

Temporary Employment Law

A Financial Overview for Families Hiring Temporary Workers



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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 need to withhold taxes? Do we have to pay employer taxes? Are there tax breaks available? Here's what you need to know:

IS MY TEMPORARY HOUSEHOLD WORKER AN INDEPENDENT CONTRACTOR OR MY EMPLOYEE?

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.

AS A HOUSEHOLD EMPLOYER, DO I HAVE PAYROLL AND TAX OBLIGATIONS?

Household employment tax requirements are determined by the amount of gross wages that you pay your temporary employee. In 1995, the IRS modified household employment tax requirements to protect temporary employment and casual babysitting from the tax process. If you pay a temporary employee less than \$2,200 in a calendar year, you are not required to follow the tax withholding and reporting requirements. (However, if the total wages you pay to ALL of your employees combined exceeds \$1,000 in a calendar quarter, you will need to contribute to the state and federal unemployment insurance fund). It is important to note that, regardless of how much you pay your employee(s), you are legally considered a household employer. As such, you are required to adhere to state and federal labor laws.

When you pay a household employee more than \$2,200 in a year, you must follow the tax withholding and reporting requirements. Briefly, that means you are required to file employment tax returns quarterly and pay some state and federal employment taxes on her salary. For a detailed compliance checklist, [click here](#).

AM I REQUIRED TO PAY OVERTIME TO MY TEMPORARY EMPLOYEE?

Yes, under federal law, all domestic workers are entitled to overtime pay, regardless of whether they're employed on a temporary or permanent basis. Therefore, any hours over 40 in a 7-day workweek must be paid at a rate that is at least 1.5 times the regular hourly rate.

ARE THERE ANY TAX BREAKS?

Yes! There are two tax breaks available to all working families with dependent care expenses, regardless of your income level: 1) Flexible Spending Account (offered through most companies) and 2) the Dependent Care Tax Credit. For families hiring temporary or part-time caregivers, these tax savings will usually exceed the employer tax costs mentioned above — sometimes by as much as \$1,000 - \$1,500!

Bottom Line: It's legally and financially prudent to set up payroll properly and keep track of your care-related expenses. For an estimate of your tax costs — and your tax breaks — visit our free [Employer Budget Calculator](#).



HOW DO I TAKE ADVANTAGE OF THE TAX BREAKS?

The first time you employ a caregiver, you should obtain her full name, phone number and Social Security Number. You will need this information to take advantage of tax breaks — either through your Flexible Spending Account or the Dependent Care Tax Credit. It's much easier to collect it upfront than it is to attempt to chase it down at the end of the year.



HomePay, Provided by Breedlove is the nation's leading specialist in the unique area of household employment payroll, tax & labor law. Our simple, affordable service provides a no-work, no-worry solution to paydays, tax time and all points in between.

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