

*Filed Jan. 31st 1938*

**ANNUAL RETURN OF EXCISE TAX ON EMPLOYERS OF EIGHT OR MORE INDIVIDUALS**  
 UNDER TITLE IX OF THE SOCIAL SECURITY ACT  
**FOR CALENDAR YEAR 1937**

FILE THIS RETURN WITH THE COLLECTOR OF INTERNAL REVENUE FOR YOUR DISTRICT NOT LATER THAN JANUARY 31, 1938

**READ INSTRUCTIONS CAREFULLY**

<b>TAXPAYER'S COPY</b>	(Collector's receipt stamp)	PRINT NAME AND ADDRESS	Do not write in this space
		(Name) (See Instruction 1)	No. _____
		(Street and number, or rural route)	Amount Paid, \$ _____ (Cashier's stamp)
		(Post office) (County) (State)	

Nature of business in detail (Instruction 4) \_\_\_\_\_

Check (✓) form of organization:  Corporation;  Partnership;  Individual;  Estate or trust.

1. Total wages paid or payable for the calendar year. (See instructions on reverse side)	\$ <u>14235.04</u>
2. Less wages paid or payable for (explain on Schedule B if deductions are taken) —	
(a) Services performed outside the United States	\$ _____
(b) Agricultural labor	_____
(c) Domestic service	_____
(d) Service of an officer or member of the crew of a vessel on the navigable waters of the United States	_____
(e) Family employment	\$ _____
3. Total wages subject to tax (Item 1 minus Item 2)	\$ <u>14235.04</u>
4. Tax (2% of Item 3)	<u>284.70</u>
5. Less: Credit for contributions actually paid into State unemployment funds. (Read carefully instructions on reverse side under Schedule A before entering this item)	<u>256.23</u>
6. Balance of tax (Item 4 minus Item 5)	\$ <u>28.47</u>

**AFFIDAVIT (See Instruction No. 5)**

I/we swear (or affirm) that this return, including any accompanying schedules or statements, is a true, correct, and complete return, made in good faith, for the calendar year stated, pursuant to Title IX of the Social Security Act and Regulations issued thereunder and that no portion of the credit claimed in Item 5 above is with respect to a contribution made to any State fund on account of service performed outside the United States as outlined in Instruction 9, or for excepted service as outlined in Instruction 10, nor is any part of such credit with respect to money deducted or to be deducted from the wages of individuals in my/our employ.

Signed or acknowledged before—

_____ (Name)	_____ (Address)	[CORP. SEAL]	_____ (Name)	_____ (Title)
_____ (Name)	_____ (Address)		_____ (Name)	_____ (Title)

Sworn to and subscribed before me this 31st day of January, 1938

[SEAL]

# TAXPAYER'S COPY

## SCHEDULE A

STATE IN WHICH EMPLOYEES ARE ENGAGED IN WORK	NUMBER OF EMPLOYEES WITHIN THE STATE (AVERAGE OF QUARTERLY FIGURES)	GROSS AMOUNT OF WAGES PAID	AMOUNT OF CONTRIBUTION TO STATE FUND ON ACCOUNT OF WAGES PAID
California	21	14,235.04	377.46
<small>Do not write in this space</small> <small>No.</small> <small>Amount</small> <small>Paid</small> <small>(Employer's share)</small>	<small>TRUSTY NAME AND ADDRESS</small> <small>(See Instruction 1)</small> <small>(Street and number, or rural route)</small> <small>(City)</small> <small>(State)</small> <small>(Zip)</small> <small>Factor of business in detail (Instruction 4)</small> <small>Check (V) form of organization: <input type="checkbox"/> Corporation; <input type="checkbox"/> Partnership; <input type="checkbox"/> Individual; <input type="checkbox"/> Estate or trust.</small>	<small>(Name)</small> <small>(Check one)</small> <small>(Type of business)</small> <small>(Instruction 4)</small>	<small>(Employer's social number)</small> <div style="text-align: center; font-size: 2em; font-weight: bold; opacity: 0.5;">TAXPAYER'S COPY</div>

This schedule should be filled out to show all wages paid as reported in Item 1 of the return.

If contributions were made to a State fund under any other name than that shown on this return, suitable explanation should be made in order that credit for such contributions may be allowed.

**Credit allowable.**—Taxpayer may credit against the tax the total amount of his contributions for services performed during the calendar year under all State laws approved by the Social Security Board; provided, that no credit may be taken for a contribution under a State law if such State has not been duly certified, for the calendar year for which the tax is due, to the Secretary of the Treasury by the Social Security Board. The total credit allowed to any taxpayer for such contribution shall not in any case exceed 90 per centum of the tax against which credit is applied. The contribution must have been actually paid into the State unemployment fund before the date on which this return is required to be filed.

The term "contribution" means payments required by a State law to be made by an employer into an unemployment fund to the extent that such payments are made by him without any part thereof being deducted or deductible from the wages of individuals in his employ. The contribution must also have been paid with respect to employment within the United States and also with respect to employment not excepted as outlined in Instruction 10.

**Proof of credit.**—Credit against the tax for contributions paid into State unemployment funds will be allowed only upon receipt of a certificate of the proper officer of each State (the law of which required contributions to be made) on the form provided for that purpose. Such certificates will be forwarded direct to the Commissioner of Internal Revenue by the State officer and will be checked with the individual return of the employer in due course of time.

The Commissioner may require such other or additional proof as he may deem necessary to establish the right to the credit.

## SCHEDULE B

Explain in detail the nature of employment if any deductions are taken in Item 2 (a), (b), (c), (d), or (e) on the return.

(See Instruction 10.)

## INSTRUCTIONS—Continued

(b) Dismissal wages. Payment to an employee of so-called dismissal wages, vacation allowances, or sick pay, constitutes wages.

(c) Traveling and other expenses. Amounts paid to traveling salesmen or other employees as allowance or reimbursement for traveling or other expenses incurred in the business of the employer constitute wages only to the extent of the excess of such amounts over such expenses actually incurred and accounted for by the employee.

(d) Premiums on life insurance. Generally, premiums paid by an employer on a policy of life insurance covering the life of an employee constitutes wages if the employer is not a beneficiary under the policy. However, premiums paid by an employer on policies of group life insurance covering the lives of his employees are not wages if the employee has no option to take the amount of the premiums instead of accepting the insurance and has no equity in the policy (such as the right of assignment or the right to the surrender value on termination of his employment).

(e) Deductions by an employer from remuneration of an employee. Amounts deducted from the remuneration of an employee by an employer constitute wages paid to the employee at the time of such deduction. It is immaterial that the act, or any act of Congress or the law of any State, requires or permits such deduction and the payment of the amount thereof to the United States, a State, or any political subdivision thereof.

(f) Payments by employers into employees' funds. Payments made by an employer into a stock bonus, pension, or profit-sharing fund constitute wages if such payments inure to the exclusive benefit of the employee and may be withdrawn by the employee at any time, or upon resignation or dismissal, or if the contract of employment requires such payments as part of the compensation. Whether or not under other circumstances such payments constitute wages depends upon the particular facts of each case.

9. Services performed outside the United States.—To constitute an "employment" within the meaning of the act the services performed by the employee must be performed within the United States; that is, within any of the several States, the District of Columbia, or the Territories of Alaska and Hawaii.

To the extent that an employee performs services outside of the United States for the person who employs him, he is not in an "employment" within the meaning of the act, and to that extent he will not be counted for the purpose of determining whether the person who employs him is an "employer", within the meaning of the act. Furthermore, remuneration payable to the employee for services which he performs outside of the United States is excluded from the computation of wages upon which his employer's tax is based. However, if any services are performed by the employee within the United States, such services, unless specifically excepted by the act, constitute "employment." In such case the employee is counted for the purpose of determining whether the person who employs him is an "employer", within the meaning of the act, and the wages payable to the employee on account of such services are included in the computation of wages for the purpose of determining the amount of the employer's tax.

The place where the contract for services is entered into and the citizenship or residence of the employee or of the person who employs him are immaterial. Thus, the employee and the person who employs him may be citizens and residents of a foreign country and the contract for the services may be entered into in a foreign country, and yet, if the employee under such contract actually performs services within the United States, there is to that extent an "employment" within the meaning of the act, and the person who has employed such individual may be an "employer" within the meaning of the act.

Even though the services of the employee are performed within the United States, if they are in a class which is excepted by the act they are excluded for the purpose of determining whether a person employs a sufficient number of individuals to be an employer subject to the tax, and of computing the total wages payable with respect to employment during the calendar year.

The exception attaches to the services performed by the employee and not to the employee as an individual; and the exception applies only for the period during which the individual is rendering services in an excepted class.

10. Excepted Service.—Agricultural labor, domestic service in a private home, service performed by an officer or member of the crew of a vessel on the navigable waters of the United States, family employment, Government employees, services performed in the employ of religious, charitable, scientific, literary, and educational organizations, and community chests, are all excepted service for which no tax is due under the provisions of the Social Security Act.

(1) Agricultural labor.—The term "agricultural labor" includes all services performed: (a) By an employee on a farm, in connection with the cultivation of the soil, the harvesting of crops, or the raising, feeding, or management of livestock, bees, and poultry; or (b) By an employee in connection with the processing of articles from materials which were produced on a farm; also the packing, packaging, transportation, or marketing of those materials or articles. Such services do not constitute "agricultural labor", however, unless they are performed by an employee of the owner or tenant of the farm on which the materials in their raw or natural state were produced, and unless such processing, packing, packaging, transportation, or marketing is carried on as an incident to ordinary farming operations as distinguished from manufacturing or commercial operations. As used herein the term "farm" embraces the farm in the ordinary accepted sense, and includes stock, dairy, poultry, fruit, and truck farms, plantations, ranches, ranges, and orchards.

Forestry and lumbering are not included within the exception.

(2) Domestic service.—Services of a household nature performed by an employee in or about the private home of the person by whom he is employed are within the above exception. A private home is the fixed place of abode of an individual or family. If the home is utilized primarily for the purpose of supplying board or lodging to the public as a business enterprise, it ceases to be a private home. In general, services of a household nature in or about a private home include services rendered by cooks, maids, butlers, valets, laundresses, furnacemen, gardeners, footmen, grooms, and chauffeurs of automobiles for family use.

The services above enumerated are not within the exception if performed in or about rooming or lodging houses, boarding houses, fraternity houses, clubs, hotels, or commercial offices or establishments.

(3) Officers and members of crews.—The expression "navigable waters of the United States" means such waters as are navigable in fact and which by themselves or their connection with other waters form a continuous channel for commerce with foreign countries or among the States.

The word "vessel" includes every description of watercraft or other contrivance, used as a means of transportation on water. It does not include any type of aircraft.

The expression "officers and members of the crew" includes the master or officer in charge of the vessel, however designated, and every individual, subject to his authority, serving on board and contributing in any way to the operation and welfare of the vessel. The exception extends, for example, to services rendered by the master, mates, pilots, pursers, surgeons, stewards, engineers, firemen, cooks, clerks, carpenters, deck hands, porters, and chambermaids, and by seal hunters and fishermen on sailing and fishing vessels.

(4) Family employment.—Under the provisions of the Social Security Act certain services are excepted because of the existence of a family relationship between the employee and the person for whom he performs the services. The exceptions are as follows: (a) Services performed by a husband for his wife, or by a wife for her husband; (b) Services performed by a father or mother for a son or daughter; and (c) Services performed by a son or daughter under 21 years of age for the father or mother. Under (a) and (b) the exception is conditioned solely upon the relationship of the employer to the employee. Under (c), in addition to the relationship of parent and child, there is a further requirement that the child shall be under the age of 21, and the exception continues only during the time that such child is under the age of 21.

Services performed by an employee of a corporation, partnership, or other entity, are not within the exception.

(5) Government employees.—Services performed by Federal and State employees are excepted. The exception extends to every service performed by an individual in the employ of the United States, the several States, the District of Columbia, or the Territory of Alaska or Hawaii, or any political subdivision or instrumentality thereof, including every unit or agency of government without distinction between those exercising functions of a governmental nature and those exercising functions of a proprietary nature.

(6) Religious, charitable, scientific, literary, and educational organizations, and community chests.—Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, are excepted.

For the purpose of the exception the nature of the service is immaterial; the statutory test is the character of the organization for which the service is performed.

In all cases, in order to establish its status under the statutory classification, the organization must meet two tests: (1) It must be organized and operated exclusively for one or more of the specified purposes; and (2) Its net income must not inure in whole or in part to the benefit of private shareholders or individuals.

Corporations or other institutions organized and operated exclusively for charitable purposes comprise, in general, organizations for the relief of the poor. The fact that an organization established for the relief of indigent persons may receive voluntary contributions from the persons intended to be relieved will not necessarily affect its status under the law.

An educational organization within the meaning of the act is one designed primarily for the improvement or development of the capabilities of the individual, but, under exceptional circumstances, may include an association whose sole purpose is the instruction of the public, or an association whose primary purpose is to give lectures on subjects useful to the individual and beneficial to the community, even though an association of either class has incidental amusement features. An organization formed, or availed of, to disseminate controversial or partisan propaganda or which by any substantial part of its activities attempts to influence legislation is not an educational organization within the meaning of the Social Security Act.

Since a corporation or other institution to be within the prescribed class must be organized and operated exclusively for one or more of the specified purposes, an organization which has certain religious purposes and also manufactures and sells articles to the public for profit is not within the statutory class even though its property is held in common and its profits do not inure to the benefit of individual members of the organization.

## INSTRUCTIONS

1. **Persons required to make return.**—Every employer (individual, trust or estate, partnership, corporation, association, joint stock company, and/or insurance company) who on each of some 20 days during the taxable year, each day being in a different calendar week, employed eight or more individuals (not including excepted service as defined in Instruction 10) for some portion of the day, such service being rendered within the United States; that is, within the several States, the District of Columbia, or the Territory of Alaska or Hawaii, is required to file a return. The several weeks, in each of which occurs a day on which eight or more individuals are employed, need not be consecutive weeks, nor is it necessary that the employees be the same individuals. Neither is it necessary that the eight or more individuals be employed at the same moment of time, or for any particular length of time, or on any particular basis of compensation. It is sufficient to make the employer liable for this return if the total number of individuals employed during the 24 hours of a calendar day is eight or more, regardless of the period of service during that day or the basis of compensation provided such eight persons were employed during the course of any 20 days during the year, each day being in a different calendar week. Returns filed by agents, trustees, or other fiduciaries should be filed in the name of the employing unit, followed by the name of the agent, trustee, or other fiduciary.

2. **Period for which return is required.**—Returns filed under Title IX of the Social Security Act are required to be made on the calendar-year basis or for such period of the calendar year as the employer was engaged in business.

3. **When and where return must be filed.**—Returns must be filed on or before January 31 next following the close of the calendar year, with the collector of internal revenue for the district in which is located the principal place of business of the employer; or, if the employer has no principal place of business in the United States, with the Collector of Internal Revenue at Baltimore, Md. When the due date falls on a Sunday or a legal holiday, the due date for filing the return will be the day following such Sunday or legal holiday. If placed in the mails, the return should be posted in ample time to reach the collector's office, under ordinary handling of the mails, on or before the date on which the return is required to be filed.

4. **Nature of business and form of organization.**—Indicate under "nature of business" the primary type of activity, whether manufacturing, wholesale trade, retail trade, personal service, etc.; also the type of product (or products) from which the major portion of total operating income is derived. Examples: Manufacture—radios, refrigerators; wholesale—meats; retail store—men's wear; coal mining; wholesale and retail—furniture.

Under the Social Security Act the term "person" means an individual, a trust or estate, a partnership, or a corporation. The term "corporation" includes association, joint stock companies, and insurance companies. The form of organization should be indicated on the return by a check mark in the proper space.

5. **Verification of return.**—Except as provided below, returns must be verified under oath or affirmation, which may be administered by any officer duly authorized to administer oaths for general purposes by the law of the United States or of any State or Territory wherein such oath is administered, or by a consular officer of the United States. Returns executed abroad may be attested free of charge before United States consular officers. If the amount of tax is \$10 or less, the return may be signed or acknowledged before two witnesses instead of under oath. Returns of corporate employers shall be sworn to by the president, vice president, or other principal officer, and, in addition, by the treasurer, assistant treasurer, or chief accounting officer of the corporation. The return of a partnership or other unincorporated organization shall be sworn to by a responsible and duly authorized member having knowledge of its affairs and, in addition, if the partnership or other unincorporated organization has a manager or chief executive officer, by such manager or chief executive officer. If the return is filed by an individual operating under a trade name, such return must be signed by the individual owner of such business.

6. **Payment of tax.**—The tax is due and payable to the collector of internal revenue for the appropriate district without assessment by the Commissioner or notice or demand from the said collector on the date fixed by law for filing the return (the 31st day of January following the close of each calendar year beginning after December 31, 1935) for which the tax is due. The tax may be paid at the option of the taxpayer in four equal installments instead of in a single payment, in which case the first installment is to be paid on or before January 31, the second installment on or before April 30, the third installment on or before July 31, and the fourth installment on or before October 31. If the taxpayer elects to pay the tax in four installments, each installment must be equal in amount; but any installment may be paid, at the election of the taxpayer, prior to the date prescribed for its payment. If the tax or any installment thereof is not paid in full on or before the date fixed for its payment either by the Act or by the Commissioner in accordance with the terms of an extension of time granted for the payment of the tax or installment, the whole amount of the tax unpaid shall be paid upon notice and demand from the collector. In the payment of the tax or any installments thereof, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent. Fractional parts of a cent should not be disregarded in the computation of the tax or any installment thereof.

7. **Wages defined.**—The term "wages" means all remuneration for employment, whether payable in money or something other than money. The name by which such remuneration is designated is immaterial. Thus, salaries, commissions on sales or on insurance premiums, fees, and bonuses are wages within the meaning of the act if payable by an employer to his employee as compensation for services not excepted by the act. The basis upon which the remuneration is payable, the amount of remuneration, and the time of payment, are immaterial in determining whether the remuneration constitutes "wages." Thus, it may be payable on the basis of piece work, or a percentage of profits; and it may be payable hourly, daily, weekly, monthly, or annually. Fees paid to directors of corporations, as such, are not included in the term "wages." Officers of a corporation are employees of the corporation whether or not they are paid a salary. Any salary paid to such officers should be included in the gross amount of wages paid or reported in Item 1 of the return.

The medium in which the remuneration is payable is also immaterial. It may be payable in cash or in something other than cash, such as goods, lodging, food, and clothing.

Ordinarily, facilities or privileges (such as entertainment, cafeterias, restaurants, medical services, or so-called "courtesy" discounts on purchases), furnished or offered by an employer to his employees generally, are not considered as remuneration for services if such facilities or privileges are offered or furnished by the employer merely as a convenience to the employer or as a means of promoting the health, good will, contentment, or efficiency of his employees.

8. **Items included as wages.**—(a) General. The total wages payable by an employer to his employees with respect to employment during any calendar year shall include (1) items payable and actually paid during that calendar year, and (2) items payable but not actually paid during that calendar year.

(1) Items actually paid shall include: (a) Cash; and (b) The fair value, at the time of payment, of all items other than money.

(2) Items payable but not actually paid shall include: (a) The amount of all remuneration agreed by the employer to be paid to the employee; and (b) The fair and reasonable value of all services performed with respect to employment during the calendar year, if there is no agreement between the employer and the employee as to the amount of remuneration for such services; and (c) The fair estimated amount of all remuneration, if the basis of such remuneration has been agreed upon between the employer and the employee but the exact amount ultimately to be paid cannot be determined until a subsequent year; and (d) The pro rata or other amount, fairly estimated or allocated, of the total remuneration agreed to be paid by the employer to the employee, if such total remuneration is for services rendered in part in the calendar year and in part in a different year or years. (e) When remuneration for services performed in a calendar year is paid, or when an obligation to pay such remuneration arises, in a subsequent calendar year, the employer is required to advise the collector under oath of the amount thereof (if not reported in the return for the calendar year during which the services were performed) and to pay any tax with respect thereto at the rate in effect for the calendar year during which the services were performed.