

# **WHAT YOU NEED TO KNOW IF YOU HIRE HOUSEHOLD HELP**

**For tax year 2008**



The information presented is current as of this publication's print date. Visit our Web site at [www.nystax.gov](http://www.nystax.gov) for up-to-date information.

NOTE: A Publication is an informational document that addresses a particular topic of interest to taxpayers. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in Department policies could affect the validity of the information contained in a publication. Publications are updated regularly and are accurate on the date issued.

<b>Table of Contents</b>	<b>Page</b>
Introduction.....	5
Is your employee(s) eligible to work in the U.S.? .....	5
Federal employer identification number.....	6
Reporting newly hired or rehired employees.....	6
Unemployment insurance, wage reporting, and withholding tax .....	7
New employer registration.....	8
New York State unemployment insurance .....	8
New York State wage reporting.....	9
New York State withholding tax.....	9
Workers' compensation and disability benefits.....	9
Social security and medicare .....	10
New York State forms and publications .....	10
Federal forms and publications.....	11

THIS PAGE INTENTIONALLY LEFT BLANK

## Introduction

If you hire household help (domestic help), such as a housekeeper, babysitter, or caretaker, you take on certain responsibilities as an employer. As an employer, you may need to pay state and federal employment taxes. This publication provides a summary of reporting and filing requirements and a description of the forms you may need to use when you hire household help.

If you contract with a service to provide household help or if the worker you hire is self-employed, you are **not** considered an employer and are not subject to employer filing requirements.

For federal information, including information on determining if the person(s) you hire is considered your employee, see Internal Revenue Service (IRS) Publication 926, *Household Employer's Tax Guide*. (See, *Federal forms and publications*, on page 11 for information on how to obtain forms and publications from the IRS.)

## Is your employee(s) eligible to work in the U.S.?

The Immigration Reform and Control Act of 1986 requires employers to verify that new employees are eligible to work in the United States. If you employ someone to do work in your home on a regular basis (once a week, for instance), you must maintain records showing that your household employee is eligible to work in the United States.

You and your employee must complete the United States Citizenship and Immigration Services (USCIS) Form I-9, *Employment Eligibility Verification*, no later than the first day of work. You must keep this form for three years after the date the employee is hired or one year after the date that employment ends, whichever is later.

Form I-9 does **not** need to be completed for a person:

- hired before November 7, 1986, and has been continuously employed by the same employer,
- providing domestic services in a private household that are sporadic, irregular, or intermittent,
- providing services as an independent contractor, or
- providing services under a contract, subcontract, or exchange entered into after November 6, 1986. (In such cases, the contractor is the employer for Form I-9 purposes; for example, a temporary employment agency.)

To order federal Form I-9 or other forms from the USCIS, call the USCIS Forms Request Line at 1 800 870-3676, or access their Web site ([www.uscis.gov](http://www.uscis.gov)).

For general information about the employment eligibility verification process or other immigration-related employment matters, contact the USCIS Office of Business Liaison at 1 800 357-2099.

## **Federal employer identification number**

You **must** have a federal employer identification number (EIN) if you pay wages to one or more household employees.

You can obtain your federal EIN by several methods:

- online ([www.irs.gov](http://www.irs.gov)),
- through the mail by completing federal Form SS-4, *Application for Employer Identification Number*, or
- by calling the IRS Business and Specialty Tax Line at 1 800 829-4933.

You should obtain your federal EIN before you register as an employer with New York State (see *New employer registration* on page 8).

## **Reporting newly hired or rehired employees**

All employers must report to the New York State Department of Taxation and Finance certain identifying information about each newly hired or rehired employee working in the state **within 20 days** of the hiring date.

The hiring date is the first day compensated services are performed by your employee. This would be the first day any services are performed for which your employee will be paid wages or other compensation.

You must provide the following information for each newly hired employee:

- employee name (first, middle initial, last)
- employee address (street, city, state, and ZIP code)
- employee social security number
- employer name
- employer address (street, city, state, and ZIP code)
- your employer identification number (assigned by IRS)

You can report new hire information electronically by accessing the Tax Department's New Hire Web site ([www.nysnewhire.com](http://www.nysnewhire.com)).

You can also report the required information by submitting a completed and legible copy of your employee's federal Form W-4, *Employee's Withholding Allowance Certificate*, (available on the IRS Web site ([www.irs.gov](http://www.irs.gov))) or an equivalent form, to:

New York State Tax Department  
 New Hire Notification  
 PO Box 15119  
 Albany, NY 12212- 5119

or by fax to (518) 869-3318.

For more information on the new hire reporting program and your responsibilities and requirements, see Publication NYS-50, *Employer's Guide to Unemployment Insurance, Wage Reporting, and Withholding Tax*, or access [www.nysnewhire.com](http://www.nysnewhire.com).

**Unemployment insurance, wage reporting, and withholding tax**

If you hire an employee, you are subject to the laws requiring the withholding of federal social security taxes, as well as federal and state income taxes. You may also be responsible for paying for unemployment insurance and for workers' compensation and disability insurance.

If you are liable for New York State unemployment insurance or you and your employee agree to withhold New York State income tax from your employee's wages, you must file Form NYS-45, *Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return*.

Form NYS-45 is due the last day of the month following the end of the quarter as follows:

<u>Quarter</u>	<u>Due Date</u>
January 1 to March 31	April 30
April 1 to June 30	July 31
July 1 to September 30	October 31
October 1 to December 31	January 31

When the due date falls on a Saturday, Sunday, or legal holiday, returns are due on the next business day. Although the fourth quarter unemployment insurance report is due on January 31, the wage reporting and annual employee wage and withholding information may be filed on or before February 28. If you elect to file this information after the Form NYS-45 due date of January 31, you must report it on a separate Form NYS-45-ATT, *Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return - Attachment*, or on magnetic media.

Failure to provide the required information or to file the required forms may result in civil or criminal penalties, or both.

The following sections provide general information on registering as an employer with New York State, New York State unemployment insurance, New York State wage reporting, and New York State income tax withholding.

For additional information (including New York City and Yonkers withholding tax requirements, if applicable), see Publication NYS-50, *Employer's Guide to Unemployment Insurance, Wage Reporting, and Withholding Tax*, Publication NYS-50-T, *New York State, New York City, and Yonkers Withholding Tax Tables and Methods*, or call our Withholding Tax Information Center at 1 877 698-2910.

### **New employer registration**

New employers can obtain information on how to register for unemployment insurance, wage reporting, and withholding tax by contacting either the New York State Department of Labor (DOL) or the New York State Tax Department. You should obtain your federal employer identification number (EIN) before you register as an employer with New York State.

– **New York State Department of Labor**

Internet access: [www.labor.state.ny.us](http://www.labor.state.ny.us)

Telephone assistance: is available from 8:30 a.m. to 4:25 p.m. (eastern time) Monday through Friday by calling 1 888 899-8810 or (518) 485-8589.

– **New York State Tax Department**

Internet access: [www.nystax.gov](http://www.nystax.gov)

Telephone assistance is available from 8:00 a.m. to 5:00 p.m. (eastern time), Monday through Friday by calling 1 877 698-2910.

### **New York State unemployment insurance**

If you pay cash wages totaling \$500 or more in a calendar quarter to one or more persons employed as a household employee in your home, you are required to pay New York State unemployment insurance taxes.

If you pay less than \$500 cash wages in a calendar quarter, you may choose to cover your employee(s) for unemployment insurance.

If you are liable for unemployment insurance taxes, each quarter you must file Form NYS-45 and Form NYS-45-ATT, if applicable.

**Note:** If you pay cash wages totaling \$1,000 or more in any calendar quarter in the current or preceding year, you must also pay federal unemployment taxes. Contact the IRS for federal information.

For additional information on New York State unemployment insurance, see Department of Labor Publication IA 318D, *Householder's Guide for Unemployment Insurance*, or you may call the Department of Labor at 1888 899-8810.

You can obtain Publication IA 318D on-line ([www.labor.state.ny.us](http://www.labor.state.ny.us)) or by writing to:



New York State Department of Labor  
Registration Subsection  
WA Harriman Campus  
Albany, NY 12240-0339

**New York State wage reporting**

If you are liable for New York State unemployment insurance contributions, you must file employee **wage reporting** information each calendar quarter using Form NYS-45.

**New York State withholding tax**

Wages you pay to your household help are taxable income to that employee(s). Your employee must report those wages on his or her federal and state personal income tax returns.

Withholding income tax (federal or New York State) from wages paid to household employees is **voluntary** on your part and your employee. If you and your employee voluntarily agree, federal or New York State income tax, or both, may be withheld. In addition, you may agree to withhold for New York City or Yonkers income tax, or both.

If you and your employee agree to withhold New York State income tax from your employee's wages, your employee should use Form IT-2104, *Employee's Withholding Allowance Certificate and Instructions*, to determine the number of withholding allowances to claim for withholding tax purposes. You will then use this information to determine the amount of tax to withhold using Publication NYS-50-T, *New York State, New York City, and Yonkers Withholding Tax Tables and Methods*.

If you withhold New York State income tax from your employee, you must file Form NYS-45 each calendar quarter. Returns are mailed to registered employers before the quarter ends. A registered employer, who does not receive the tax forms, should call the Withholding Tax Information Center at 1 877 698-2910.

If you withhold New York State income tax from your employee(s) during a calendar quarter, you may also be required to file Form NYS-1, *Return of Tax Withheld*. You must file Form NYS-1 and remit the total tax withheld after each pay period that causes the total accumulated tax required to be withheld to equal or exceed \$700. For more information, see the instructions for Form NYS-1.

**Workers' compensation and disability benefits**

If you employ one (or more) household employee(s) who works for you 40 hours or more per week, you are subject to the Workers' Compensation Law and the Disability Benefits Law. Information about these benefits and the necessary forms are available through private insurance carriers, or by contacting your local office of the State Insurance Fund.

Persons you hire to do yard work or casual chores in and about your home on a part-time basis are not covered by the Workers' Compensation Law

and the Disability Benefits Law. However, coverage is required when you employ a minor to operate power-driven machinery, including a power lawnmower. You may voluntarily purchase insurance for employees not protected by the law.

Contact the State Insurance Fund for information regarding workers' compensation and disability insurance. Visit their Web site ([www.nysif.com](http://www.nysif.com)) or call 1 888-875-5790. If you are calling from outside the US and Canada: (518) 437-5220.

## **Social security and medicare**

Although you are not required to withhold income tax on wages paid to a household employee(s), you are liable for your household employee's social security and medicare taxes if you pay that employee cash wages of \$1,600 or more in a calendar year.

For more information on federal income tax withholding and social security and medicare taxes, see IRS Publication 15, (Circular E), *Employer's Tax Guide*. (For information on how to obtain forms and publications from the IRS, see *Federal forms and publications* on page 11.)

## **New York State forms and publications**

New York State tax forms and publications can be accessed on the Tax Department's Web site ([www.nystax.gov](http://www.nystax.gov)). In addition, the Tax Department provides a fax-on-demand ordering system. If you have access to a fax machine, you may order many forms and other documents from a touch-tone telephone, 24 hours a day, 7 days a week by calling toll free 1 800 748-3676. You may also request most of these documents listed below by calling toll free 1 800 462-8100. From areas outside the U.S. and outside Canada, call (518) 485-6800.

The following is a list of New York State tax forms and publications referred to in this publication:

- Form NYS-100, *New York State Employer Registration for Unemployment Insurance, Withholding, and Wage Reporting*
- Form IT-2104, *Employee's Withholding Allowance Certificate and Instructions*
- Form NYS-1, *Return of Tax Withheld*
- Form NYS-45, *Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return*
- Form NYS-45-ATT, *Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return – Attachment*
- Publication NYS-50, *Employer's Guide to Unemployment Insurance, Wage Reporting, and Withholding Tax*

- Publication NYS-50-T, *New York State, New York City, and Yonkers Withholding Tax Tables and Methods*

New York State Department of Labor (DOL) forms and publications are available on the DOL Web site ([www.labor.state.ny.us](http://www.labor.state.ny.us)) or by calling 1888 899-8810.

The following DOL form and publication are referred to in this publication:

- Form NYS-100, *New York State Employer Registration for Unemployment Insurance, Withholding, and Wage Reporting*
- Publication IA 318D, *Householder's Guide for Unemployment Insurance*

## **Federal forms and publications**

Internal Revenue Service (IRS) forms and publications are available on their Web site ([www.irs.gov](http://www.irs.gov)) or by calling toll-free 1 800 829-3676.

The following is a list of IRS forms and publications referred to in this publication:

- Form SS-4, *Application for Employer Identification Number*
- Form W-4, *Employee's Withholding Allowance Certificate*
- Publication 926, *Household Employer's Tax Guide*
- Publication 15, (Circular E), *Employer's Tax Guide*

US Citizenship and Immigration Service (USCIS) Form I-9, *Employment Eligibility Verification*, is available on their Web site ([www.uscis.gov](http://www.uscis.gov)), or call the USCIS Forms Request Line at 1 800 870-3676.

---

---

## Notes

---

---

New York State Department of Taxation and Finance

# Online Tax Center

The place for **all** electronic services!




The *Online Tax Center* offers individuals, businesses, and tax professionals secure and convenient access to a variety of tax services. Access is available 24 hours a day, 7 days a week.\* Use it at your convenience! For more information, visit us on the Web at [www.nystax.gov](http://www.nystax.gov) and click on the *Online Tax Center* link.

\* excluding scheduled maintenance

## After you register, you can:

- pay any amount due on an income tax extension of time to file
- view and reconcile your estimated income tax account or make a payment
- view and pay tax bills (individuals and businesses)
- file a sales tax no-tax-due return

## Without registering you can:

- visit our *Taxpayer Answer Center* for answers to frequently asked questions (FAQs)
- determine which income tax form to file
- apply for an automatic six-month extension of time to file your income tax return
-  get information on e-file and learn how to e-file your income tax return
- find out if you are eligible for **free** e-filing with **FreeFile**
- learn about your electronic payment options, including credit card and electronic funds withdrawal
- check the status of your current-year income tax refund
- use the penalty and interest calculator
- sign up for free e-mail notifications through our subscription service
- look up sales tax jurisdiction and rate information
- and more!



**[www.nystax.gov](http://www.nystax.gov)**

THIS PAGE INTENTIONALLY LEFT BLANK

THIS PAGE INTENTIONALLY LEFT BLANK

## Need help?



**Internet access:** [www.nystax.gov](http://www.nystax.gov)

Access our Answer Center for answers to frequently asked questions; check your refund status; check your estimated tax account; download forms, publications; get tax updates and other information.



**Fax-on-demand forms:** Forms are available 24 hours a day, 7 days a week.

1 800 748-3676



**Telephone assistance** is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.

Refund status: 1 800 443-3200

(Automated service for refund status is available 24 hours a day, 7 days a week.)

To order forms and publications: 1 800 462-8100

Personal Income Tax Information Center: 1 800 225-5829

From areas outside the U.S. and outside Canada: (518) 485-6800



**Hotline for the hearing and speech impaired:** If you have access to a telecommunications device for the deaf (TDD), contact us at 1 800 634-2110. If you do not own a TDD, check with independent living centers or community action programs to find out where machines are available for public use.



**Persons with disabilities:** In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 225-5829.