

Tax Law for Temporary Employers

A Financial & Legal Overview for Families Hiring Temporary Help

A Complimentary Resource from
Breedlove & Associates

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Most families who hire temporary household help have a lot of questions. What are our legal and financial responsibilities? Do we have to withhold taxes? Do we have to pay employer taxes? Is our employee responsible for taxes? The following provides answers to these and other questions facing household employers.

Is my temporary household worker an independent contractor, or am I her employer?

When you hire a caregiver, either temporarily or on an ongoing basis, she is your employee. She is not an independent contractor. This is not determined by the amount she is paid or the amount of time she works for you; it is determined by the nature of the work she performs and the IRS has ruled definitively that caregivers should be classified as employees.

Okay, I'm a household employer. Does this mean I have payroll and tax responsibilities?

Household employment tax requirements are determined by the amount of gross salary that you pay your temporary employee. In 1995, the IRS modified household employment tax requirements to protect temporary employment and casual baby-sitting from the tax process. If you pay a temporary employee less than \$1,600 (2008) in a calendar year, you are not required to withhold any taxes from her salary, nor do you have to pay any Social Security & Medicare taxes. However, if the total wages you pay to **all** of your household employees exceeds \$1,000 in a calendar quarter, you will need to contribute to the state and federal unemployment insurance fund. These taxes vary by state, but range from 2-4% of your employee's gross wages. It is important to note that regardless of how much you pay your employee(s), you are legally considered a household employer and, therefore, you're required to adhere to state and federal labor laws.

What are the legal requirements if we end up paying more than \$1,600 in a calendar year to a temporary household employee?

When you pay a household employee more than \$1,600 (2008) in a year, you must follow the tax withholding and reporting requirements. Briefly, that means you are required to **withhold** Social Security, Medicare and applicable state taxes from your employee's paycheck. It is also recommended – but not legally required – that state and federal income taxes be withheld in order to prevent your employee from having a large tax obligation at the end of the year.

In addition to these withholding requirements, you are also required to **pay** employer payroll taxes on her salary (approximately 9-10% of gross salary). Employer and employee taxes are reported and remitted to the federal and state tax agencies quarterly. The good news is that "being legal" allows you to take advantage of tax breaks such as the Dependent Care Account. Often, the tax savings exceed the employer's share of the taxes – actually saving you money by paying legally!

**If you have any questions or would like a free consultation
on your specific situation, please don't hesitate to call. We're here to help.**



Tax & Payroll Services for Household Employers