who filed on magnetic media in the prior year. SSA mails the TIB-4 early in the fourth quarter of each year to allow employers sufficient time to update their payroll systems for preparing the current year Forms W-2, which generally are due the last day of February following the year in which the wages were paid.

.12 SSA also prepares the magnetic media specifications for Forms 499R-2/W-2PR, Forms W-2VI, Forms W-2GU, and Forms W-2AS. These specifications, which are published in TIB-5 (Forms 499R-2/W-2PR); TIB-6 (Form W-2VI); and TIB-7 (Forms W-2GU and Forms W-2AS), are available early in the fourth quarter of the year to which they apply.

.13 Section 31.6051-1(d)(2)(ii) provides that the Commissioner may publish procedures for automatic extensions of time to furnish Forms W-2 to employees where the employer is required to furnish Forms W-2 on an expedited basis.

.14 Section 31.6081(a)-1(a)(3)(ii) provides that the Commissioner may publish procedures for automatic extensions of time to file Forms W-2 with SSA where the employer is required to file Forms W-2 on an expedited basis.

.15 Automatic extensions are appropriate for those employers who are required to (1) furnish Forms W-2 to employees and file Forms W-2 with SSA on an expedited basis, and (2) file Forms W-2 on magnetic media before the current Specifications are available. They are also appropriate for those employers who have filed on magnetic media in the prior year, even though not required to do so. While use of magnetic media does not apply to Forms W-2 furnished to employees, an extended due date for the employee copy of Forms W-2 is granted to allow the employer to prepare all the Forms W-2 at approximately the same time.

### SECTION 3. SCOPE

.01 *Qualified Employers.* The automatic extensions of time are available to "Qualified Employers." A "Qualified Employer" is an employer who:

1) is required to furnish Forms W-2 to its employees on an expedited basis under § 31.6051-1(d)(1)(ii) and file

Forms W-2 with SSA on an expedited basis under § 31.6071(a)-1(a)(3)(ii), and

2) is either required to file the expedited Forms W-2 with SSA on magnetic media, or filed Forms W-2 on magnetic media in the year prior to the year that expedited Forms W-2 are required (whether or not the employer was required to file on magnetic media in the prior year).

.02 *Application to returns filed by employers for employees in Guam, U.S. Virgin Islands, American Samoa and Puerto Rico.* Wage and tax statements filed by employers for employees in Guam, U.S. Virgin Islands, American Samoa and Puerto Rico (Form W-2GU, Form W-2VI, Form W-2AS and Form 499R-2/W-2PR, respectively) are treated in the same manner as Forms W-2.

### SECTION 4. AUTOMATIC EXTENSION PERIOD

.01 Qualified Employers must furnish Forms W-2 to the employees on or before the later of the expedited due date under § 31.6051-1(d)(1)(ii) or October 31 of the year in which they file their final Form 941.

.02 This automatic extension of time to furnish Forms W-2 to employees does not relieve an employer of its obligation to furnish a Form W-2 within 30 days to any employee who makes such a request in writing under § 6051.

.03 Qualified Employers must file Forms W-2 on or before the later of the expedited due date under § 31.6071(a)-1(a)(3)(ii) or November 30 of the year in which they file their final Form 941.

.04 These automatic extension periods remain in effect until new automatic extension periods are published by the Commissioner.

### SECTION 5. DISCRETIONARY EXTENSIONS

.01 Qualified Employers may request additional extensions of time to furnish Forms W-2 to employees and file Forms W-2 with SSA. Additional extensions of time are discretionary and should be requested from the Director, Martinsburg Computing Center. See §§ 31.6051-1(d)(2)(i), 31.6081(a)-1(a)(3)(i) and Form 8809.

.02 Employers who do not meet the definition of a "Qualified Employer" may request an extension of time to furnish Forms W-2 to employees and file Forms W-2 with SSA. These exten-

sions of time are discretionary and should be requested from the Director, Martinsburg Computing Center. See §§ 31.6051-1(d)(2)(i), 31.6081(a)-1(a)(3)(i) and Form 8809.

## **SECTION 6. EFFECTIVE DATE**

This revenue procedure is effective January 1, 1997.

## **DRAFTING INFORMATION**

The principal author of this revenue procedure is Jean M. Casey of the Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations). For further information regarding this revenue procedure, contact Ms. Casey on (202) 622-6040 (not a toll-free call).