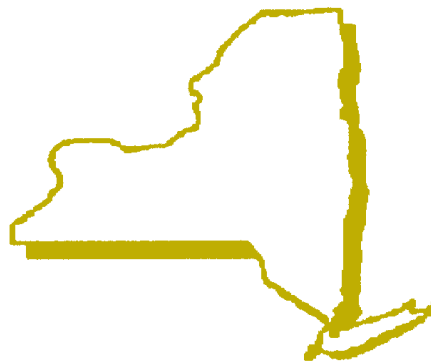


WHAT YOU NEED TO KNOW IF YOU HIRE HOUSEHOLD HELP



The information presented is current as of this publication's print date. Visit our Web site at www.tax.ny.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. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.

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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. However, if you contract with a service or hire someone who is self-employed to perform a job that constitutes a repair, maintenance, or installation service, you may be required to pay sales tax (see *Sales tax on repair and maintenance services performed in and around your home* on page 10).

For federal information, including information on determining if the person(s) you hire is considered your employee, visit the Internal Revenue Service (IRS) Web site (www.irs.gov) and see Publication 926, *Household Employer's Tax Guide*.

Is your employee 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 U.S.. 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.

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 retain an employee's completed Form I-9 for as long as the individual works for you. If the individual's employment is terminated, their Form I-9 must be retained for three years after the date of hire, or one year after the date employment is terminated, whichever is later. Forms I-9 can be retained either on paper or microform, or electronically.

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

- hired before November 7, 1986, and 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.)

For more information, visit the USCIS Web site (www.uscis.gov/I-9Central) or call USCIS Form I-9 Customer Support toll-free at 1 888 464-4218.

Federal employer identification number

You **must** have a federal employer identification number (EIN) if you pay wages to one or more household employees. You should obtain your federal EIN before you register as an employer with New York State (see *New employer registration* on page 7).

You can obtain your federal EIN by several methods:

- online (www.irs.gov);
- through the mail by completing federal Form SS-4, *Application for Employer Identification Number*;
- by calling the IRS Business and Specialty Tax Line at 1 800 829-4933; or
- by faxing a completed Form SS-4 to the appropriate fax number (see the instructions for Form SS-4).

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;
- employee hire date;

- employer name;
- employer address (street, city, state, and ZIP code);
- your employer identification number (assigned by IRS); and
- indicate if dependent health insurance benefits are available to a newly hired or rehired employee, and if so, the date the employee qualifies for the benefits.

You can report new hire information online using the Tax Department New Hire Web site (www.nynewhire.com).

You can also report the required information by submitting a completed and legible copy of your employee's Form IT-2104, *Employee's Withholding Allowance Certificate*; Form IT-2104-E, *Certificate of Exemption from Withholding*; federal Form W-4, *Employee's Withholding Allowance Certificate* (available at www.irs.gov); or an equivalent form you develop. Mail this information to:

NYS TAX DEPARTMENT
NEW HIRE NOTIFICATION
PO BOX 15119
ALBANY NY 12212-5119

or fax it to (518) 320-1080.

Private delivery service – If you choose, you may use a private delivery service, instead of the U.S. Postal Service. See, Publication 55, *Designated Private Delivery Services*. If you use any private delivery service, whether it is a designated service or not, mail your new hire information to:

NYS TAX DEPARTMENT
NEW HIRE NOTIFICATION
CARTS CONTROL
WA HARRIMAN CAMPUS
ALBANY NY 12212-5119

Note: If you choose to submit a copy of your employee's federal Form W4, you will also be required to submit additional information to show the availability of dependent health insurance benefits (including eligibility date) to your employee.

For more information, visit Tax Department New Hire Web site (www.nynewhire.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 if 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

Wage reporting information for the last calendar quarter of the year and the annual withholding tax reconciliation information must be filed no later than January 31 of the next year. When a due date falls on a Saturday, Sunday, or legal holiday, returns are due on the next business day.

You may Web File Form NYS-45 electronically through the Tax Department Web site.

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), visit our Web site or call our Withholding Tax Information Center at (518) 485-6654.

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**

Web site: www.labor.ny.gov

Telephone assistance is available Monday through Friday by calling (518) 485-8010.

• **New York State Tax Department**

Web site: www.tax.ny.gov

Telephone assistance is available Monday through Friday by calling (518) 485-6654.

**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, *Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return – Attachment*, if applicable.

Note: You may also be required to 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 1 888 899-8810.

You can obtain Publication IA 318D online (www.labor.ny.gov) or by writing to:

NYS DEPARTMENT OF LABOR
WA HARRIMAN CAMPUS
BUILDING 12
UNEMPLOYMENT INSURANCE REGISTRATION SECTION
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 and report if dependent health insurance benefits are available to your employees 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. 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 applicable.

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. This information is used to determine the amount of tax to withhold (see Publications NYS-50-T-NYS, *New York State Withholding Tax Tables and Methods*; NYS-50-T-NYC, *New York City Withholding Tax Tables and Methods*; and NYS-50-T-Y, *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.

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.

**Metropolitan
commuter
transportation
mobility tax
(MCTMT)**

The MCTMT is imposed on certain employers and self-employed individuals engaging in business within the metropolitan commuter transportation district.

Withholding income tax (federal or New York State) from wages paid to household employees is **voluntary** on your part and your household employee (see *New York State withholding tax* on page 8). Therefore, the Tax Department has determined that employers of household help **are not** subject to the Metropolitan Commuter Transportation Mobility Tax (MCTMT).

For more information on the MCTMT, visit our Web site.

**Workers'
compensation and
disability benefits**

Household employees who work forty or more hours per week for you (including full-time sitters or companions, and live-in maids) are required to be covered by a New York State workers' compensation insurance policy.

Time spent at your residence, including sleeping and eating, and any

additional time spent off premises running errands and performing other duties for you count towards the total hours worked per week. Also included in the calculation of hours worked per week are all hours where you require the household employee's presence.

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 a household employee not protected by the law.

For more information, visit the New York State Workers' Compensation Board Web site (www.wcb.state.ny.us) or call toll free 1 877 632-4996.

Social security and medicare

Although you are not required to withhold income tax on wages paid to a household employee, you may be liable for your household employee's federal social security and medicare taxes.

For more information on federal income tax withholding and social security and medicare taxes, see IRS Publication 15 (Circular E), *Employer's Tax Guide*.

Sales tax on repair and maintenance services performed in and around your home

Generally, repair and maintenance services performed in and around your home are subject to sales tax. These taxable services include:

- maintaining, servicing, and repairing tangible personal property (for example, having your furnace serviced or your dishwasher repaired); and
- maintaining, servicing, and repairing real property (for example, roof repairs, lawn maintenance, snowplowing, cleaning services, and trash removal services).

However, these services are not subject to sales tax if any of the following conditions are met:

- The service qualifies as a capital improvement, and you gave the person performing the service a properly completed Form ST-124, *Certificate of Capital Improvement*. Examples of capital improvements include the installation of a new furnace or the installation of a new blacktop driveway. For more information on capital improvements see Publication 862, *Sales and Use Tax Classifications of Capital Improvements and Repairs to Real Property*.

- The services are performed by your employee.
- The services are performed by a person who does not perform similar services for the public as part of a regular trade or business. For example, you pay your neighbor to mow your lawn while you are on vacation and your neighbor does not regularly mow other people's lawns, or you pay your niece to help clean your house, and your niece does not regularly clean other people's houses.

People or businesses that perform taxable services on your property should charge and collect sales tax when you pay for those services. However, if the person or business does not charge and collect the tax, it is your responsibility to pay the tax directly to the Tax Department. You can do this by including the sales tax due on your New York State income tax return, or you can file Form ST-140, *Individual Purchaser's Annual Report of Sales and Use Tax*, with the department.

For more information, see TB-ST-913, *Use Tax for Individuals (including Estates and Trusts)*.

New York State Tax Department

Online Services

**Create an Online Services
account and log in to:**

- make payments,
- file certain returns,
- view account information,
and more.

Access is available 24 hours a day, 7 days
a week (except for scheduled maintenance).

www.tax.ny.gov

Need help?



Visit our Web site at www.tax.ny.gov

- get information and manage your taxes online
- check for new online services and features



Telephone assistance

Automated income tax refund status: (518) 457-5149

Personal Income Tax Information Center: (518) 457-5181

To order forms and publications: (518) 457-5431



Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): If you have access to a TTY, contact us at (518) 485-5082. If you do not own a TTY, 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, call the information center.