

# 1997



Department of the Treasury  
Internal Revenue Service

## Instructions for Form W-2

### Wage and Tax Statement

Section references are to the Internal Revenue Code unless otherwise noted.

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## 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 required to give us the information. We need it to ensure that you are

complying with these laws and to allow us to figure and collect the right amount of tax.

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 time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is 32 minutes. If you have comments concerning the accuracy of this time estimate or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **DO NOT** send the tax form to this office. Instead, see **Where To File Copy A** on page 2.

### Need Help?

**Information Reporting Call Site.**— The IRS operates a centralized call site to answer questions about reporting on Forms W-2, W-3, 1099, and other information returns. If you have questions related to reporting on information returns, you may call 304-263-8700. If you have questions about magnetic media filing of Forms W-2, contact the Social Security Administration (SSA). See **Magnetic Media Reporting** on page 2.

**Bulletin Board Services.**— Using a personal computer and a modem, you can get information from either of two electronic Bulletin Board Systems (BBS)— the SSA-BBS or the IRP-BBS (IRS). You can access the SSA-BBS by dialing 410-965-1133 or the IRP-BBS (IRS) by dialing 304-264-7070.

Information available includes magnetic media filing information, some IRS and SSA forms and publications, correct social security number, information on electronic filing, and general topics of interest about information reporting. You can also use the bulletin board systems to ask questions about magnetic media or electronic filing programs and reporting on information returns.

**Substitute Forms.**— A revenue procedure explains the format that must be used on all substitute paper Forms W-2 and W-3. It is reprinted as **Pub. 1141**, General Rules and Specifications for Private Printing of Substitute Forms W-2 and W-3.

**Note:** Bar codes will not be required on 1997 substitute Forms W-2.

**Forms and Publications.**— You can get IRS forms and publications by calling 1-800-TAX-FORM (1-800-829-3676).

Forms and publications are also available by a personal computer and modem. If you subscribe to an on-line service, ask if IRS information is available and, if so, how to access it. You can get information through IRIS, the Internal Revenue Information

Services, on FedWorld, a government bulletin board. Tax forms, instructions, publications, and other IRS information, are available through IRIS.

IRIS is accessible directly by calling 703-321-8020. On the Internet, telnet to [iris.irs.ustreas.gov](http://iris.irs.ustreas.gov) or, for file transfer protocol services, connect to [ftp.irs.ustreas.gov](http://ftp.irs.ustreas.gov). If you are using the World Wide Web, connect to <http://www.irs.ustreas.gov>.

FedWorld's help desk offers technical assistance on accessing IRIS (not tax help) during regular business hours at 703-487-4608. The IRIS menu offer information on available file formats and software needed to read and print files. You must print the forms to use them; the forms are not designed to be filled out on-screen.

### Earned Income Credit (EIC) Notification

You must notify employees who have no income tax withheld that they may be eligible for an income tax refund because of the EIC. You can do this by using the official IRS Form W-2 which contains an EIC notice on the back of Copy B. If you use a substitute Form W-2 that does not contain the EIC notice, or you are not required to furnish Form W-2, or if you do not furnish a timely Form W-2 to your employee, you must give your employee **Notice 797**, Possible Federal Tax Refund Due to the Earned Income Credit (EIC).

### Changes To Note

**Household Employers.**— All household employers, even those with only one household employee, must file Form W-3 with their 1997 Forms W-2.

**Educational Expenses.**— The \$5,250 exclusion for employer-provided educational assistance has been reinstated. For tax years beginning after 1994 and before June 1, 1997, amounts paid to or on behalf of an employee are excludable from income. For tax years beginning in 1997, the exclusion is only for courses that start before July 1, 1997. However, the exclusion does not apply to graduate courses that started after June 30, 1996. Generally, a course starts on the first regular day of class. See **Pub. 508**, Educational Expenses, and Notice 96-68, 1996-52 I.R.B. 30 for more information.

**Medical Savings Account (MSA).**— Beginning January 1, 1997, an employer's contribution to an employee's MSA is not subject to income tax withholding, or social security, Medicare, or railroad retirement taxes, to the extent it is reasonable to believe at the time of payment of the contribution that it will be excludable from the income of the employee. You must report all employer contributions to an MSA in box 13 of Form W-2. See the instructions for Box 13, Code R. Employer contributions to an MSA that are not excludable from the income of the employee also must be reported in box 1. To the extent that it is not reasonable to believe at the time of payment that the contribution will be excludable from the income of the employee,

employer contributions are subject to income tax withholding, social security and Medicare taxes (or railroad retirement tax, if applicable), and must be reported in boxes 1, 3, and 5. An **employee's** contributions to an MSA are includible in income as wages and are subject to income tax withholding, and social security and Medicare taxes (or railroad retirement tax, if applicable). Employee contributions are deductible, within limits, on the employee's Form 1040. See Notice 96-53, 1996-51 I.R.B. 5, for more information on MSAs.

**SIMPLE Retirement Account.**— Beginning January 1, 1997, an **employee's** salary reduction contributions to a SIMPLE retirement account are not subject to income tax withholding but are subject to social security, Medicare, and railroad retirement taxes. Do not include an employee's contribution in box 1; but do include it in boxes 3 and 5. An employee's total contribution also must be included in box 13 of Form W-2. See the instructions for Box 13, Codes D and S. An **employer's** matching or nonelective contribution to an employee's SIMPLE retirement account is not subject to income tax withholding, or social security, Medicare, or railroad retirement taxes and is not to be shown on Form W-2. See Notice 97-6, 1997-2 I.R.B. 26, for more information on SIMPLE retirement accounts.

**Adoption Benefits.**— Beginning January 1, 1997, amounts paid or expenses incurred by an employer for qualified adoption expenses under an adoption assistance program are not subject to income tax withholding and are not reportable in box 1. However, this amount is subject to social security, Medicare, and railroad retirement taxes and must be reported in boxes 3 and 5. Also report the total amount in box 13. See the instructions for Box 13, Code T. See Notice 97-9, 1997-2 I.R.B. 35, for more information on adoption benefits.

**Social Security Wage Base Increase.**— The 1997 wage base for social security is **\$65,400**. There is no limit on the amount of wages that are subject to Medicare tax. For social security, the tax rate is 6.2% each for employers and employees. For Medicare, the rate is 1.45% each for employers and employees.

**Employers Terminating Operations.**— Beginning January 1, 1997, if you terminate your business, you must provide Forms W-2 to your employees for the calendar year of termination by the date your final Form 941 is required to be filed. You must also file Forms W-2 with the SSA by the end of the second month after the end of the quarter for which the final Form 941 is filed. However, if any of your employees are immediately employed by a successor employer, see Rev. Proc. 96-60, 1996-53 I.R.B. 24 for rules. Also see Rev. Proc. 96-57, 1996-53 I.R.B. 14, for information on automatic extensions for furnishing Forms W-2 to employees and filing Forms W-2 with SSA.

**Civil Damages for Fraudulent Filing of Information Returns.**— If, after July 30, 1996, any person willfully files a fraudulent Form W-2 for payments purported to be made to another person, the other person may bring a civil action for damages against the person filing such Form W-2. See **Penalties** later.

**Reporting Special Wage Payments.**— For information on reporting compensation earned in prior years, see **Pub. 957**, Reporting Back Pay and Special Wage Payments to the Social Security Administration, and **Form SSA-131**, Employer Report of Special Wage Payments.

## Filing Form W-2

**Who Must File.**— Employers must file Form W-2 for each employee from whom income, social security, or Medicare taxes have been withheld. You must also file the form for each

employee from whom income tax would have been withheld if the employee had claimed no more than one withholding allowance or had not claimed exemption from withholding on **Form W-4**, Employee's Withholding Allowance Certificate. Also, every employer engaged in a trade or business who pays remuneration for services performed by an employee, including the cash value of such remuneration paid in any medium other than cash, must furnish a Form W-2 to each employee. These rules apply to any employee even if they are related to the employer.

If you are required to file 250 or more Forms W-2, see instructions for **Magnetic Media Reporting** below.

Detailed employment information is given in **Circular E**, Employer's Tax Guide (Pub. 15), and **Circular A**, Agricultural Employer's Tax Guide (Pub. 51). Also, **Pub. 926**, Household Employer's Tax Guide, and **Pub. 15-A**, Employer's Supplemental Tax Guide, provide additional information.

**When To File Copy A.**— File Copy A of Form W-2 with the entire first page of **Form W-3**, Transmittal of Wage and Tax Statements, by March 2, 1998.

**Extension To File Copy A.**— You may request an extension of time for filing Form W-2 with SSA by sending **Form 8809**, Request for Extension of Time To File Information Returns, to the address shown on that form. You must request the extension before the due date of the returns for your request to be considered. If your request is approved, you will have an additional 30 days to file. See Form 8809 for more details.

**Where To File Copy A.**— File Copy A of Form W-2 with the entire first page of Form W-3 at the following address:

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 a carrier other than the U.S. Postal Service to deliver this information, add "1150 E. Mountain Dr." to the address and change the ZIP code to "18769."*

**Household Employers.**— Household employers, even those with only one household employee, must file Form W-3 with Form W-2. On Form W-2, mark the "Hshld. emp." box in box 15, and on Form W-3 mark the "Hshld." box in box b.

**Filing Copy 1.**— Send Copy 1 of Form W-2 to your state, city, or local tax department. For more information concerning Copy 1, contact your state, city, or local tax department.

**Furnishing Copies B, C, and 2.**— Furnish Copies B, C, and 2 of Form W-2 to your employees, generally, by February 2, 1998. You will meet the "furnish" requirement if the form is properly addressed and mailed on or before the due date.

If employment ends before December 31, 1997, you may give copies any time after employment ends, but by February 2, 1998. If an employee asks for Form W-2, give him or her the completed copies within 30 days of the request or the final wage payment, whichever is later. However, see **Employers Terminating Operations** earlier.

You may give statements to employees on government printed official forms or on privately printed substitute forms (see **Substitute Forms** on page 1). Be sure the statements you provide to employees are clear and legible and comply with the requirements in Pub. 1141.

**Extension For Furnishing Form W-2 To Employees.**— You may request an extension of time to provide the statements to employees by sending a letter to:

IRS—Martinsburg Computing Center  
Information Reporting Program  
P.O. Box 1359, MS-360  
Martinsburg, WV 25402-1359

The letter must include: (a) your name and address, (b) your taxpayer identification number, (c) type of return, (d) a concise statement of the reasons for requesting the extension, and (e) your signature or the signature of your authorized agent (provided the request sets forth a reason (illness, absence, or other good cause) for a signature other than the employer's). Your request must be mailed or delivered on or before the applicable due date for furnishing Forms W-2 to employees.

**Undeliverable Forms W-2.**— Keep for 4 years any employee copies of Forms W-2 that you tried to deliver but could not.

**Copy D.**— Keep Copy D with "Your Copy" of Form W-3 for your records.

**Magnetic Media Reporting.**— If you are required to file 250 or more Forms W-2, you must file them on magnetic media unless the IRS granted you a waiver.

A waiver can be requested on **Form 8508**, Request for Waiver From Filing Information Returns on Magnetic Media. This form must be submitted to the IRS 45 days before the due date of the return. Get Form 8508 for filing information.

**Note:** *If you file on magnetic media, do not file the same returns on paper.*

Magnetic media reporting specifications are in SSA Pub. No. 42-007 (TIB-4), Magnetic Media Reporting. This bulletin can be downloaded from the SSA's bulletin board via a computer and modem by dialing 410-965-1133. You can also get these specifications by contacting any of the Social Security Magnetic Media Coordinators. Call 1-800-SSA-1213 for the phone number of the coordinator in your area. You may also call the Resubmittal Group on 410-965-4241 or write to:

Social Security Administration  
Attn: Resubmittal Group  
3-E-10 NB, Metro West  
P.O. Box 2317  
Baltimore, MD 21235

Reporting instructions for magnetic media filing may differ from the paper reporting instructions. For example, magnetic media filers may enter more than three entries in box 13 in one individual's wage report on magnetic tape but not on one paper Form W-2.

## General Instructions

The following guidelines are provided to help you complete and, if necessary, correct Forms W-2. Also see **Reconciling Forms W-2, W-3, 941, and 943** in the 1997 Form W-3 instructions for information on reducing reporting discrepancies.

**Calendar Year Basis.**— The entries on Form W-2 must be based on a calendar year. Use Form W-2 for the correct tax year.

**Taxpayer Identification Numbers.**— We use these numbers to check the payments you report against the amounts shown on the employees' tax returns. These numbers are also used to record employee earnings for future social security and Medicare benefits. **When you prepare Form W-2, be sure to show the correct social security number (SSN) on the form or on magnetic media.**

Employers use an employer identification number (EIN) (00-000000). Employees use a social security number (000-00-0000). When you list a number, please separate the nine digits properly to show the kind of number.

**Alien Residence Status Change.**— If your employee has been given a new social security card following an adjustment to his or her alien residence status that shows a different name or social security number, correct your records for 1997 and show the new information on the 1997 Form W-2. If you filed Form W-2 for the same employee in prior years under the old name and social security number, file **Form W-2c, Corrected Wage and Tax Statement**, to correct the name and number. (See **Corrections** below.)

Use a separate Form W-2c to correct each prior year. Advise the employee to contact the local Social Security office no earlier than 9 months after the correction was made to ensure that his or her record has been updated.

**Corrections.**— Use Form W-2c to correct errors (including name and address) on a previously filed Form W-2. Use **Form W-3c, Transmittal of Corrected Wage and Tax Statements**, to send with the Forms W-2c unless you are only correcting the employees' names, addresses, or SSNs. Instructions are on the forms.

If a Form W-2 needs to be corrected before Copy A is filed with the SSA, mark the "Void" box on the original Copy A. Prepare a new Form W-2 and send the new Copy A to the SSA. Write "Corrected" on the employee's copies (B, C, and 2) and give those to the employee. **Do not** write "Corrected" on the new Copy A.

If you are making an adjustment in 1997 to correct social security and Medicare taxes for a prior year, you must file **Form 941c, Supporting Statement To Correct Information**, with your Form 941 or 943 in the return period you find the error, and issue the employee a Form W-2c for the prior year. If you are correcting social security or Medicare wages or tips, also file the entire first page of Forms W-2c and W-3c with the SSA to correct the social security records.

**Repayments.**— If employees repay you for wages received in error, do not offset the repayments against current year wages unless the repayments are for amounts received in error in the current year, but related to a prior year or years, require special tax treatment by employees in some cases. You may advise the employee of the total repayments made during the current year and the amount (if any) related to prior years. This information will help them account for such repayments on their Federal income tax returns.

If the repayment was for a prior year, you must file Form W-2c with the SSA to correct social security and Medicare wages and tax. Report an adjustment on Form 941 for the quarter during which the repayment was made to recover the social security and Medicare taxes. Instead of making an adjustment on Form 941, you may file a claim for these taxes using Form 843, Claim for Refund and Request for Abatement. You may not make an adjustment for income tax withholding because the wages were paid during a prior year. Do not correct wages (box 1) on Form W-2c for the amount paid in error.

**Note:** Please tell your employee that the wages paid in error in a prior year remain taxable to the employee for that year. This is because the employee received and had use of those funds during that year. The employee is not entitled to file an amended return (Form 1040X) to recover the income tax on these wages. Instead, the employee is entitled to a deduction (or a credit, in some cases) for the repaid wages on his or her income tax return for the year of repayment.

**Reissued Statement.**— If an employee loses a statement, write "REISSUED STATEMENT" on the new copy, **but do not send Copy A of the reissued statement to the SSA.**

**Multiple Forms.**— If necessary, you can issue more than one Form W-2 to an employee. For example, you may need to report more than three coded items in box 13 or you may want to report other compensation on a second form. If you issue a second Form W-2, complete boxes b, c, d, and e with the same information as on the first Form W-2. Show any additional items that were not included on the first Form W-2 in the appropriate boxes.

**Do not** report the same Federal tax data to the SSA on more than one Copy A.

## Special Reporting Situations

**Agent Reporting.**— Generally, an agent that has an approved **Form(s) 2678, Employer Appointment of Agent**, should enter his or her name as the employer in box c of Form W-2, and file one Form W-2. However, if the agent (1) is acting as an agent for two or more employers, or is an employer and is acting as an agent for another employer, and (2) pays social security wages in excess of the wage base to an individual, special reporting for payments to that individual is needed.

If an agent meets the requirements explained in items (1) and (2) above, the special reporting requirements are as follows. The agent must file separate Forms W-2 reflecting the wages paid by each employer. On each Form W-2 filed as an agent, the agent should enter the following in box c:

[name of agent],  
agent for [name of employer]  
address of agent

Each Form W-2 should reflect the EIN of the agent in box b. In addition, the employer's EIN should be shown in box h of Form W-3. Get **Pub. 1271** (Rev. Proc. 70-6) and **Pub. 1272** (Rev. Proc. 84-33), for procedures to be followed in applying to be an agent.

**Moving Expense Reimbursements.**— Reimbursements (including payments made directly to a third party and services furnished in kind) for an employee's moving expenses are reported as follows:

- Qualified moving expense reimbursements are excluded from wages, but are reported in box 13 of Form W-2 using code **P**. These are reimbursements for moving expenses incurred that would have been deductible by the employee if he or she had paid them but were not deducted by the employee in a prior year. These reimbursements should be made under rules similar to those of an accountable plan.
- Other moving expense reimbursements are included in wages and are subject to income tax withholding, and social security and Medicare taxes.

For details on moving expenses, see **Pub. 521, Moving Expenses**.

**Employee's Taxes Paid by Employer.**— If you paid your employee's share of social security and Medicare taxes rather than deducting them from his or her wages, you must include the amount of the payments as wages, subject to income tax withholding, and social security, Medicare, and Federal unemployment taxes. This increase in your employee's wages for your payment of the employee's social security and Medicare taxes is also subject to employee social security and Medicare taxes. This again increases the amount of the additional taxes you must pay. The amount to include as wages is determined by using the formula contained in the discussion of **Employee's Portion of Taxes Paid by Employer** in Pub. 15-A.

**Note:** This discussion does not apply to **household and agricultural employers**. If you pay a household or agricultural employee's social security and Medicare taxes, these payments must be included in the employee's wages. However, the wage increase that is due to the tax payments is not subject to social security and Medicare taxes as discussed above.

**Deceased Employee's Wages.**— If an employee dies during the year, you must report the accrued wages, vacation pay, and other compensation paid after the date of death.

If you made the payment in the same year the employee died, you must withhold social security and Medicare taxes on the payment and report the payment on the employee's Form W-2 only as social security and Medicare wages to ensure proper social security and Medicare credit is received.

On Form W-2, show the payment as social security wages (box 3) and Medicare wages and tips (box 5) and the social security and Medicare taxes withheld in boxes 4 and 6. **Do not show the payment in box 1.**

If you made the payment after the year of death, do not report it on Form W-2, and do not withhold social security and Medicare taxes.

Whether the payment is made in the year of death or after the year of death, you also must report it in box 3 of **Form 1099-MISC, Miscellaneous Income**, for the payment to the estate or beneficiary. Use the name and TIN of the estate or beneficiary on Form 1099-MISC. If you do not have the TIN of the estate or beneficiary leave the TIN entry box blank.

**Example.**— Before Employee A's death on June 15, 1997, A was employed by Employer X and received \$10,000 in wages on which Federal income tax of \$1,500 was withheld. When A died, X owed A \$2,000 in wages and \$1,000 in accrued vacation pay. The total of \$3,000 was paid to A's estate on July 20, 1997. Because X made the payment during the year of death, X must withhold social security and Medicare taxes on the \$3,000 payment and must complete Form W-2 as follows:

|        |  |
|--------|--|
| Box d  | Employee A's social security number                                    |
| Box e  | Employee A's name  |
| Box f  | Employee A's address   |
| Box 1  | 10000.00 (does not include the \$3,000 accrued wages and vacation pay) |
| Box 2  | 1500.00  |
| Box 3  | 13000.00 (includes the \$3,000 accrued wages and vacation pay)         |
| Box 4  | 806.00   |
| Box 5  | 13000.00   |
| Box 6  | 188.50   |
| Box 15 | Mark the "Deceased" box  |

Employer X also must complete Form 1099-MISC as follows:

Boxes for recipient's name, address, and TIN—The estate's name, address, and TIN.

|       |  |
|-------|--|
| Box 3 | 3000.00 (Even though amounts were withheld for social security and Medicare taxes, the gross amount is reported) |
|-------|--|

If Employer X made the payment after the year of death, the \$3,000 would **not** be subject to social security and Medicare taxes and would **not** be shown on Form W-2. However, the employer would still file Form 1099-MISC.

**Employee Business Expense Reimbursements.**— Reimbursements for employee business expenses must be reported as follows:

- Generally, payments made under an accountable plan are excluded from the

employee's gross income and are not required to be reported on Form W-2. However, if you pay a per diem or mileage allowance, and the amount paid exceeds the amount treated as substantiated under IRS rules, you must report as wages on Form W-2 the amount in excess of the amount treated as substantiated. The excess amount is subject to income tax withholding, and social security and Medicare taxes. Report the amount treated as substantiated (i.e., the nontaxable portion) in box 13 using code L.

- Payments made under a nonaccountable plan are reportable as wages on Form W-2 and are subject to income tax withholding, and social security and Medicare taxes.

For more information on accountable plans, nonaccountable plans, amounts treated as substantiated under a per diem or mileage allowance, the standard mileage rate, the per diem substantiation method, and the high-low substantiation method, see **Pub. 463**, Travel, Entertainment, Gift, and Car Expenses; and **Pub. 1542**, Per Diem Rates.

**Group-Term Life Insurance.**— If you paid for group-term life insurance in excess of \$50,000 for an employee or a former employee, you must report the amount determined by using the table in Pub. 15-A in boxes 1, 3, and 5 of Form W-2. Also, show the amount in box 13 with code C. For employees, you must withhold social security and Medicare taxes. Former employees must pay the employee part of social security and Medicare taxes on premiums for group-term life insurance over \$50,000 on Form 1040. You are not required to collect those taxes. However, you must report the uncollected social security tax with code M and the uncollected Medicare tax with code N in box 13 of Form W-2.

**Medical Savings Account (MSA).**— Beginning January 1, 1997, an employer's contribution to an employee's MSA is not subject to income tax withholding, or social security, Medicare, or railroad retirement taxes, to the extent it is reasonable to believe at the time of payment of the contribution that it will be excludable from the income of the employee. You must report all employer contributions to an MSA in box 13 of Form W-2. See the instructions for Box 13, Code R. Employer contributions to an MSA that are not excludable from the income of the employee also must be reported in box 1. To the extent that it is not reasonable to believe at the time of payment that the contribution will be excludable from the income of the employee, employer contributions are subject to income tax withholding, social security and Medicare taxes (or railroad retirement tax, if applicable), and must be reported in boxes 1, 3, and 5. An employee's contributions to an MSA are includable in income as wages and are subject to income tax withholding, and social security and Medicare taxes (railroad retirement tax, if applicable). Employee contributions are deductible, within limits, on the employee's Form 1040. See Notice 96-53, 1996-51 I.R.B. 5, for more information on MSAs.

**SIMPLE Retirement Account.**— Beginning January 1, 1997, an employee's salary reduction contributions to a SIMPLE retirement account are not subject to income tax withholding but are subject to social security, Medicare, and railroad retirement taxes. Do not include an employee's contribution in box 1; but do include it in boxes 3 and 5. An employee's total contribution also must be included in box 13 of Form W-2. See the instructions for Box 13, Codes D and S. An employer's matching or nonelective contribution to an employee's SIMPLE retirement account is not subject to income tax withholding, or social security, Medicare, or railroad retirement taxes and is

not to be shown on Form W-2. See Notice 97-6, 1997-2 I.R.B. 26, for more information on SIMPLE retirement accounts.

**Adoption Benefits.**— Beginning January 1, 1997, amounts paid or expenses incurred by an employer for qualified adoption expenses under an adoption assistance program are not subject to income tax withholding and are not reportable in box 1. However, this amount is subject to social security, Medicare, and railroad retirement taxes and must be reported in boxes 3 and 5. Also the total amount must be reported in box 13. See the instructions for Box 13, Code T. See Notice 97-9, 1997-2 I.R.B. 35, for more information on adoption benefits.

**Sick Pay.**— If you had employees who received sick pay in 1997 from an insurance company or other third-party payer, and the third party notified you of the amount of sick pay involved, you may be required to report the information on the employees' Forms W-2.

See **Sick Pay Reporting** in Pub. 15-A for specific instructions.

**Scholarship and Fellowship Grants.**— Give a Form W-2 to each recipient of a scholarship or fellowship grant only if you are reporting amounts includable in income under section 117(c) (relating to payments for teaching, research, or other services required as a condition for receiving the qualified scholarship). (See Pub. 15-A and **Pub. 520**, Scholarships and Fellowships, for more information.) Such amounts are subject to income tax withholding. However, their taxability for social security and Medicare taxes depends on the nature of the employment and the status of the organization. See **Students** in section 15 of Circular E.

**Fringe Benefits.**— Include all taxable fringe benefits in box 1 as wages, tips, and other compensation and, if applicable, in boxes 3 and 5 as social security and Medicare wages. Show the total value of the fringe benefits in box 12 of Form W-2. You may issue a separate statement or another Form W-2 showing just the value of the fringe benefits in boxes 1, 3, 5, and a note in box 12. The amounts reported in boxes 13 and/or 10 should not be included in the amount reported in box 12. If you provided your employee a vehicle and included 100% of its annual lease value in the employee's income, you must separately report this value to the employee in box 12 or on a separate statement. The employee can then figure the value of any business use of the vehicle and report it on **Form 2106**, Employee Business Expenses. See **Fringe Benefits** in **Pub. 535**, Business Expenses, for more details.

**Note:** *If you used the commuting rule or the vehicle cents-per-mile rule to value the personal use of the vehicle, you cannot include 100% of the value of the use of the vehicle in the employee's income. See Pub. 535.*

**Golden Parachute Payments.**— Include the amount of the payments in boxes 1, 3, and 5 of Form W-2. Withhold income, social security, and Medicare taxes as usual and report them in boxes 2, 4, and 6, respectively, of Form W-2. Excess payments are also subject to a 20% excise tax. If the excess payments are considered wages, withhold the 20% excise tax and include it in box 2 as income tax withholding. Also report it in box 13 with code K. For additional information, see sections 280G and 4999.

**Government Employers.**— Federal, state, and local agencies have two options for reporting their employees' wages that are subject to only Medicare taxes for part of the year and full social security and Medicare taxes for part of the year. The **first option** is to file

two Forms W-2. File one Form W-2 with wages subject only to Medicare tax. Be sure to check the "Medicare govt. emp." box in box b of Form W-3. File the second Form W-2 for wages subject to both social security and Medicare taxes with the "941" box checked in box b of Form W-3.

The **second option** (which SSA prefers) is to file a single Form W-2 with the Medicare only wages and the social security and Medicare wages combined. The Form W-3 should have the "941" box marked.

**Railroad Employers.**— Railroad employers must file Form W-2 to report their employees' wages and income tax withholding. Reporting on magnetic media may be required; see **Magnetic Media Reporting** on page 2.

If an employee is covered by social security and Medicare, the Form W-2 should reflect the social security and Medicare wages in addition to the amounts withheld for social security and Medicare taxes (if any). The Form W-3 used to transmit these Forms W-2 should have the "941" box marked in box b.

You must report the Tier I and Tier II taxes and compensation in box 14 of Form W-2 for railroad employees covered under the Railroad Retirement Tax Act (RRTA). (**Note:** *Employer contributions to an employee's medical savings account are not subject to railroad retirement tax to the extent that it is reasonable to believe at the time of payment that the contribution will be excludable from the gross income of the employee.*) Boxes 3, 4, 5, 6, and 7 apply only to covered social security and Medicare employees and are not to be used to report railroad retirement taxes. The Form W-3 used to transmit these Forms W-2 must have the "CT-1" box checked in box b.

If you use a substitute form for your employees, get Pub. 1141.

## Penalties

The following penalties generally apply to the person required to file Form W-2. The penalties apply to paper filers as well as magnetic media/electronic filers.

**Note:** *Use of a reporting agent or other third-party payroll service provider does not relieve an employer of the responsibility to ensure that tax and information returns are sent out and/or filed correctly and on time.*

**Failure To File Correct Information Returns by the Due Date.**— If you fail to file a correct Form W-2 by the due date and cannot show reasonable cause, you may be subject to a penalty. The penalty applies if you:

- Fail to file timely,
- Fail to include all information required to be shown on Form W-2,
- Include incorrect information on Form W-2,
- File on paper when you were required to file on magnetic media,
- Report an incorrect TIN,
- Fail to report a TIN, or
- Fail to file paper information returns that are machine readable.

The amount of the penalty is based on when you file the correct Form W-2. The penalty is:

- \$15 per Form W-2 if you correctly file within 30 days (by March 30); maximum penalty \$75,000 per year (\$25,000 for small businesses, defined later).
- \$30 per Form W-2 if you correctly file more than 30 days after the due date but by August 1; maximum penalty \$150,000 per year (\$50,000 for small businesses).
- \$50 per information return if you file after August 1, or you do not file required Forms W-2; maximum penalty \$250,000 per year (\$100,000 for small businesses).

**Exceptions.** If you meet any of the following exceptions you will not be liable for the penalty:

- The penalty will not apply to any failure that you can show was due to reasonable cause and not to willful neglect.
- An inconsequential error or omission is not considered a failure to include correct information. An inconsequential error or omission does not prevent or hinder the IRS from processing the Form W-2, correlating the information required to be shown on the form with the information shown on the payee's tax return, or from otherwise putting the form to its intended use. Errors and omissions that are never inconsequential are those relating to (a) a TIN, (b) a payee's surname, and (c) any money amounts.

• **De Minimis Rule for Corrections.**— Even though you cannot show reasonable cause, the penalty for failure to file correct Forms W-2 will not apply to a certain number of returns if:

1. You filed those Forms W-2,
2. Either you failed to include all the information required to be shown on the form or you included incorrect information, and
3. You filed corrections of these Forms W-2 by August 1.

If you meet all the conditions in 1 through 3, the penalty for filing incorrect Forms W-2 (but not for filing late) will not apply to the greater of 10 Forms W-2 or 1/2 of 1% of the total number of Forms W-2 you are required to file for the calendar year.

**Lower Maximum Penalties for Small Businesses.**— For purposes of the lower maximum penalties shown in parentheses above, you are a small business if your average annual gross receipts for the 3 most recent tax years (or for the period you were in existence, if shorter) ending before the calendar year in which the Forms W-2 were due are \$5 million or less.

**Intentional Disregard of Filing Requirements.**— If any failure to file a correct Form W-2 is due to intentional disregard of the filing or correct information requirements, the penalty is at least \$100 per Form W-2 with no maximum penalty.

**Failure To Furnish Correct Payee Statements.**— If you fail to provide correct payee statements (Forms W-2 to your employees) and you cannot show reasonable cause, you may be subject to a penalty. The penalty applies if you fail to provide the statement by January 31, you fail to include all information required to be shown on the statement, or you include incorrect information on the statement.

The penalty is \$50 per statement, no matter when the correct statement is furnished, with a maximum of \$100,000 per year. The penalty is not reduced for furnishing a correct statement by August 1.

**Exception.** An inconsequential error or omission is not considered a failure to include correct information. An inconsequential error or omission cannot reasonably be expected to prevent or hinder the payee from timely receiving correct information and reporting it on his or her income tax return or from otherwise putting the statement to its intended use. Errors and omissions that are never inconsequential are those relating to:

1. A dollar amount,
2. A payee's address, and
3. The appropriate form for the information provided (i.e., whether the form is an acceptable substitute for the official IRS form).

**Intentional Disregard of Payee Statement Requirements.**— If any failure to provide a correct payee statement (Form W-2) is due to intentional disregard of the requirements to furnish a correct payee statement, the penalty is at least \$100 per Form W-2 with no maximum penalty.

**Civil Damages For Fraudulent Filing of Information Returns.**— If after July 30, 1996, any person willfully files a fraudulent Form W-2 for payments purported to be made to another person, the other person may bring a civil action for damages against the person filing such Form W-2. The filer (defendant) may be liable for \$5,000 or more.

## How To Complete Form W-2

Form W-2 is a six-part form. Please ensure that the copies are legible.

Type the entries on Form W-2 using black ink. Do not use script type, inverted font, italics, or dual case alpha characters. Copy A is read by machines. The use of red ink or printing hinders report data entry processing by the SSA. It is important that entries in the boxes do not cross one or more of the vertical or horizontal lines that separate the boxes. Please do not erase, whiteout, or strike over an entry. **Make all dollar entries without the dollar sign and comma but with the decimal point (00000.00). Show the cents portion of the money amounts.**

Send the whole Copy A page to the SSA even if one of the forms is blank or void. If you are sending 42 or more Forms W-2, please show subtotals on every 42nd form for the preceding 41 forms. **Caution: Void statements are counted in order with correct statements, but do not include money amounts from the void statements in the subtotal amounts.** See **Box 15, Subtotal**, instructions on page 8.

If possible, please file Forms W-2 either alphabetically by employees' last names or numerically by employees' SSNs. This will help the SSA locate specific forms.

## Specific Instructions

**Box a—Control number.**— You may use this box to identify individual Forms W-2. You do not have to use this box.

**Void.**— Check this box when an error has been made. If you are required to submit subtotal Forms W-2 (see **Box 15, Subtotal**), please be very careful not to include any amounts shown on Void forms in the subtotals on Form W-2. The inadvertent inclusion of these amounts in subtotals necessitates additional communication with employers to resolve discrepancies. To eliminate delays in processing these forms as well as time-consuming communications, **do not** include any amounts from Void Forms W-2 in the amounts reported on subtotal Forms W-2.

**Box b—Employer's identification number.**— Show the number assigned to you by the IRS (00-0000000). This should be the same number that you used on your Federal employment tax returns (Form 941 or 943). Do not use a prior owner's EIN. If you do not have an EIN when filing Forms W-2, enter "Applied For" in box b, not your SSN. You can get an EIN by filing **Form SS-4, Application for Employer Identification Number**. See **Agent Reporting** on page 3.

**Box c—Employer's name, address, and ZIP code.**— This entry should be the same as shown on your Form 941 or 943. See **Agent Reporting** on page 3.

**Box d—Employee's social security number.**— Enter the number shown on the employee's social security card. If the employee does not have a card, he or she should apply for one by completing **Form SS-5, Application for a Social Security Card**. If the employee has applied for a card but the number is not received in time for filing, enter "Applied For" in box d.

Tell the employee to show you the card when it is received. When you see the employee's card showing the SSN, correct your previous report by filing Form W-2c showing the employee's SSN. Also show the employee's name as shown on the card. If the employee needs to change his or her name from that shown on the card, the employee should call SSA at 1-800-772-1213.

**Box e—Employee's name.**— Enter the name as shown on the employee's social security card (first, middle initial, last). If the name does not fit, you may show first name initial, middle initial, and last name. If the name has changed, have the employee get a corrected card from any SSA office. Use the name on the original card until you see the corrected one. Do not show titles or academic degrees at the end of the employee's name.

**Box f—Employee's address and ZIP code.**— This box is combined with box e (Employee's name) on all copies except Copy A.

**Box 1—Wages, tips, other compensation.**— Show in box 1 (excluding elective deferrals, except section 501(c)(18) contributions), before any payroll deductions, the following items:

1. Total wages, prizes, and awards paid to employees during the year. For example, if the employee worked from December 21, 1997, through January 3, 1998, and the wages for that period were paid on January 5, 1998, include those wages on the 1998 Form W-2.
2. Total noncash payments (including certain fringe benefits). See **Fringe Benefits** in Pub. 535 for information.
3. Total tips reported by employee to employer (not allocated tips).
4. Certain employee business expense reimbursements (see **Employee Business Expense Reimbursements** on page 3).
5. The cost of accident and health insurance premiums paid on behalf of 2% or more shareholder-employees by an S corporation.
6. Taxable benefits made from a section 125 (cafeteria) plan (i.e., employee chooses cash).
7. Employee contributions to a medical savings account.
8. Employer contributions to a medical savings account if includable in the income of the employee. See **Medical Savings Account (MSA)**, on page 4.
9. Group-term life insurance in excess of \$50,000. See **Group-Term Life Insurance** on page 4.
10. Unless excludable as explained under **Educational Expenses** on page 1, payments for non-job-related educational expenses or for payments under a nonaccountable plan. See **Pub. 508, Educational Expenses**, for more information.
11. The amount of your employee's share of taxes paid by you, except for household and agriculture employees. See **Employee's Taxes Paid by Employer** on page 3.
12. All other compensation, certain scholarship and fellowship grants, and taxable payments for moving expenses (see the discussions of these items (except for other compensation) on pages 3 and 4). Other compensation is amounts that you pay your employee from which Federal income tax is not withheld. You may show other compensation

on a separate Form W-2. See **Multiple Forms** on page 3.

**13.** Distributions to an employee or former employee from a nonqualified deferred compensation plan or a section 457 plan.

**Note:** *Payments to statutory employees that are subject to social security and Medicare taxes but not subject to Federal income tax withholding must be shown in box 1 as other compensation. For more information, see **Box 15, Statutory employee**, on page 7.*

**Box 2—Federal income tax withheld.—**

Show the amount of Federal income tax withheld from the employee's wages for the year (this amount should not be reduced by any advance EIC payments made to the employee). Also include the 20% excise tax withheld on excess parachute payments.

**Box 3—Social security wages.—** Show the total wages paid (before payroll deductions) subject to employee social security tax but not including social security tips and allocated tips. (See **Box 7** and **Box 8** later.) Generally, noncash payments are considered wages. Include employee business expenses reported in box 1.

Also, include elective deferrals to certain qualified cash or deferred compensation arrangements and to retirement arrangements described in box 13, codes D, E, F, G, and S, even though the deferrals are not includible in box 1. Any amount deferred under a nonqualified plan must be included in boxes 3 and/or 5 as social security and/or Medicare wages as of the later of when the services giving rise to the deferral are performed or when there is no substantial forfeiture risk of the rights to the deferred amount. Include elective and nonelective deferrals for purposes of section 457 plans. If you paid the employee's portion of social security and Medicare taxes rather than deducting them from wages, see **Employee's Taxes Paid by Employer** on page 3.

Report in this box the cost of group-term life insurance coverage over \$50,000 that is taxable. See **Group-Term Life Insurance** on page 4. Report employee and nonexcludable employer contributions to a medical savings account in this box (see **Medical Savings Account (MSA)** on page 4). Report employee contributions to a SIMPLE retirement account in this box (see **SIMPLE Retirement Account** on page 4). Report adoption benefits in this box (see **Adoption Benefits** on page 4). Report the cost of accident and health insurance premiums paid on behalf of 2% or more shareholder-employees by an S corporation only if the exclusion under section 3121(a)(2)(B) is not satisfied. **The total of boxes 3 and 7 should not be more than \$65,400** (the maximum social security wage base for 1997).

In the case of certain members of the clergy and religious workers who are not subject to social security tax as employees, boxes 3 and 5 should be left blank. For information on the rules that apply to ministers and certain other religious workers, see **Pub. 517, Social Security and Other Information for Members of the Clergy and Religious Workers**, and Part 4 (Religious Exemptions) of Pub. 15-A.

**Box 4—Social security tax withheld.—** Show the total employee social security tax (not your share) withheld or paid by you for the employee (including social security tax on tips). The amount shown should not exceed \$4,054.80 (\$65,400 × 6.2%). Include only taxes withheld (or paid by you for the employee) for 1997 wages (this amount should not be reduced by any advance EIC payments made to the employee).

**Box 5—Medicare wages and tips.—** The wages and tips subject to Medicare tax are the same as those subject to social security tax (boxes 3 and 7), except that there is no wage base limit for Medicare tax. Enter the total Medicare wages and tips in box 5. Be sure to enter tips the employee reported even if you did not have enough employee funds to collect the Medicare tax for those tips. If you paid your employee's share of taxes, see **Employee's Taxes Paid by Employer** on page 3. Report in this box the cost of group-term life insurance coverage over \$50,000 that is taxable. See **Group-Term Life Insurance** on page 4. Report employee and nonexcludable employer contributions to a medical savings account in this box (see **Medical Savings Account (MSA)** on page 4). Report employee contributions to a SIMPLE retirement account in this box (see **SIMPLE Retirement Account** on page 4). Report adoption benefits in this box (see **Adoption Benefits** on page 4). Report the cost of accident and health insurance premiums paid on behalf of 2% or more shareholder-employees by an S corporation only if the exclusion under section 3121(a)(2)(B) is not satisfied. Also, see **Box 3** for reporting deferrals from qualified, nonqualified, and section 457 plans, and other items in box 5.

If you are a Federal, state, or local agency with employees paying only the 1.45% Medicare tax, enter the Medicare wages in this box. See **Government Employers** on page 4.

**Example.** The following is an example of how to report social security and Medicare wages in boxes 3 and 5. Assume you paid your employee \$140,000 in wages. The amount in box 3 (social security wages) should be 65400.00, but the amount shown in box 5 (Medicare wages and tips) should be 140000.00. There is no limit on the amount reported in box 5. If the amount of wages paid was \$65,400 or less, the amounts entered in boxes 3 and 5 would be the same.

**Box 6—Medicare tax withheld.—** Enter the total employee Medicare tax (not your share) withheld or paid by you for your employee. Include only taxes withheld for 1997 wages (this amount should not be reduced by any advance EIC payments made to the employee). If you are a Federal, state, or local agency, with employees paying only the 1.45% Medicare tax, enter the Medicare tax in this box.

**Box 7—Social security tips.—** Show the amount the employee reported even if you did not have enough employee funds to collect the social security tax for the tips. The total of boxes 3 and 7 should not be more than \$65,400.00 (the maximum social security wage base for 1997). Report all tips in box 1 along with wages and other compensation.

**Box 8—Allocated tips.—** If you are a large food or beverage establishment, show the amount of tips allocated to the employee. (See the **Instructions for Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips**.) **Do not** include this amount in boxes 1, 5, or 7.

**Box 9—Advance EIC payment.—** Show the total amount paid to the employee as advance earned income credit (EIC) payments.

**Box 10—Dependent care benefits.—** Show the total amount of dependent care benefits under **section 129** paid or incurred by you for your employee. Include the fair market value of employer-provided or employer-sponsored day-care facilities and amounts paid or incurred in a **section 125** (cafeteria) plan. Report all amounts paid or incurred including those in excess of the \$5,000 exclusion. This can include: the fair market value of benefits provided in-kind by the employer; an amount

paid directly to a day-care facility by the employer or reimbursed to the employee to subsidize the benefit; or benefits from the pre-tax contributions made by the employee to a section 125 dependent care flexible spending account. Include any amounts over \$5,000 in boxes 1, 3, and 5. For more information on the amount to report, see Pub. 535.

**Box 11—Nonqualified plans.—** Show the amount of **distributions** to an employee from a nonqualified plan or a section 457 plan. If you did not make distributions this year, show the amount of **deferrals** (plus earnings) under a nonqualified or section 457 plan that became taxable for social security and Medicare taxes during the year (but were for prior year services) because the deferred amounts were no longer subject to a substantial risk of forfeiture. **Do not** report in box 11 deferrals that are included in boxes 3 and/or 5 and that are for current year services.

**Note:** *If you made distributions and you are also reporting deferrals in box 3 and/or 5, do not complete box 11. See **Pub. 957, Reporting Back Pay and Special Wage Payments to the Social Security Administration**, and **Form SSA-131, Employer Reporting of Special Wage Payments**, for special reporting instructions for these and other kinds of compensation earned in prior years.*

The purpose of box 11 is for the SSA to determine if any portion of the amount reported in box 1 or boxes 3 and/or 5 was earned in a prior year. SSA uses this information to verify that they have properly applied the social security earnings test and paid the correct amount of benefits.

Unlike tax-qualified plans, nonqualified deferred compensation plans do not meet the qualification requirements for tax-favored status. Nonqualified plans include those arrangements traditionally viewed as deferring the receipt of current compensation. Accordingly, welfare benefit plans, stock option plans, and plans providing dismissal pay, termination pay, or early retirement pay are not nonqualified plans.

State and local agencies must separately identify section 457 distributions in this box by entering code **G** followed by a space, and then the dollar amount. However, if you are reporting a distribution from both a nonqualified plan and a section 457 plan, report it as a single amount in this box, and do not enter code **G**.

Report distributions from nonqualified or section 457 plans to beneficiaries of deceased employees on **Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.**, not on Form W-2.

Military employers must report military retirement payments on Form 1099-R.

**Box 12—Benefits included in box 1.—** Show the total value of the taxable fringe benefits included in box 1. Do not include amounts reported in boxes 10 and/or 13. See **Fringe Benefits** on page 4.

**Box 13.—** Complete and code this box for all items described below that apply. Do not report in box 13 any items that are not listed as codes A–T. Do not report in box 13 section 414(h)(2) contributions. Instead, use box 14 for these items or for information you wish to give your employee. For example, union dues, uniform payments, etc., may be reported in box 14.

**Note:** *On Copy A (Form W-2), do not enter more than three codes in box 13. If more than three items need to be reported in box 13, use a separate Form W-2 to report the additional items (but enter no more than three codes on each Copy A (Form W-2)). On all other copies of Form W-2, you may have more*



than three entries in box 13. See **Multiple Forms** on page 3.

Use the IRS code designated below for the item you are entering followed by the dollar amount for that item. Even if only one item is entered, you must use the IRS code designated for that item. The code should be entered using a capital letter. Leave at least one space blank after the code and enter the dollar amount on the same line. Use decimal points but not dollar signs or commas. For example, you are reporting \$5,300.00 to a section 401(k) plan. The entry in box 13 would be: D 5300.00 and not A 5300.00 even though it is the first or only entry to go in this box.

See the **Reference Guide for Box 13 Codes** on page 8. See the detailed instructions below for each code.

**Code A.** Use code **A** for uncollected social security tax on tips. Show the amount of employee social security tax on all the employee's tips that you could **not** collect because the employee did not have enough funds from which to deduct it. Do not include this amount in box 4.

**Code B.** Use code **B** for uncollected Medicare tax on tips. Show the amount of employee Medicare tax on tips that you could **not** collect because the employee did not have enough funds from which to deduct it. Do not include this amount in box 6.

**Code C.** Use code **C** for the cost of group-term life insurance coverage over \$50,000. Show the taxable amount of the cost of group-term life insurance coverage over \$50,000 provided to your employee (including a former employee). See **Group-Term Life Insurance** on page 4. Also, include it in boxes 1, 3, and 5.

**Codes D through H.** Use the following codes to show the amount of deferrals made to the plans listed below. Do not report amounts for other types of plans. See below for an example of reporting an elective deferral to a section 401(k) plan and an explanation for elective deferrals.

**Code D.** Show the amount of elective deferrals to a **section 401(k)** cash or deferred arrangement. Also, show the amount deferred under a SIMPLE retirement account that is part of a section 401(k) arrangement.

**Code E.** Show the amount deferred under a **section 403(b)** salary reduction agreement.

**Code F.** Show the amount deferred under a **section 408(k)(6)** salary reduction SEP.

**Code G.** Show the amount of elective and nonelective contributions to a **section 457(b)** deferred compensation plan for employees of state or local governments or tax-exempt organizations. Do not report section 457(f) amounts or amounts deferred under section 457(b) that are subject to a substantial risk of forfeiture.

**Note:** The section 457 dollar limitation should be reduced by deferrals to certain other deferred compensation plans. See section 457(c)(2).

**Code H.** Show the amount deferred under a **section 501(c)(18)(D)** tax-exempt organization plan. Be sure to include this amount in box 1 as wages. The employee will deduct the amount on his or her Federal income tax return.

The amount reported as an elective deferral is only the portion of the employee's salary (or other compensation) that he or she did not receive because of the deferral.

Nonelective contributions by an employer on behalf of the employee are not "elective deferrals." Nor are voluntary "after-tax contributions" (such as voluntary contributions to a pension plan that are deducted from an employee's pay after all other deductions),

required employee contributions, or employer-matching contributions. You may report these amounts in box 14. Only elective deferrals should be reported in box 13 for all coded plans, except when using code G for section 457(b) plans, include both elective and nonelective deferrals.

**Example of Reporting Elective Deferral to a Section 401(k) Plan.** The following example shows the amounts to report for a section 401(k) plan. For calendar year 1997, Employee A elected to defer \$9,800 to a section 401(k) plan and made a voluntary after-tax contribution of \$600. In addition, the employer, on Employee A's behalf, made a qualified nonelective contribution of \$1,000 to the plan and a nonelective profit-sharing employer contribution of \$2,000.

The total elective deferral of \$9,800 is reported in box 13 preceded with code D (D 9800.00). Even though the 1997 limit for elective deferrals is \$9,500.00, the employer must report the total amount of 9800.00 as an elective deferral.

The \$600 voluntary after-tax contribution may be reported in box 14. This reporting is optional. The \$1,000 nonelective contribution and the \$2,000 nonelective profit-sharing employer contribution are not reported on Form W-2.

Check the "Deferred compensation" checkbox in box 15 and enter the total elective deferral (including any excess) in box 13. Do not report any excess in box 1.

**Code J.** Use code **J** for sick pay **not** includable as income. Show the amount of any sick pay **not** includable in income because the employee contributed to the sick pay plan. If you issue a separate Form W-2 for sick pay, enter "Sick pay" in box 13.

**Code K.** Use code **K** for the tax on excess golden parachute payments. If you made excess "golden parachute" payments to certain key corporate employees, report the 20% excise tax withheld on these payments. If the excess payments are considered wages, report the 20% excise tax as income tax withholding in box 2.

**Code L.** Report the employee business expense reimbursement amount treated as substantiated, i.e., the nontaxable portion, using code **L**. Use this code only if you reimbursed your employee for employee business expenses using a per diem or mileage allowance, and the amount you reimbursed exceeds the amount treated as substantiated under IRS rules. (See **Employee Business Expense Reimbursements** on page 3.) In box 1, include the portion of the reimbursement that is more than the amount treated as substantiated.

**Do not** include any per diem or mileage allowance reimbursements for employee business expenses in box 13 if the total reimbursement is less than or equal to the amount treated as substantiated.

**Code M.** Use code **M** for uncollected social security tax on the cost of group-term life insurance coverage over \$50,000 for former employees. If you provided your former employees (including retirees) more than \$50,000 of group-term life insurance coverage for periods during which an employment relationship no longer exists, enter the amount of uncollected social security tax on the coverage in box 13. Also see **Group-Term Life Insurance** on page 4.

**Code N.** Use code **N** for uncollected Medicare tax on the cost of group-term life insurance coverage over \$50,000 for former employees. If you provided your former employees (including retirees) more than \$50,000 of group-term life insurance coverage

for periods during which an employment relationship no longer exists, enter the amount of uncollected Medicare tax on the coverage in box 13. Also see **Group-Term Life Insurance** on page 4.

**Code P.** Use code **P** for excludable moving expense reimbursements. If you made excludable moving expense reimbursements to an employee (including payments made directly to a third party and services furnished in kind), report the amount in box 13. See **Moving Expense Reimbursements** on page 3.

**Code Q.** Use code **Q** for a military employee's basic quarters, subsistence, and combat zone compensation. If you are a military employer and provide your employee with basic quarters, subsistence allowances, or combat zone compensation, report the amount in box 13.

**Code R.** Use code **R** for employer contributions to a medical savings account. If you make contributions to a medical savings account for your employee, show all employer contributions in box 13 and use code **R**. Any employer contributions **not** excludable from the employee's gross income also must be reported in box 1. To the extent that it was **not** reasonable to believe at the time of payment that the employer contributions would be excludable from the gross income of the employee, the employer contributions also must be shown in boxes 3 and 5.

**Code S.** Use code **S** for employee salary reduction contributions to a SIMPLE retirement account. Show the amount deferred under a **section 408(p)** salary reduction SIMPLE retirement account. However, if the SIMPLE is part of a section 401(k) arrangement, the amount is reported using code **D**.

**Code T.** Use code **T** for employer-provided adoption benefits. Show the total amount paid or expenses incurred by an employer for qualified adoption expenses furnished to an employee under an adoption assistance program. Also include benefits from the pre-tax contributions made by the employee to a section 125 adoption plan account.

**Box 14—Other.**—You may use this box for any other information you want to give your employee. Please label each item. Examples are union dues, health insurance premiums deducted, nontaxable income, voluntary after-tax contributions, educational assistance payments, or a parsonage allowance.

**Box 15**—Check the boxes that apply.

• **Statutory employee.**—Check this box for statutory employees whose earnings are subject to social security and Medicare taxes but **not** subject to Federal income tax withholding. Do not check this box for common law employees. The following four categories of workers who are independent contractors under the common law rules are treated by statute as employees (they are called statutory employees):

1. A driver who distributes beverages (other than milk), meats, vegetables, fruits, or bakery products, or who picks up and delivers laundry or dry cleaning, if the driver is your agent or is paid on commission.
2. A full-time life insurance sales agent whose principal business activity is selling life insurance or annuity contracts, or both, primarily for one life insurance company.
3. An individual who works at home on materials or goods that you supply and that must be returned to you or to a person you name, if you also furnish specifications for the work to be done.
4. A full-time traveling or city salesperson who works on your behalf and turns in orders to you from wholesalers, retailers, contractors,

or operators of hotels, restaurants, or other similar establishments. The goods sold must be merchandise for resale or supplies for use in the buyer's business operation. The work performed for you must be the salesperson's principal business activity.

See Pub. 15-A for details on statutory employees and common law employees.

• **Deceased.**—Check this box if the employee died during 1997. See **Deceased Employee's Wages** on page 3.

• **Pension plan.**—Check this box if the employee was an active participant (for any part of the year) in any of the following:

1. A qualified plan described in section 401(a) (including a 401(k) plan).
2. An annuity plan described in section 403(a).
3. An annuity contract or custodial account described in section 403(b).
4. A simplified employee pension (SEP) plan described in section 408(k).
5. A SIMPLE retirement account described in section 408(p).
6. A trust described in section 501(c)(18).
7. A plan for Federal, state, or local government employees or by an agency or instrumentality thereof (other than a section 457 plan).

See **Pub. 1602**, General Rules for Individual Retirement Arrangements Under the Tax Reform Act of 1986, for information on who qualifies as an "active participant." **Do not** check this box for contributions made to a nonqualified pension plan or any section 457 plan.

You will also need to check the deferred compensation box. See **Deferred compensation** below.

• **Legal representative.**—Check this box when the employee's name is the only name shown but is shown as a trust account (e.g., Jane Doe Trust), or another name is shown in addition to the employee's name and the other person or business is acting on behalf of the employee.

Representatives are identified by words such as "custodian," "parent," or "attorney"; sometimes the employee is identified as a minor, child, etc. **Do not** check this box if the address is in care of someone other than the employee (Jane Doe, c/o Shelby Smith).

• **Hshld. employee.**—For household employers only. Mark this box if you are a household employer filing Form W-2.

• **Subtotal.**—Do not subtotal if you are submitting 41 or fewer Forms W-2. If you are submitting **42 or more Forms W-2**, please give subtotal figures for every 41 individual forms and the last group of forms. Check the "Subtotal" box on the form that shows the subtotal dollar amounts for the preceding 41 forms and for the last group of forms, even if fewer than 41 forms. (See the example below.) Subtotal forms should always be the last completed form on a page.

**Caution:** *Void forms are counted in order with correct forms, but do not include the money amounts from the void forms in the subtotal amounts.*

**Example.** *An employer with 86 Forms W-2 should show a subtotal on the 42nd form, the 84th form (showing the subtotal for form 43*

*through 83), and the 89th form (showing the subtotal for forms 85 through 88).*

*Do not enter any information in boxes d, e, or f of any Form W-2 that contains subtotals.*

*The subtotal amounts to be shown are boxes 1 through 11 and 13. Do not enter codes with subtotal amounts in boxes 11 and 13. However, in box 13, subtotal only codes D, E, F, G, H, and S, and enter as a single combined amount. Do not subtotal any of the other codes. See box 13 instructions. Also, for box 11, show one subtotal amount; that is, do not separate distributions from nonqualified plans (uncoded) and distributions from section 457 plans.*

• **Deferred compensation.**—Check this box if the employee has made an elective deferral to a section 401(k), 403(b), 408(k)(6), 408(p), or 501(c)(18)(D) retirement plan. Check this box if an elective or nonelective deferral was made to a section 457(b) plan. See also Codes D–H and S instructions under **Box 13**.

**Note:** *Do not check this box for nonqualified deferred compensation plans.*

**Boxes 16 through 21—State or local income tax information.**—Use these boxes to report state or local income tax information. Enter the two-letter abbreviation of the name of the state. The employer's state I.D. numbers are assigned by the individual states. The state and local information boxes can be used to report wages and taxes for two states and two localities. Keep each state's and locality's information separated by the broken line. If you need to report information for more than two states or localities, file a second Form W-2. See **Multiple Forms** on page 3.

## Reference Guide for Box 13 Codes

|          |   |          |  |
|----------|---|----------|--|
| <b>A</b> | Uncollected social security tax on tips   | <b>K</b> | 20% excise tax on excess golden parachute payments   |
| <b>B</b> | Uncollected Medicare tax on tips  | <b>L</b> | Substantiated employee business expense (Federal rate)   |
| <b>C</b> | Cost of group-term life insurance over \$50,000   | <b>M</b> | Uncollected social security tax on cost of group-term life insurance coverage over \$50,000 (for former employees) |
| <b>D</b> | Elective deferrals to a section 401(k) cash or deferred arrangement (including a SIMPLE 401(k) arrangement)                             | <b>N</b> | Uncollected Medicare tax on cost of group-term life insurance coverage over \$50,000 (for former employees)        |
| <b>E</b> | Elective deferrals to a section 403(b) salary reduction agreement   | <b>P</b> | Excludable reimbursed moving expenses  |
| <b>F</b> | Elective deferrals to a section 408(k)(6) salary reduction SEP  | <b>Q</b> | Military employee basic quarters, subsistence, and combat zone compensation  |
| <b>G</b> | Elective and nonelective deferrals to a section 457(b) deferred compensation plan (state and local government and tax-exempt employers) | <b>R</b> | Employer contributions to a medical savings account (MSA)  |
| <b>H</b> | Elective deferrals to a section 501(c)(18)(D) tax-exempt organization plan  | <b>S</b> | Employee salary reduction contributions to a section 408(p) SIMPLE   |
| <b>J</b> | Nontaxable sick pay   | <b>T</b> | Adoption benefits  |

See box 13 instructions for information.