

**From the desk of
Peter S. Muffoletto, C.P.A.**

Do You Have Household Employees?

Tax, wage, and compliance rules relating to household employee are complex, and sometimes difficult to determine.

The process starts with determining who should be considered a household employee.

Getting this right is critical in determining if household employment tax obligations exist, as well as any legal obligations that may be needed to be considered.

There are five key considerations in determining whether someone working should be considered a household employee.

Job Functions

If an individual, or individuals are employed to perform duties in or around the home, and you have the right to control when, where, how or by whom the work should be performed, then that worker is a household employee.

Typical household employees include nannies, housekeepers, estate managers, chefs, personal assistants and chauffeurs.

Privately hired senior caregivers and companions (hired independently or through a placement agency) can also be considered household workers.

Summer nannies, and after-school caregivers are examples of seasonal or temporary workers that could fall into the category of household employment.

Nanny Tax Thresholds

If the individual working in your home earns \$2,200 or more in 2020 (or made \$2,100 or more in 2019) then for federal tax purposes there are employer tax obligations.

This is the employment coverage threshold that is set by the IRS every year.

The federal Social Security and Medicare tax rate is 7.65 percent of the worker's wages in addition to what is required to be withheld in the same amount from their paycheck.

If the employee is paid \$1,000 or more in any calendar quarter then in addition there is a federal unemployment tax of six percent on the first \$7,000 in wages.

State unemployment taxes may also be due.

Family Relationship to Employer

Should you hire a family member for the job there maybe taxes owing as well.

If the employee is your client is a

- Spouse
- Child under the age of 21 or
- Parent

then there are no taxes to be incurred regardless of how much they made in wages in your employment.

Other relatives such as aunts, uncles, cousins, nieces and nephews will be subject to household employment taxes provided they are over the age of 18.

Age of Employee

Any employee under the age of 18 at any time during the year is not considered a household employee for tax withholding purposes, regardless of their wages, except if that employee makes \$1,000 in wages in any calendar quarter then that individual is subject to federal unemployment taxes and possibly state unemployment taxes.

Employee or Independent Contractor

An independent contractor pays the employer and employee FICA tax obligation, 15.3 percent of cash wages if classified as an independent worker.

The IRS almost always classifies household workers as employees, not independent contractors, the reason being that the issues of control dictate the relationship as to one of an employer/employee relationship as defined by the Internal Revenue Service.

It all comes down to a matter of control. If the “employer” sets their employee’s schedule and provides guidance as to how to do tasks are to be accomplished, and the employee uses the family’s tools, equipment, and property, then an employer/employee relationship exists according to IRS rules.

For example if a family employs a nanny, and dictates when they need the person to work whether that be the same hours every day, every week, or those hours vary, then an employment relationship exists.

Additional factors can factored into the determination as to whether there is an employer/employee relationship such as when the parents set parameters around how

they want their children cared for, such as nap times, feedings, screen time and disciplinary measures.

Should the nanny use the family's stroller for walks and utilize their kitchen to prepare food that is by definition use of the employer's equipment.

The IRS does have a facility to determine the employer/employee relationship by filing Form SS-8 with the IRS which then the IRS will decide on the worker's status.

Remember that employee misclassification, and failure to file, and/or pay the appropriate payroll taxes is considered felony tax evasion.

In all instances it is important to consult a labor law attorney, as well as discuss these matters with your insurance agent in that you most probably need to have workmen's compensation insurance in place as well as other liability insurance coverages.

We here at Muffoletto & Company believe that the more informed you are in regards to the rules and regulations that affect you the more we can be of service.

**Should you have questions relating to any tax or financial matters call at
(818) 346-2160,
or you can visit us on the web at
[www.petemcpa.com!](http://www.petemcpa.com)**

Providing individuals, small businesses, corporations, partnerships, professionals, and other business entities with the necessary guidance and answers for a complex world.

IMPORTANT NOTICE

The contents of this email and any attachments to it may contain privileged and confidential information from Muffoletto & Company.

This information is only for the viewing or use of the intended recipient. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of, or the taking of any action in reliance upon, the information contained in this e-mail, or any of the attachments to this e-mail, is strictly prohibited and that this e-mail and all of the attachments to this e-mail, if any, must be immediately returned to Muffoletto & Company or destroyed and, in either case, this e-mail and all attachments to this e-mail must be immediately deleted from your computer without making any copies hereof.

If you have received this e-mail in error, please notify Muffoletto & Company by e-mail immediately.

To ensure compliance with Treasury Department regulations, we wish to inform you that, unless expressly stated otherwise in this communication (including any attachments) any tax advice that may be contained in this communication is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal

Revenue Code or applicable state or local tax law provisions or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.

If you prefer not to remain on our email lists, please let us know. We will remove you as soon as you notify us.

You may do so by emailing us at

pete@petemcpa.com