## REG-21-007 EMPLOYER'S RETURNS AND PAYMENT OF WITHHELD TAXES

007.01 Every employer required to deduct and withhold tax from an employee's wages shall file a withholding return and pay over to the Department of Revenue the taxes required to be deducted and withheld. The return shall be filed on the Nebraska Employer's Quarterly Withholding Return, Form 941N.

007.01A A return is required for each period or portion of a period. The return must be filed for every tax period even if there has been no withholding.

007.01B The period is the reporting frequency as assigned by the Department of Revenue. Normally it will be quarterly, but in the case of employers who have small tax liabilities, five hundred dollars ($500.00) or less for a calendar year, <u>or who are allowed to file their federal returns annually,</u> they may be assigned an annual filing frequency.

007.01C The return must be received by the Department of Revenue, or if mailed, must be postmarked, on or before the last day of the month following the close of each period.

007.01D Taxpayers who file a Nebraska Quarterly Employers Withholding Return, Form 941N, have the option of filing electronically via the Internet. Taxpayers can access this system from the Department of Revenue's Web site.

007.02 When the total amount to be deducted and withheld by any employer for either the first or second month in a calendar quarter exceeds five hundred dollars ($500.00), the employer shall make monthly deposits by filing a Nebraska Employer's Monthly Withholding Deposit, Form 501N, with the Department of Revenue. The Form 501N shall be filed on or before the 15th day of the second and third month of each calendar quarter. The amount so paid shall be allowed as a credit against any liability shown on the employer's next quarterly Nebraska withholding tax return.

007.02A Form 501N is not required to be filed when monthly payments are made if the taxpayer is enrolled in the Department of Revenue's electronic funds transfer (EFT) program.

007.03 On or before March 15 of each year, each employer shall file with the Department of Revenue a copy of each statement furnished to each of its employees which showed the total Nebraska taxes withheld from wages during the prior calendar year. The statement required to be filed is the state copy of Federal Form W-2. The employer shall also file a Nebraska Reconciliation of Income Tax Withheld, Form W-3N, on or before March 15 of each year in accordance with the instructions contained in Reg-21-013.

007.04 The last return of withholding tax for any employer which discontinues its business or which permanently ceases to pay wages shall be clearly marked Final Return. This return and the full remittance for amounts deducted and withheld shall be sent to the Department of Revenue on a Nebraska Employer's Quarterly Withholding Return, Form 941N. The employer shall file with the Department of Revenue a completed Nebraska Reconciliation of Income Tax Withheld, Form W-3N, and the state copies of Federal Form W-2, which shall cover that part of the calendar year in which the employer operated its business or paid wages.

007.05 An employer which temporarily ceased to pay wages, including an employer engaged in seasonal activities, shall continue to file returns but shall enter on the face of the return the date of the last payment of wages and the date when it expects to resume making such payments.

007.06 Every employer which is considered under the Internal Revenue Code to be a successor of another employer shall be a successor for Nebraska income tax withholding and shall file returns and make payments for Nebraska in a comparable manner.

(Sections 77-1784 and 77-2756, R.S.Supp., 2005. .)

TITLE 316 CHAPTER 21
INCOME TAX WITHHOLDING

REG-21-013 MANNER OF FILING NEBRASKA RECONCILIATION OF INCOME TAX WITHHELD AND STATE COPIES OF FEDERAL FORMS W-2

013.01 Where the number of state copies of Federal Form W-2 or Federal Form 1099-MISC is substantial, they may be forwarded to the Department of Revenue in packages of convenient size. When this is done, the packages should be identified with the name and Nebraska employer identification number of the employer and the packages should be numbered consecutively. (For example: 3 packages should be numbered "1 of 3", "2 of 3", and "3 of 3".) Form W-3N should be placed in package number 1 and the number of packages should be indicated on that form.

> 013.01A Beginning with state copies of Forms W-2 and other statements reporting withholding for payments made in 2008 to be transmitted in 2009, any employer, payor, or agent who furnishes more than two hundred fifty statements for a year shall file the required copies electronically in a manner approved by the Tax Commissioner that is compatible with federal electronic filing requirements or methods.

013.02 If an employer‘s total payroll consists of a number of separate units or establishments, or the employer is filing Federal Forms W-2G ~~Form W-2Gs~~ to report gambling winnings or Federal Forms ~~Form~~ 1099-MISC to report nonresident withholding, the state copies of Federal Form W-2 or 1099-MISC may be assembled accordingly and a separate list submitted for each unit, establishment, or type of form being submitted. In such case, a summary list should be prepared, the total of which should agree with the corresponding entry made on Form W-3N.

013.03 Any employee copies of Federal Form W-2 or 1099-MISC to be attached to the state return which, after reasonable effort, cannot be delivered to employees, should be transmitted with the Nebraska Employer’s Quarterly Withholding Return, Form 941N, during the month of July of the next calendar year. Any undeliverable state copies of Federal Form W-2 or 1099-MISC submitted to the Department of Revenue should be accompanied by a letter stating that they were submitted because they could not be delivered to the employees involved.

013.04 When Federal Forms W-2 or 1099-MISC are corrected by the employer or are reissued by an employer, such forms must be clearly marked either "corrected by employer" or "reissued by employer" and copies must be furnished to the employee and to the Department of Revenue as required by the Regulations.

013.05 All copies of any forms prepared by the employer and furnished to the employee or to the Department of Revenue shall be completed in full and must be entirely legible. In the event that said copies are not fully completed or are not legible, they will not be considered to have been furnished by the employer in compliance with the law, thereby subjecting the employer to the penalties for noncompliance as prescribed by Reg-21-017.

013.06 Every employer is to retain copies of all reconciliations filed with the Department of Revenue and copies of all documents furnished to employees for at least three years. If the employer reports Federal Form W-2 or 1099-MISC information on magnetic media, the employer may retain either the supporting documentation or a copy of the magnetic media for the time required.

(Sections 77-2745(1), 77-2756 and 77-2772, R.R.S. 1943. .)