

Tax Law 101

A Brief Overview of the Laws for Household Employers in California



Compliments of Nannyology

When a family hires an individual to perform duties in or around their home, they are considered a “household employer.” The IRS views the worker — whether a nanny, health aide, housekeeper, gardener, cook/chef, personal assistant, estate manager, etc. — as an employee of the family. Misclassifying an employee as an “independent contractor” is considered tax evasion.

If a household employee is paid more than \$2,200 (2020) in a calendar year, the household employer is required to withhold and remit payroll taxes to the state and the IRS. If a household pays an employee less than the threshold in a calendar year, payroll taxes are not required to be withheld and remitted; however, the household is still legally considered an employer and, therefore, must adhere to federal and state labor laws.

WHAT ARE THE FINANCIAL AND LEGAL RESPONSIBILITIES FOR HOUSEHOLD EMPLOYERS?

1. Household employers are required to withhold taxes from their employee’s paycheck each pay period:

- **Social Security & Medicare**
- **State Disability Insurance**
- **Federal Income Tax*** (the amount withheld is based upon the employee’s withholding selections on Form W-4)
- **State Income Tax*** (the amount withheld is based upon the employee’s withholding selections)

**It is not legally required that income taxes be withheld. However, we strongly advise it so that the employee does not have a large tax burden at the end of the year.*

2. Household employers are required to pay federal and state employer taxes:

- **Social Security & Medicare**
- **Federal Unemployment Insurance**
- **State Unemployment Insurance & Employment Training Tax**

These taxes must be reported and remitted along with the employee’s tax withholdings throughout the year. The good news is there are tax breaks that can offset most — if not all — of the employer’s tax costs. For an estimate of your taxes — and your tax breaks — visit our free [Employer Budget Calculator](#). Additional state tax credits may be available. Please call for details.

3. Household employers are required to prepare and file special year-end paperwork. In addition to providing Form W-2 to each employee, household employers are required to file Form W-2 Copy A/Form W-3 with the Social Security Administration and file Schedule H with their federal income tax return (Form 1040).

4. Household employers in California are required to carry Workers’ Compensation. Workers’ compensation is not part of the tax process; it’s an insurance policy that provides your nanny with financial assistance for lost wages and medical expenses in the event of a work-related injury or illness. It also provides legal protection since workers who accept benefits forfeit their right to sue — regardless of fault. Some level of workers’ compensation is usually provided in homeowners insurance. You should contact your insurance provider to see if your current plan is sufficient. If not, you can usually add an enhancement to cover your employee. If you have difficulty obtaining a policy, please contact us and we can guide you to a solution.

5. Household employers must meet federal and state labor law requirements. Household employees must be paid overtime for hours worked over 40 in a 7-day workweek. The rate for overtime pay must be at least 1.5 times the regular hourly rate. According to Wage Order 15 and the Domestic Worker Bill of Rights, “personal attendants” (someone that spends at least 80% of their time caring for another individual, i.e. nannies and senior caregivers) must be paid overtime for all hours worked over 9 in a day and 40 in a week. For employees who are not personal attendants, overtime kicks in for hours over 8 worked in a day and 40 in a week. A separate set of rules apply for families that hire a live-in employee. Please call for details. Additionally, most household employers must provide at least 3 days of paid sick time to their employee.

© Copyright 2007-2020 Breedlove & Associates, LLC

THE BENEFITS OF COMPLIANCE

Compliance provides three significant benefits to families and their employees:

- 1) **Audit & Lawsuit Prevention.** Families who pay legally don't have to worry about legal disputes levied by disgruntled former employees or IRS audits or charges of conspiring to commit tax evasion — a serious charge that carries fines up to \$25,000 and potential jail time and loss of professional license. Think of it as insurance against tax and legal problems.
- 2) **Tax Breaks.** There is a common misperception that compliance is expensive. The truth is that most families — regardless of their income level — qualify for tax breaks that offset the majority of the employer tax costs. There are two tax breaks available to families: a) Dependent Care Accounts (aka Flexible Spending Accounts) allow families to pay for up to \$5,000 of dependent care expenses using pre-tax dollars. Depending on the marginal tax rate, this can save household employers up to \$2,300 each year; b) Child or Dependent Care Tax Credit (IRS Form 2441) allows families to itemize up to \$3,000 per child per year (maximum of \$6,000). For most families, this tax break will yield an annual savings of \$600 for one child and \$1,200 for two or more children. **Note:** Families who have access to a Dependent Care Account and have 2 or more children may be able to capitalize on both of these tax breaks — providing a savings of up to \$2,500 per year.
- 3) **Professional Benefits.** When a family pays legally, the employee receives important short-term and long-term benefits, such as Social Security, Medicare, unemployment, healthcare subsidies disability and an ability to obtain loans/credit. These benefits and protections have a dramatic impact on the perceived professionalism of the position and, therefore, the quality and duration of the employment relationship.

A NO-WORK, NO-WORRY SOLUTION TO PAYDAYS, TAX TIME AND ALL POINTS IN BETWEEN

Since 1992, we've been eliminating the work and worry for busy families by providing comprehensive management of payroll and taxes — as well as unlimited guidance and support from our team of tax and labor law experts — for a small, tax-deductible quarterly fee.

Our focus on the unique needs of *household* employers (rather than *business* employers, which have different obligations, different forms, different deadlines and different labor laws) has helped us create a simple, affordable service that has been heralded in numerous publications, including *Kiplinger*, *Working Mother*, *Forbes*, *The Wall Street Journal*, *CPA Practice Advisor* and *The New York Times*.

Here's a summary of the compliance process for households — all of which we handle for our clients with guaranteed accuracy and timeliness:

- Register for federal and state tax accounts
- Complete and file a New Hire Report
- Calculate the correct amount of federal and state taxes to withhold each pay period
- Track gross pay, net pay, federal and state taxes withheld, and federal and state employer taxes
- Prepare state employment tax returns quarterly and remit both employer and employee taxes
- Prepare federal tax estimates four times per year and remit both employer and employee taxes
- Prepare year-end tax forms (W-2, W-3, Schedule H and State Annual Reconciliation)
- Respond to IRS and state requests/inquiries
- Monitor ever-changing household employment tax law

The IRS estimates that the entire compliance process takes the average individual about 50-55 hours per year. Let us take these tasks off your plate and eliminate all your work, worry and risk.



To learn more, [visit our website](#) to watch our quick video tour. If you have any questions about your situation, please call for a free consultation at 877-367-1969. We're here to help!