

# Statement of Liability of Lender, Surety, or Other Person for Withholding Taxes

Under Section 3505 of the Internal Revenue Code  
*(Please file this form in duplicate)*

**Information relating to Employer (Borrower) for whom wages paid or to whom funds supplied**

1. Name of employer <i>(as used on employment tax return)</i>	2. Employer identification number
3. Trade name, if other than above	4. Date quarter ended <i>(See item 4 of instructions)</i>
5. Address <i>(Number, street, city, State, ZIP code)</i>	

**Information about the person making the wage payments for, or supplying funds to, the above Employer (Borrower)**

6. Name
7. Address <i>(Number, street, city, State, ZIP code)</i>
8. Identification of project(s), contract(s), etc., for which wages paid or funds supplied

<b>Computation of Liability for Withholding Taxes on Wages Paid Directly to Employees of Borrower</b>	9. Amount of employees taxes required to be withheld by employer	a. Income tax	
		b. FICA tax	
		c. Railroad retirement tax	
	10. Total taxes required to be withheld by employer <i>(Sum of Items 9a, b, and c)</i>		
	11. Portion of Item 10 paid by employer		
	12. Liability for withholding taxes <i>(Item 10 minus Item 11. Enter here and in Item 19.)</i>		
<b>Computation of Liability for Withholding Taxes on Funds Supplied for Specific Purpose of Paying Wages</b>	13. Amount supplied to employer for paying wages	\$	
	14. Amount of employee taxes required to be withheld by employer	a. Income tax	
		b. FICA tax	
		c. Railroad retirement tax	
	15. Total taxes required to be withheld by employer <i>(Sum of Items 14a, b, and c)</i>		
	16. Portion of Item 15 paid by employer		
	17. Balance of Item 15 not paid by employer <i>(Item 15 minus Item 16)</i>		
18. Liability for withholding taxes <i>(The lesser of Item 17 or 25 percent of Item 13. Enter here and in Item 20.)</i>			
<b>Total Liability</b>	19. Liability where wages paid directly to employees <i>(Item 12)</i>		
	20. Liability where funds supplied for payment of wages <i>(Item 18)</i>		
	21. Total liability for withholding taxes <i>(Sum of Items 19 and 20)</i>		
	22. Interest liability		
	23. Total liability <i>(Sum of Items 21 and 22)</i>		

**Under the penalties of perjury, I declare that I have examined this statement, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which he/she has any knowledge.**

Signature of lender, surety, or other person	Title	Date
Signature of preparer, if other than above	Title	Date

## General Instructions

**Who must file Form 4219**—File this form if you are a lender, surety, or other person who, by reason of having paid wages directly to employees of another employer, or having supplied funds for the purpose of paying wages to employees of another employer, has incurred liability under section 3505 of the Internal Revenue Code for taxes required to be withheld. If you are an employer within the meaning of code section 3401 (d)(1) or (d)(2) and the related regulations, do not use Form 4219 to report income tax withholding.

**Internal Revenue Code**—Section 3505(a) provides that if a lender, surety, or other person pays wages directly to employees of another employer, or to an agent of such employees, the lender, surety, or other person is liable for payment to the United States of a sum equal to the following taxes (*and interest*) required to be withheld from such wages by the other employer:

- (a) FICA tax required to be withheld under section 3102;
- (b) Railroad retirement tax required to be withheld under section 3202; and
- (c) Income tax required to be withheld under section 3402.

Section 3505(b) provides that if a lender, surety, or other person supplies funds to or for the account of another employer for the specific purpose of paying wages of the employees of the other employer, with actual notice or knowledge that the employer does not intend, or will not be able, to make timely payment or deposit of the above taxes required to be withheld by the employer, the lender, surety, or other person is liable for payment to the United States of a sum equal to the taxes, plus any interest, that are not paid by the employer. However, the liability under section 3505(b) cannot exceed 25% of the amount supplied specifically for the purpose of paying of wages. Section 3505(b) does not apply to ordinary working capital loans to employers, even though it is known that part of the funds advanced will be used to pay wages.

For purposes of section 3505(b), an organization is deemed to have actual notice or knowledge of any fact relating to a transaction from the time that fact is brought to the attention of the individual conducting the transaction, and in any event from the time that fact would have been brought to the individual's attention if the organization had exercised due diligence, as defined in Code section 6323(i)(1).

The liability under section 3505 does not extend to the portion of the employer's taxes imposed under the Federal Insurance Contributions Act or the Railroad Retirement Tax Act. Under Section 3505, the employer remains liable for withholding taxes not paid by the lender, surety, or other person, and is required to file an employment tax return for such wages paid by the employer, a lender, surety, or other person, and furnish statements to employees of taxes withheld.

**Separate Form 4219 for each employer and each calendar quarter**—A separate Form 4219 should be submitted, in duplicate, for each employer and for each calendar quarter for which liability under section 3505 is incurred.

**Where to file**—File Form 4219 with the office of the Internal Revenue Service where the employer for whom wages were paid or funds were supplied files Federal employment tax returns.

**Payment**—Include with each Form 4219 a remittance (*check or money order*) for the amount shown in item 23, payable to the United States Treasury. Payment of the withholding taxes shown on Form 4219 by either the employer or the lender, surety, or other person satisfies the liability. If neither the employer nor the lender, surety, or other person pays these taxes, the U.S. Government may collect the unpaid amount by appropriate civil action. To avoid the accumulation of interest, make the payment on or before the due date of the employer's (*borrower's*) Federal employment tax return.

## Specific Instructions

**Item 4.** Enter the last day of the calendar quarter during which the wages were actually paid to the employees of another employer. If funds were supplied to the employer for payment of wages, show the last day of the calendar quarter during which the wages were actually paid by the employer.

**Item 9.** Enter in items 9a, b, and c the amounts of employee taxes required to be withheld as if the wages were paid by the employer.

**Item 13.** Enter the gross amount (*without reduction for withholding taxes*) supplied to the employer for the specific purpose of paying wages which were actually paid during this quarter.

**Item 14.** Enter in items 14a, b, and c the amounts of employee taxes required to be withheld by the employer from wages paid during this quarter with funds supplied for that specific purpose.

**Item 22.** If the liability is paid after the due dates of the employer's Federal employment tax return, interest will be charged at the annual rate established under Internal Revenue Code section 6621(a) subject to adjustments as provided in section 6621(b).

## Privacy Act and Paperwork Reduction Act Notice

We ask for the information on Form 4219 to carry out the Internal Revenue laws of the United States. We need it to figure and collect the right amount of tax. Subtitle C, Employment Taxes, of the Internal Revenue Code imposes employment taxes on wages, including income tax withholding. Form 4219 is used to determine if you as a lender, surety or other person who paid wages directly to employees of another employer, has incurred liability under section 3505 for taxes required to be withheld. Section 6011 requires you to provide the requested information if the tax is applicable to you. Section 6109 requires you to provide your identification number. If you fail to provide this information in a timely manner, or provide false or fraudulent information, you may be subject to penalties.

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 and 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 section 6103. However, section 6103 allows or requires the IRS to disclose or give the information shown on your tax return to others as described in the Code. For

example, we may disclose your tax information to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

The time needed to complete and file Form 4219 will vary depending on individual circumstances. The estimated average time is: **Recordkeeping, 11 hr.; Learning about the law or the form, 50 min.; Preparing, copying, assembling, and sending the form to the IRS, 1 hr.**

If you have comments concerning the accuracy of these time estimates or suggestions for making Form 4219 simpler, we would be happy to hear from you. You can email us at [taxforms@irs.gov](mailto:taxforms@irs.gov). Enter "Form 4219" on the subject line. Or write to: Internal Revenue Service, Tax Products Coordinating Committee, SE:W: CAR:MP:T:M:S, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. **Do not** send Form 4219 to this address. Instead, see *Where to File?* in the instructions for Form 4219.