

Tax Law 101

A Brief Overview of the Laws for Household Employers in New York

HomePaySM

Provided by Breedlove



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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 \$1,900 (2015) 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**
- **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)
- **Local Income Tax*** (in New York City)

**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 & Re-Employment Service Fund**

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 federal tax breaks — visit the free Employer Budget Calculator on [our website](#). 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 New York are required to carry Workers’ Compensation and Disability Insurance on full-time employees (40 hours or more per week) and all live-in employees. Workers’ Compensation and Disability are not handled through the tax process. They are insurance policies that provide financial assistance when employees are unable to work due to injury or illness. They are very important insurances – families without coverage are generally liable for the amount of the benefits (lost wages and medical expenses can be significant) and are subject to large fines from the state. If workers’ compensation is required in your situation, we can help you obtain coverage. As part of our setup process, we can guide you to a simple stand-alone policy through our licensed insurance partner. We don’t upcharge or make any money on these policies; we just want to bring a convenient, affordable solution to our clients.

5. Household employers must meet federal and state labor law requirements. Household employees are classified as non-exempt workers. As such, they must be paid overtime for all hours over 40 in a 7-day work week. The rate for overtime pay must be at least 1.5 times the regular rate of pay. (**Note:** Live-in employees do not have to be paid overtime until they reach 44 hours in a work week). Additionally, household employers are required to grant employees at least 1 day of rest each week and pay on a weekly basis. After a year of employment, employees are also entitled to at least 3 days of paid time off.

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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.

Additionally, household employers in New York may be eligible for a state tax credit of up to \$120 for 1 child or \$240 for 2 or more children. Please call for details.

- 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](#) and watch our quick video tour. If you have any questions about your situation, please call for a free consultation at 888-273-3356. We're here to help!