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Tax Issues for Household Employers

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Tax Issues for Household Employers

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Introduction

If you pay for household help, you may be liable for the "nanny tax," even if your employee is not a nanny, per se. The nanny tax refers to three federal employment taxes that household employers may have to pay for their domestic workers—Social Security, Medicare, and unemployment taxes. If you hire someone to work in or around your home, you'll need to know what federal income tax issues (if any) apply, and what forms may be required. Although you may have to withhold and pay federal employment taxes in certain cases, you won't have to withhold federal income tax from your household employees' wages (unless you choose to do so).

Caution: In addition to federal employment taxes, you may be required to pay state unemployment and disability taxes and/or carry workers' compensation insurance. Because state tax requirements may differ from federal, you should check with the appropriate agency in your state for further information.

Caution: It is unlawful for you to knowingly hire or continue to employ an alien who cannot legally work in the United States. To ensure that your prospective employee is a U.S. citizen or an immigrant who is permitted to work here, you should have him or her complete Form I-9 (Employment Eligibility Verification) and keep it on file. You must also examine his or her identification documents. You can download Form I-9 from the U.S. Citizenship and Immigration Services (USCIS) website , or order by phone at 800-870-3676.

Tip: For more information about household employers, see IRS Publication 926 (Household Employer's Tax Guide) or call the IRS at (800) 829-3676.

What is a household employee?

You'll be subject to employment taxes if you paid someone to do household work (as defined by the IRS) and that worker meets the IRS's definition of an employee.

Household work

Household work is defined as work (not associated with your trade or business) that is done in or around your home. Examples of household work include the following:

- Baby-sitter or nanny services
- Cleaning/maid/housekeeping services
- Health aide, caretaker, or private nurse services
- Yard work

Employee

A worker is considered to be your employee if you can control what work is done and how it is done.

Caution: If a worker is your employee, it doesn't matter whether the work is full-time or part-time.

Caution: If a worker is your employee, it doesn't matter whether you pay him or her on an hourly, daily, or weekly basis, or by the job.

Example(s): You pay Mary to babysit your child in your home and perform light housework three days a week. Mary follows your instructions regarding household and child-care duties. You provide the household equipment and supplies that Mary needs to do her work. Mary will probably be considered your household employee.

Tip: A worker who performs child-care services for you in his or her own home is generally not considered your employee.

Tip: If you pay an agency to provide a household worker for you and the agency controls what work is done and how it is done, the worker is not your employee.

Self-employed persons and independent contractors are not considered to be your employees. Such workers generally control how the work is done, provide their own tools and supplies, and offer their services to the general public.

Example(s): Mark owns a landscaping business and offers his services to the general public. He provides his own tools and supplies, and pays any helpers he needs. You hire Mark to mow your lawn once a week for the entire summer. Mark probably won't be considered your employee.

For more information about the differences between employees and independent contractors, see [Worker Classification](#) .

What do you need to do if you have a household employee?

If you have a household employee, you may need to do the following:

- Withhold and/or pay Social Security and Medicare taxes
- Pay federal unemployment tax
- Pay state unemployment tax and comply with other state requirements
- File appropriate federal and state tax reporting forms
- Comply with federal labor laws

Tip: You aren't required to withhold federal income tax from your household employee's wages. If your employee asks you to withhold it, however, you may choose to do so.

What are Social Security and Medicare (FICA) taxes?

Employers, employees, and self-employed persons are required to pay taxes that finance Social Security and Medicare benefits. The Social Security tax pays for Old Age, Survivors, and Disability Insurance (OASDI) benefits for workers and their families. The Medicare tax pays for hospital insurance. Taken together, these taxes (which were mandated by the Federal Insurance Contributions Act) are known as FICA taxes.

If you pay your employee less than \$1,500 in wages in 2006 (\$1,400 in 2005), neither you nor your employee will owe Social Security or Medicare tax on those wages. However, if you pay wages of \$1,500 or more to any one household employee, you'll probably have to pay FICA taxes. Both you and your household employee may owe FICA taxes. Your share of the tax is 7.65 percent (6.2 percent for Social Security (OASDI) tax and 1.45 percent for Medicare tax) of the employee's Social Security and Medicare wages. Your employee's share is also 7.65 percent. Therefore, the combined FICA rate is 15.3 percent.

FICA Employment Taxes (Social Security and Medicare Taxes)	
If you pay \$1,500 or more to any one household employee in 2006:	<p>You must pay Social Security and Medicare taxes</p> <ul style="list-style-type: none">• The taxes are 15.3 percent of wages• Your employee's share is 7.65 percent (you may withhold this sum from each payment of your employee's wages, or choose to pay it yourself)• Your share is a matching 7.65 percent

[See disclaimer on final page.](#)

Tip: If your employee's wages reach \$94,200 in 2006 (\$90,000 in 2005) (the "maximum earnings limit"), don't count any wages you pay that employee during the rest of the year as Social Security wages for purposes of figuring the Social Security tax. (But continue to count the employee's wages as Medicare wages to figure the Medicare tax.)

Tip: FICA wages don't include the value of food, lodging, clothing, and other noncash items you provide for your household employee (unless you give your employee cash in place of these items).

Paying FICA

As a household employer, you're responsible for paying your share of FICA taxes and remitting your employee's share. You can either withhold your employee's share from his or her wages or pay it from your own funds. If you pay your household employee a cash wage without any withholding, you'll be responsible for paying the entire 15.3 percent FICA tax. If you pay your employee's share of FICA, you must include that amount in his or her wages for income tax purposes—it's considered taxable income.

Example(s): You hire a household employee (who is an unrelated individual over age 18) to care for your child and agree to pay cash wages of \$100 each Friday. You expect to pay your employee \$1,500 or more for the year. You decide to pay your employee's share of Social Security and Medicare taxes from your own funds. You pay your employee \$100 every Friday without withholding any Social Security or Medicare taxes.

For Social Security and Medicare tax purposes, your employee's wages each payday are \$100. For each wage payment, you will pay \$15.30 when you pay the taxes. This is \$7.65 (\$6.20 for Social Security tax + \$1.45 for Medicare tax) to cover your employee's share, plus a matching \$7.65 for your share. For income tax purposes, your employee's wages each payday are \$107.65 (\$100 + the \$7.65 you will pay to cover your employee's share of Social Security and Medicare taxes).

Exceptions to the FICA rules

Do not count wages you pay to any of the following individuals as Social Security and Medicare wages (even if these wages total \$1,500 or more during the year in 2006):

- Your spouse
- Your child who is age 20 or younger
- An employee who is age 17 or younger at any time during the year, unless providing household services is the employee's principal occupation (if the employee is a student, providing household services is not considered to be his or her principal occupation)
- Your parent, unless both of the following are true: (1) your child lives with you and is either under age 18 or has a physical or mental condition that requires the personal care of an adult for at least four continuous weeks in a calendar quarter, and (2) you are divorced and

have not remarried, or you are a widow or widower, or you are married to and living with a person whose physical or mental condition prevents him or her from caring for your child for at least four continuous weeks in a calendar quarter

What is the federal unemployment tax (FUTA)?

If you have a household employee, you may also have to pay the federal unemployment tax, which is commonly referred to as the FUTA tax. The purpose of FUTA taxes is to fund unemployment compensation benefits for workers who lose their jobs. If you're a household employer, the FUTA tax must be paid from your own funds—do not withhold the tax from your employee's wages.

The FUTA tax amounts to 6.2 percent of your employee's FUTA wages. However, if you pay all of the required contributions to your state unemployment fund by April 15, you'll be able to take a credit of up to 5.4 percent against the FUTA. That results in a net tax of 0.8 percent (.008).

Caution: If you don't pay your required contributions on time, your credit will be limited to 90 percent of the credit that would ordinarily be allowed.

Application of the FUTA rules

If the wages you pay to your household employees total \$1,000 or more in any calendar quarter, the first \$7,000 of wages you pay to each household employee is considered FUTA wages. If your employee's wages reach \$7,000 during the year, don't figure the FUTA tax on any additional wages you pay to that employee for the rest of the year.

If the wages you pay are less than \$1,000 in each calendar quarter, but you had a household employee in the previous year, the wages you pay in the current year may still be considered FUTA wages. They are FUTA wages if the wages you paid to household employees in any calendar quarter of the previous year totaled \$1,000 or more.

Example(s): You hired a household employee (who is not related to you) on January 1, Year 1, and agreed to pay wages of \$200 every Friday. From January 1 to March 31, you paid the employee wages of \$2,600. Because you paid wages of \$1,000 or more in a calendar quarter of Year 1, the first \$7,000 of wages you pay that employee (or any other employee) in Year 1 or Year 2 is considered FUTA wages. (The FUTA wages you pay may also be subject to your state's unemployment tax.)

During Year 1, you pay your household employee total wages of \$10,400. You pay all the required contributions for Year 1 to your state unemployment fund by April 15, Year 2. Therefore, your FUTA tax for Year 1 is \$56 (\$7,000 x .008).

Federal Unemployment Tax (FUTA)	
If you pay total wages of \$1,000 or more in any	You must pay federal

<p>calendar quarter of the current year or previous year to household employees:</p>	<p>unemployment tax</p> <ul style="list-style-type: none"> • The tax is usually 0.8 percent of wages • Wages over \$7,000 a year per employee are not taxed
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FUTA exceptions

Do not count wages you pay to any of the following individuals as FUTA wages:

- Your spouse
- Your child who is age 20 or younger
- Your parent

Tip: You may also be required to pay state unemployment or disability taxes and/or to carry workers' compensation insurance. Because state tax requirements may differ from federal, you should check with the appropriate agency in your state for further information.

Must you withhold federal income tax?

You aren't required to withhold federal income tax from wages you pay a household employee. You should withhold federal income tax only if your household employee asks you to withhold it and you agree. If you agree to withhold federal income tax, you're responsible for paying it to the IRS. Your employee must complete Form W-4 (Employee's Withholding Allowance Certificate). Any income tax you pay for your employee without withholding it from the employee's wages must be included in his or her wages for federal income tax purposes. It also must be included in Social Security and Medicare wages and in FUTA wages.

Tip: Either party may end an agreement to withhold federal income tax by letting the other know in writing.

For more information about withholding federal income tax, see IRS Publication 15 (Circular E, Employer's Tax Guide).

How do you make tax payments?

You can pay all of the employment taxes at once, or you can pay them in installments in the form of estimated tax payments. If you choose to pay them all at once, you'll add your employment taxes to the income tax you pay on your federal income tax return. When you file your federal income tax return, attach Schedule H (Household Employment Taxes). Use Schedule H to figure your total

household employment taxes (Social Security, Medicare, FUTA, and any federal income taxes withheld). Add these household employment taxes to your income tax. Pay the amount due by April 15.

You can avoid owing tax with your return if you pay enough tax during the year to cover your household employment taxes, as well as your income tax. You can pay the additional tax in any of the following ways:

- Ask your employer to withhold more federal income tax from your wages
- Ask the payer of your pension or annuity to withhold more federal income tax from your benefits
- Make estimated tax payments to the IRS
- Increase your payments if you already make estimated tax payments

For information about estimated taxes, see *Projecting Federal Income Tax, Making Estimated Payments, Choosing Correct Withholding Amount*.

Caution: Unless you meet an exception, you may be subject to the estimated tax penalty if you do not pay enough income and household employment taxes during the year.

Forms you may need

The following table summarizes the forms you may need as a household employer.

Form	Requirements
I-9 (Employment Eligibility Verification)	If you hire a household employee to work for you on a regular basis, you and the employee must complete USCIS Form I-9, Employment Eligibility Verification. You must also examine the necessary identification documents. Although you do not submit the form to the USCIS, IRS, or any other agency, you must keep the form available for review upon notice by an authorized U.S. government official.
Schedule H (Household Employment Taxes)	Use Schedule H of your federal income tax return to report household employment taxes. Schedule H is required if you pay Social Security and Medicare wages of \$1,500 or more, FUTA taxes, or wages from which you withheld federal income tax. After completing Schedule H, carry your total household employment taxes figure over to the Household Employment Taxes line of your federal Form 1040.

See disclaimer on final page.

<p>SS-4 (Application for Employer Identification Number)</p>	<p>You must include your employer identification number (EIN) on the forms you file for your household employee. You can get an EIN by telephone, mail, or over the Internet.</p>
<p>W-2 (Wage and Tax Statement)</p>	<p>If you withhold federal income tax from your employee's wages, or if you pay an employee Social Security and Medicare wages of \$1,500 or more in 2006 (\$1,400 in 2005), you must file a Form W-2 (Wage and Tax Statement) for him or her. Complete Form W-2 and give Copies B, C, and 2 to your employee by the required due date. You must send Copy A of Form W-2 along with Form W-3 to the Social Security Administration by the required due date.</p>
<p>W-3 (Transmittal of Wage and Tax Statements)</p>	<p>If you file one or more W-2 forms, you must also file Form W-3 with the Social Security Administration.</p>
<p>W-4 (Employee's Withholding Allowance Certificate)</p>	<p>If you agree to withhold federal income tax from your employee's wages, he or she must complete Form W-4.</p>

Tip: If you obtain an extension for filing your federal income tax return, the extension will also apply to your Schedule H.

Tip: If you are not required to file a federal income tax return, you can file Schedule H by itself.

Caution: You may also be required to pay state unemployment and disability taxes and/or carry workers' compensation insurance. Because state tax requirements may differ from federal, you should check with the appropriate agency in your state for further information.

What if you fail to pay enough during the year to cover your household employment taxes?

Because your household employment taxes are added to your federal income tax, underpayment or nonpayment of your employment taxes may subject you to various penalties (and the imposition of interest), including an estimated tax underpayment penalty. However, you won't be penalized for failure to make estimated tax payments if both of the following conditions apply for the year:

- You aren't subject to federal income tax withholding from your pay, pension, annuity, or other payments you receive
- Your income taxes, excluding your household employment taxes, will not be enough to require payment of estimated taxes

For information about estimated taxes, see *Projecting Federal Income Tax, Making Estimated Payments, Choosing Correct Withholding Amount*.

Reporting–requirement penalties

You may have to pay a penalty if you don't give Form W-2 to your employee on time or fail to file Copy A of the form with the Social Security Administration. In addition, you may have to pay a penalty if you don't show your employee's Social Security number on Form W-2 or don't provide correct information on the form. Generally, a payer who, without reasonable cause, fails to furnish a payee statement to the appropriate person or fails to include all of the required information on the statement (or includes incorrect information) may be subject to a penalty of \$50 for each statement.

Are household employers subject to labor laws?

The Fair Labor Standards Act covers household employees. Therefore, you must pay your household employee at least the federal minimum wage (currently \$5.15). However, if your state enforces a higher minimum wage, that higher rate will apply. If your household employee works more than 40 hours in a week for you but does not live in your home, you must pay him or her overtime (one and one-half times the normal hourly rate). For additional information, consult the appropriate labor department for your state.

What records should you keep?

You'll need to keep various employment tax records for at least four years after the due date of the return on which you report the taxes or the date the taxes were paid, whichever is later. Keep your copies of Schedule H or other employment tax forms you file and any related Forms W-2, W-3, W-4, and W-5. You must also keep records to support the information you enter on the forms you file. If you must file Form W-2, you'll need to keep a record of your employee's name, address, and Social Security number.

Caution: You must ask for your employee's Social Security number no later than the first day on which you pay the wages.

On each payday, you should record the date and amounts of all the following items:

- Your employee's cash wages (and noncash wages, if any)
- Any employee Social Security tax you withhold or agree to pay for your employee
- Any employee Medicare tax you withhold or agree to pay for your employee
- Any federal income tax you withhold
- Any advance earned income credit (EIC) payments you make
- Any state employment taxes you withhold

What should you know about the earned income credit (EIC)?

The EIC is a refundable tax credit available to certain low-income working individuals who earned income during the year and who had less than a specified amount of investment income. This credit reduces their tax or allows them to receive a payment from the IRS. You may have to make advance payments of part of the EIC if your household employee is eligible to claim the EIC and has at least one qualifying child. You also may have to give your employee a notice about the EIC.

Advance EIC

You must make advance EIC payments to your employee if he or she gives you a properly completed Form W-5 (Earned Income Credit Advance Payment Certificate). Use the advance EIC payment tables in Publication 15 to find out how much to pay your employee. Reduce the Social Security and Medicare taxes and withheld federal income tax (if any) you need to pay to the IRS by any advance EIC payment you make. See IRS Publication 15 for more information.

Notice regarding the EIC

If you agree to withhold federal income tax from your employee's wages and the income tax withholding tables show that no tax should be withheld, you must give your household employee a notice about a possible refund obtained through the EIC. If you give your household employee Copy B of Form W-2 (which has a statement about the EIC) by the required due date, you don't have to provide any other notice about the EIC. Alternatively, you may give your employee Notice 797 (Possible Federal Tax Refund due to the Earned Income Credit) or provide your employee with your own written statement that includes the same wording as Notice 797. For more information, see Publication 926.

For more information about the earned income credit, see [Earned Income Credit](#) .

Can you claim a credit for child and dependent care expenses?

If your household employee cares for your dependent who is under age 13, or for your spouse or dependent who is not capable of self-care, you may qualify to claim the child and dependent care credit. The child and dependent care credit is a federal income tax credit for up to 35 percent of expenses you paid to a caregiver so that you could work or look for work. Several requirements apply. If you can claim this credit, you can include in your qualifying expenses your share of the federal and state employment taxes you pay, as well as the employee's wages. For more information, see [Tax Credits: Child and Dependent Care Credit](#) .

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