



NY Household Payroll

Quick Start Guide

Informational booklet for





Welcome!

Congratulations! You have hired a household employee in New York - or you are thinking about hiring one - and want to understand your employment tax obligations.

HomeWork Solutions, Inc. is a nationally recognized expert in household employment taxes. We help families understand and manage the financial and legal aspects of household employment, and provide time-tested, family-friendly solutions that drastically reduce the time and effort it takes to comply with all federal and state tax and labor laws.

This guide will help you understand your responsibilities and obligations as a New York household employer.

HWS Will Help You Do the Right Thing

HWS knows that most families want to pay their household employees legally and insure that the employee receives workers compensation and unemployment insurance protections. The hassle of figuring out the tax rules, securing the necessary tax accounts and dealing with all the paperwork and calculations can seem overwhelming. HWS was founded specifically to help families like yours to do the right thing with a minimum of fuss and bother.



It is complicated, but HWS can help!
Call **1-800-NANITAX (800-626-4829)**
for a free phone consultation.

HomeWork Solutions recommends that you review the entire NY Household Payroll Quick Start Guide before you begin the payroll tax process.

Employee or Independent Contractor?

Many people are confused by the distinction between employees and independent contractors. This distinction is important because employers of household employees file and pay employment taxes. Independent contractors handle their own tax filings. The IRS uses a 20 factor test to determine whether the worker is an employee or contractor; however, determination is primarily contingent on who controls the work being performed. If you have the right to control or define the work to be done and how the work will be done, according to the IRS you are an employer.

Examples of household employees include:

- Nannies and babysitters
- Housecleaning workers, maids and housekeepers
- Health aids, senior caregivers and private nurses
- Caretakers, drivers and yard workers

Employees may work full time, part time or seasonally.

The IRS provides examples of independent contractors, individuals you hire in your home that are typically not your employee.

- Plumbers and Electricians
- Workers sent by a lawn maintenance service or a maid service when you pay the company

Do you have questions? HWS' trained staff can help you understand whether your nanny or other household worker is an employee or an independent contractor. Call HWS at **800.626.4829** or use our **Employee v. Independent Contractor Decision Tool**.

www.homeworksolutions.com/decisiontool

NY household employers are under increased scrutiny as a result of the 2010 NY Domestic Workers' Bill of Rights (DWBR), the 2011 Wage Theft Prevention Act (WTPA) and the educational outreach initiatives to the nanny community by organizations such as Domestic Workers United (DWU). The risks of non-compliance include responsibility for back payment of both employer and employee taxes, along with penalties and interest, wage and hour complaints and workers' compensation insurance claims.

Employers are Required to Pay "Nanny Taxes"

If you have a household employee, and you pay the employee \$2000 or more in a year, you are required to pay payroll taxes. Although commonly referred to as "nanny taxes", these taxes apply to all household employees, including housekeepers, babysitters and elder care workers.

Employer taxes typically total about 10% of the employee's wages and include:

- Employer Social Security & Medicare Taxes
- State and Federal Unemployment Taxes

Your household employee contributes to or pays:

- Employee Social Security & Medicare Taxes
- Federal/State/Local Income Taxes

Employers are solely responsible for remittance of ALL Social Security and Medicare (payroll) taxes. These taxes are part of the employer's personal Federal Income Tax Return.

Did You Know...

Your household employee cannot pay their share of Social Security and Medicare taxes on their own - you either must deduct from their paycheck or agree to pay from your own funds.



Best Practices at Time of Hire

When you hire a household employee, you become an employer and you are required to complete paperwork for the Federal government, your state and for your own records, including:

1. Calculate Employee Tax Withholding and Household Employer Budget
2. Verify Employee's Social Security Number and Employment Eligibility
3. Draft a work agreement and document compensation agreement—a Pay Rate Notice is required at time of hire
4. Register for Federal and State tax accounts and file the New Hire Report
5. Obtain Workers' Compensation and Disability Insurance
6. Explore Tax Credits

Did You Know...

The IRS estimates that household employment tax compliance takes 60 hours a year.

It is complicated, but HWS is here to help with turnkey solutions and expert staff who take care of this administrative hassle. Call **800.626.4829** for a free telephone consultation and simplify your "nanny tax" compliance.

The Work Agreement

Documenting the work agreement insures that you and your employee are on the same page regarding pay, benefits and scope of duties. A work agreement should include:

- The work schedule
- The scope of the employee's duties
- Compensation, including regular and overtime rates of pay and the guaranteed weekly base pay (if offered)
- Frequency of payroll and the employer and employee tax obligations
- Paid time off agreement, as well as specifics on paid holidays (if offered)
- Expense reimbursement policy
- For live-in employees, statement regarding the termination of tenancy rights when employment terminates
- Confidentiality agreement
- Separation agreement, including return of family property (if applicable)

Did You Know...

The family with the "nightmare nanny" who refused to move out when fired could have avoided this mess with proper compensation and work agreements.

HWS has free templates to get you started. Call **800.626.4829** or download our free template at **www.homeworksolutions.com/nannyworkagreement**

Workers' Compensation and Disability Insurance

New York State requires household employers to purchase Workers' Compensation Insurance and Disability Insurance policies.

Workers' Compensation protects the employer and employees from the expense of an on-the-job injury or accident. This is important - failure to obtain this policy in a timely manner can result in fines of \$10,000 or more!

Did You Know...

Many families are surprised to learn that homeowner's insurance will not cover accidents or injuries to a household employee. Additionally, not all insurance agencies will issue Workers' Compensation insurance policies for household employees.

Workers' Compensation and Disability Insurance can be obtained through the state of New York at <http://www.nysif.com/>



NOTE: You are required to have Federal Employment Identification Number (FEIN) in order to file an application for Worker's Compensation and Disability Insurance in the state of New York.

About Unemployment Taxes

- Unemployment taxes fund the unemployment insurance system and have both a State and Federal component. It is important to understand that any employer who pays wages of \$500 or more in a calendar quarter is subject to NYS unemployment tax, whether the worker paid did or did not have US Work Authorization.
- It is illegal to deduct the employer unemployment tax from your employee's pay. Unemployment taxes are paid solely by the employer.
- The amount of your NY state unemployment tax is determined by an experience rate. Your experience rate can vary depending on your claims and payment history. Taxable wage limits are set by the state on unemployment contributions. It is important that you maintain records on a year-to-date basis on each employee.
- Federal Unemployment Taxes (FUTA) are included in your personal Form 1040 Schedule H. The nominal Federal Unemployment Tax rate is 6% of the first \$7000 in wages paid to each employee. When you pay state unemployment taxes in a timely fashion you receive a substantial federal unemployment tax credit and pay a reduced rate of 0.6% or no more than \$42 per employee per year.
- Remember, when you pay your nanny legally and make timely unemployment tax payments, your nanny will be entitled to benefits when the job ends through no fault of her own. These benefits are important to help the nanny tide herself and her family over while she secures another job, whether that be several weeks or many months.

It is complicated, but HWS is here to help with turnkey solutions and expert staff who take care of this administrative hassle. Call **800.626.4829** for a free telephone consultation and simplify your "nanny tax" compliance.



Expense Reimbursement

The employee may have other out of pocket expenses that s/he incurs in the course of the job. This can be picking up bread and milk at the grocery, cab fare, providing the child with school activity fee money, or entertainment such as movies or a McDonald's lunch. Many families find that a 'petty cash' fund of \$20 - \$50 that is replenished by the family regularly works well. The housekeeper or house manager is often provided a credit card by the employer for work related expenses. The worker should be required to provide documentation of all expenses - the grocery receipt or just a log of expenses. The employer should discuss in advance expenses the family is comfortable with (a weekly lunch out may be one) and expenses they wish to approve in advance (\$50 Circus tickets may be an example). If an employee pays for family expenses from personal funds, s/he should be promptly reimbursed by the family. Reimbursed expenses are NOT treated as income to the employee.

Tax Savings for YOU

Many household employers are entitled to tax credits on their personal tax returns for childcare and senior care expenses. We recommend that you consult with your personal tax advisor and human resources department to determine the strategy that is most appropriate for your situation.

Dependent Care Accounts

Many companies make Dependent Care Accounts, also known as Cafeteria Plans or Flexible Spending Accounts, available to their employees. You should check with your employer's Human Resources Department to find out what is available to you.

What are these accounts? Authorized under the Internal Revenue Code, dependent care accounts are a negotiated employee benefit. You may contribute "pre-tax" dollars, up to a maximum of \$5000 per year, into this account and use these monies to reimburse your dependent care expenses. These dollars contributed are sheltered from Federal and most state income taxes, reducing your taxable income. There are restrictions on these accounts. Your employer's Human Resources Department can provide you with details. This is typically the most beneficial option for household employers.

Child Care Credit

The Child Care Credit allows the employer of a nanny or other childcare provider to claim a tax credit on their personal income taxes. The amount of this credit varies by income and the number of children you have.



Other Information for Employers

Employee Benefits

- Paid vacation and sick time: Many employers offer a compensation “package” that includes some allowance for flexible paid time off. Typical annual paid time off for a household employee is 5 - 10 days total. Three days paid time off is the minimum requirement in NYS after one year of employment (DWBR). Paid time off is taxed exactly the same way as regular wages.
- Health insurance: NY household employers are not legally obligated to provide health insurance to their household employees. However, many employers, understanding the importance of the nanny’s overall health to both the nanny and her employer, offer to pay some or all of a nanny’s health insurance premium. Your reimbursement is not taxable if you have only one household employee.
- Six or more paid Federal holidays are customary (New Years, Memorial Day, July 4, Labor Day, Thanksgiving and Christmas always). Be specific which days, if any, you are providing your household worker.
- Guaranteed weekly base pay – a nanny will typically agree to a base pay - \$800 weekly for example – that you translate for compliance purposes into hourly rate terms. Your nanny (household employee) will expect to be paid for all days he or she is prepared to work, even if you decide to take your family away for a portion or all of any given week. If this is not your intention, please be very clear with the worker at the time of hire.

Did You Know...

New York City’s paid sick leave law requires 3 paid sick days after a year’s employment. This is in addition to NYS’ required 3 paid days off per year.

- Annual performance and wage reviews. This is a best practice in all employment situations, one that is often overlooked by household employers.
- Unemployment insurance – all nanny jobs end at some point. When your family outgrows the need for a nanny and you need to let her go, she is entitled to unemployment benefits. Paying her legally is a best practice. She will be entitled to benefits whether you properly paid the tax or not, and her filing for benefits will trigger an avalanche of inquiries from the NYS Department of Labor (looking for your back wage reports), the NYS Workers’ Compensation Board (proof of insurance, which you cannot get if you are not paying legally), and eventually the IRS (who is in a formal information sharing arrangement with the NYS Department of Labor).

What about Undocumented Nannies?

Even if you hire a nanny who is not authorized to work in the US, you remain legally obligated for all employment taxes described in this guide. An undocumented worker is also subject to the same Wage and Hour requirements (DWBR) and notification requirements (WTPA) as a documented worker.

In addition, an undocumented worker is required to pay income tax. Undocumented workers are not eligible for a social security number but will be issued an Individual Taxpayer Identification Number (ITIN). The ITIN does not change the individual’s immigration status or authorization to work in the US. See Appendix B (page 26).

The current IRS disclosure rules do not permit the sharing of confidential taxpayer information with other government agencies, including Immigration and Customs Enforcement.

Even if you currently employ a nanny and pay “off the books”, it is never too late to come into compliance. You can file tax returns and make tax payments for prior years if you wish.



Quick Steps: How to Pay Your Nanny

If you elect to assume payroll and tax compliance roles yourself, you need to know this important information.

NYS household workers must be paid every week, and the payroll must be based on an hourly rate of pay. Hourly rates must be broken out by the regular hourly rate and the overtime hourly rate. Wages cannot be stated as a weekly salary. Details on calculating hourly pay rates are found in Appendix A (page 25).

When negotiating wages with your employee, you must distinguish gross and net wages: gross wages are the amount of wages before deductions for employee taxes and other deductions; net wages are wages after deductions, or the 'take home' amount of the paycheck. Details on calculating gross versus net wages are found in Appendix B (page 26).

You are subject to the provisions of the NY Domestic Workers' Bill of Rights (DWBR), the NY Wage Theft Prevention Act (WTPA) and the Fair Labor Standards Act (FLSA) which stipulate specific minimum wage rules, overtime compensation, and required recordkeeping and pay notices. When the standards defined by the FLSA are in conflict with NYS law, the stricter of the competing standards is applied.

You must...

- Define the work week – Saturday through Friday for example. This must remain constant once established. (WTPA)
- Keep accurate and contemporaneous record of days and hours worked. (FLSA & WTPA)
- Pay on a weekly basis, on the established pay date. If you will be unavailable to make your payment on the regular pay date, you must make the payment in advance. (DWBR)
- Establish the hourly pay rate.
- For the live out domestic, you must pay the overtime rate for hours worked in excess of 40 in the work week. For the live in domestic, overtime is defined in NY as hours worked in excess of 44 in a work week. (DWBR)
- Determine the gross wage for the pay week by multiplying regular hours by the hourly pay rate and overtime hours by the overtime pay rate. The sum of the regular and overtime pay is the gross wage.
- Calculate Social Security & Medicare tax withholding. Employers may choose to withhold the employee's contribution from the worker's gross pay or may elect to pay both the employer and employee contributions from their own funds. Employers paying their employee's share of payroll taxes must include these taxes as income on the employee's Form W-2 Wage and Tax Statement at the end of the year.
- Calculate any income taxes you agreed to withhold from your employee's pay.
- Pay the household employee the net pay – the wage remaining after payroll and income tax withholdings. The NY Wage Theft Prevention Act mandates that YOU must provide the employee a pay stub that documents all calculations and deductions and maintain the time card and payroll calculations for a period of 6 years from the pay date.
- You may pay by cash, check or electronic transfer of funds. If you pay by cash you are strongly encouraged to have the employee sign a receipt of payment.

Quick Steps: How to Pay the Employment Taxes

Household employers are required to report wages and remit payroll taxes periodically. These taxes include Social Security, Medicare, Federal and State unemployment taxes.

Wages paid in excess of \$2000 to any household worker in a calendar year are subject to Social Security and Medicare taxes whether they are full time, part-time or temporary employees. Wages paid to your spouse, your child under age 21, your parent or any employee under the age of 18, are exempt from these taxes. These amounts are added to YOUR personal Federal Income Tax return on Form 1040 Schedule H.

In New York State, employers must pay unemployment taxes quarterly. Withheld state/local income taxes are required to be paid quarterly or more frequently when total withheld income tax exceeds \$700 in a quarter.

You Must...

- File and pay NYS Unemployment Tax on a quarterly basis (NYS-45).
- File and pay NYS Income Taxes (State and Local) at a minimum on a quarterly basis (NYS-45). If the total withheld state and local income taxes meet or exceed \$700 at any time within the quarter, a payment must be made of all quarter-to-date state and local withholding taxes within 3 business days of the payroll date that exceeded the threshold (NYS-1) and credit for NYS-1 payment(s) is taken on the quarter end NYS 45.
- Complete Form 1040 Schedule H at year end to calculate Federal employment taxes due and include with your personal Federal income tax return.
- Provide your employee(s) a Form W-2 Wage and Tax Statement no later than January 31 for wages paid in the prior calendar year.
- File copies of all Forms W-2, with a W-3 transmittal, with the Social Security Administration no later than February 28 for wages paid in the prior calendar year.

You may wish to...

- On a quarterly basis, make 1040-ES Estimated Tax Payments to pre-pay your Federal employment tax obligations that will be added to your annual tax filing to avoid underpayment penalties.* IF you make 1040-ES payments, please be sure to include the sum of payments made on your annual Federal income tax return where indicated.
- Alternatively, you may wish to increase the Federal Income Tax deducted from your (you or your spouse or both) regular payroll, again to avoid underpayment penalties.
- What are Federal underpayment penalties? The household employment taxes are added to your annual Federal filing with the Schedule H. The IRS expects payments of Federal taxes on a pay-a-you-go basis. If you did not pay enough tax, either through withholding or by making timely estimated tax payments, you will have an underpayment of estimated tax and you may have to pay a penalty.

Did You Know...

The IRS estimates that household employment tax compliance takes 60 hours a year.

Do you have questions? HWS' trained staff can help you understand whether your nanny or other household worker is an employee or an independent contractor. Call HWS at **800.626.4829** or use our **Employee v. Independent Contractor Decision Tool**.

www.homeworksolutions.com/decisiontool

COMPLETEPAYROLL

Simple Paydays & Effortless Tax Reporting

Expert Employer Guidance

HWS clients appreciate that our enrollment specialists take the time to learn the specifics of their situation, and patiently guide them. We will:

- obtain all of your tax account numbers
- help you obtain workers compensation insurance
- help you understand your financial commitment

Most importantly, HWS listens to your concerns, and offers you the experience and resources to get the financial relationship with your nanny off on the right footing.



Simple Paydays

You are assigned a personal payroll representative who knows you and your situation. Payday couldn't be easier!

Automatic payroll is our client's most popular option. We will process your standard payroll every payday, without you having to lift a finger.

—OR—

Submit your payroll online, on the telephone or via email—whatever is easiest for you. We will remind you of paydays!



Nannies love direct deposit payroll!

HWS will accurately calculate all deductions and tax amounts, and direct deposit to your nanny's account. Paystub records are conveniently stored online.



Effortless Tax Compliance

Payroll clients don't ever worry about tax deadlines or late filing penalties.

- HWS will file the reports and pay the tax for you automatically, on-time, guaranteed.
- You receive email notice that this is all done. We even provide you an IRS link so you can check behind us if you wish!
- All end of year tax documents—including your nanny's W-2 form—are prepared.
- Important documents are available online, available to you, your nanny and your accountant.



Concierge Level Support

HWS' live household payroll experts await your questions every Monday–Friday from 8:30AM–7PM EST. No waiting, no phone trees, just friendly expert advice and guidance. Unlimited support included.





HWS

The HWS Difference

We Take Care of Everything

HWS families can rest easy knowing that all labor and tax compliance items are taken care of by a HWS tax expert. If you are paying your nanny the same thing every week, we can even setup your payroll so that it runs automatically without you ever having to do a thing.

This is All We Do

Household payroll has many unique and often nuanced laws, specific regulations and exceptions and exemptions that differ from corporate or business oriented payroll. Most payroll companies simply do not understand or handle household payroll issues properly. At HWS, we are focused solely on household payroll and domestic employment. It's all we do, it's all we have ever done.

Our Reputation is our Promise

Since 1993 HWS has helped tens of thousands of families through every conceivable household employment issue or challenge. We have been consulted by the Wall Street Journal, The New York Times, Fox and many other national media. Our knowledge, expertise and reputation are the

reasons organizations such as the World Bank and IMF partner with us to ensure their staff with domestic employees stay in compliance with all U.S., state, and local laws. It's the reason most of our clients are referred to us from other clients, CPAs or referral agencies.

Friendly Expert Support

A live household tax and labor law expert awaits your questions every Monday–Friday from 8:30AM–7PM EST—no waiting, no phone trees, just friendly expert advice. We offer concierge level of service only a small, dedicated team can provide.

We Guarantee Our Work

When you use our payroll service, we guarantee your payroll tax returns will be filed accurately and timely, and all applicable payroll taxes will be paid on time. No notices, no penalties, no red tape, guaranteed!

Affordable Options

We offer service options to meet your needs and budget and our low, quarterly, flat fees make our service very affordable no matter what your budget constraints are.

For our current fees please call or visit homeworksolutions.com



Our Story

When HWS' Kathleen Webb hired her first nanny in 1987 she thought she had simplified her life with reliable live-in childcare. She quickly realized how complicated being a household employer can be: tax and labor obligations, worker's compensation insurance, it was all so time consuming for a busy working mom. She turned to her friend, HWS' Alan Heilbron, for help and they soon had this all sorted out.

Fast-forward to 1993, when U.S. Attorney General Nominee Zoë Baird was caught paying her domestic employees "under the table" and the term "nanny tax" was coined. Alan realized there were thousands of busy moms and dads just like Kathy overwhelmed by the myriad details of nanny tax compliance. Over coffee, he proposed creating a service to meet this need. While their 2 year olds enjoyed a play date they put together a business plan to create a "Nanny Tax" service firm. Armed with a print advertisement headlined "Don't be Zoëd" the first Nanny Tax Company was born.

Today, HWS is a leading provider of payroll and nanny tax compliance services to families nationwide. Our friendly staff and flexible service options make us the preferred choice for busy families and referral agencies alike. HWS specializes in simplifying the nanny tax and clients enjoy a concierge level of service only a small, personalized firm can provide.



Questions?

HWS has worked with families like yours for more than 20 years. We specialize in household employment and understand the unique rules, exceptions and regulations that apply to your specific situation. Answering questions and providing expert guidance and friendly service to your family is our mission.

We speak to families like yours every day about issues like:

- Background Screening
- Nanny Share Arrangements
- Benefits
- Traveling/Vacationing With Your Nanny
- Compensating Overnight Stays
- Catch-up with Back Tax Obligations
- Nanny Housing and Live-In Situations

We welcome your telephone call to **800.626.4829** for a free consultation.

Copyright 2016 HomeWork Solutions, Inc. All rights reserved. This guide provides generalized information intended to help you understand household payroll tax obligations. It is not intended as specific legal or tax advice. Your situation may differ from the norm, so you should consult with your lawyer or accountant if you have particular questions.

While the information contained herein is believed to be true and accurate as of the date of publication, the relevant regulation or laws may change, so make sure you are using up-to-date forms, tax rates and information.



Founded in July 2002, Park Slope Parents is a group of more than 4,500 local families. It is dedicated to supporting parents in Brooklyn, New York by providing a way to exchange information about parenting issues and living in an urban environment.

Our online resources include a public website that houses reviews, parenting advice online forums including an Advice list (exchanging information about parenting and community issues), a Classifieds list (a buy/sell/trade group for locally swapping kid gear and finding Nannies), and a Career Networking Group which helps connect parents to jobs and resources, and over 90 subgroups including pregnancy and new parent groups, Dads' groups, Tweens' groups and more.

Park Slope Parents has conducted three separate Nanny Surveys that investigated the typical pay rates of nannies in the Brooklyn area, benefits they receive and the responsibilities nannies fulfill. Those data can be found on the PSP website under "hiring a nanny/ babysitter." The website also contains information about selecting a nanny including interview questions, writing an advertisement to solicit a nanny and having a strong employer/employee relationship.

Offline events include clothing swaps, festivals, music concerts, and special events. We also partner with nonprofits such as Brooklyn Family Justice Center to provide donations and services to those in need and sponsor community events such as the Celebrate Brooklyn Concerts and Brooklyn Volunteer Fair.

Joining Park Slope Parents requires a membership fee of \$35 (to support ongoing services like our Nanny Survey) and includes a membership card where members receive discounts on more than 400 local products and services.

To join our community, visit <http://parkslopeparetns.clubexpress.com/>

Appendix A

Calculating your Nanny's Pay: Average vs. Real Hourly Wage

When you hire a nanny or babysitter, it is critical to understand that wages must be stated in hourly - regular and overtime - and NOT average rates. A few items that you, as the employer, need to know are listed below.

- Nannies are entitled to be paid for every hour worked.
- Live out nannies are entitled to overtime for hours worked over 40 in a work week.
- Live in nannies are entitled to overtime for hours worked over 44 in a work week.
- Employers are required to keep time and attendance data on a contemporaneous basis at the worksite (home) and a best practice is to have the employee sign the time card. (Sample Time Sheets)
- New York requires a Pay Rate Notice (WTPA) be given to the employee that details the number of hours at regular hourly rate, the number of hours of overtime when applicable, and the associated hourly rates and tax deductions. (See Appendix E for a sample.)

When it comes down to the compensation discussion, it is very common for the household employee to state their expectation in average hourly wage terms (I want to average \$15 per hour) or weekly wage terms (I need to be paid \$750 per week). Employers, it is vital at this point that you stop and do some basic math!

Your job is for 5 10-hour days per week. Let's translate that into regular and overtime hours and do the math.

40 hours at regular rate x plus 10 hours at the overtime rate y equals \$750, right?

NO, this is not correct because you are not taking into consideration the overtime rate. The regular rate being offered is \$13.64 and the overtime rate is \$20.45 in this example. (Don't worry about the equation, HWS has a free Hourly Rate Calculator tool that will do this translation for you!) Be very careful to include these figures in your Pay Rate Notice and the work agreement that your employee signs. Also, be equally careful to compensate any hours over the 50 scheduled at the overtime rate, NOT the average hourly rate you started from!

Sample language in a written compensation agreement could be as follows:

"Employee Weekly compensation is of \$750.00 gross, based on a gross hourly wage of \$13.64 and a 50 hour work week. Employee is guaranteed minimum Weekly compensation of \$750.00 gross. Weekly hours worked in excess of 40 per week to be compensated at \$20.45 gross per hour."

Appendix B

Calculating your Nanny’s Pay: Net versus Gross Wages

My nanny wants to take home \$750 a week. What does that mean?

Many household employees, including nannies, expect to negotiate a “net wage” or “take home pay” agreement with their employer. This is a foreign concept for many nanny employers, and often the new employer does not fully understand the financial implications of a net pay agreement with the nanny or housekeeper.

HomeWork Solutions always advises hiring families and nannies alike to put together a written work agreement (<http://www.homeworksolutions.com/nanny-work-agreement>). This is the place to document your financial agreement with your household employee, including the respective tax obligations of the family and nanny, as well as to articulate benefits, job responsibilities, and the all important confidentiality agreement. Most importantly, state the agreed GROSS wage or before tax wage in this agreement so both parties are in agreement up front. This is vitally important when a family agrees to hire a nanny on a net wage or take home pay basis, as these terms are subject to interpretation and the two parties may have different understandings of what this means.

So what is a net wage agreement?

As a household employer, the family has certain tax obligations that they are legally required to comply with, and some they may choose to handle as an accommodation to their employee. Thus, a net wage agreement will always involve the Social Security and Medicare taxes, and may include the employee’s income taxes. Families may either agree to a take home pay net of the Social Security and Medicare taxes (and stipulate that the employee is responsible for his/her income taxes) OR may agree to a take home pay net of both the Social Security/Medicare taxes AND the employee’s Federal and State income taxes. All too often the family intends the former, and the employee assumes the latter. When this is not clearly understood, considerable strain can be placed on the relationship at tax time!

A net wage agreement ALWAYS involves an agreement that the employer will be paying both the employee and employer portions of the Social Security/Medicare taxes. The employee’s portion of the Social Security/Medicare taxes is 7.65% of wages.

As a household employer, however, you have no legal obligation to withhold (or remit) the employee’s income taxes. Most families with a full time employee (nanny or housekeeper for example) will agree to withhold the employee’s income taxes as an accommodation to the employee. After all, this is what all other employers do (whether they want to or not) in the commercial world. In a net wage agreement where the employer agrees that they will “gross up” the employee’s wage for tax reporting purposes to include the employee’s income taxes, this should be clearly understood by all parties.


Illustration

The illustration below assumes a single nanny, no dependents, claiming 1 exemption (withholding allowance) on the W-4 form and NYS IT-2104 form, living and working in Brooklyn NY who is paid net \$750/week for a 50 hour work week.

	Situation 1: Take Home pay is Net of SS/Medicare Only. Employee will pay his/her own income taxes.	Situation 2: Take Home pay is Net of SS/Medicare & Nanny’s Federal and NY State Income Taxes (Optional)
Net or Take Home Pay	\$750.00	\$750.00
SS/Medicare 7.65%	62.13	82.98
Federal Income Tax	N/A	163.55
NY State and NYC Income Tax NY Disability Ins.	N/A	53.59 33.96 0.60
Gross Wage	\$812.13	\$1084.68
Est. Employer Taxes	80.00	108
Employer Cost/Wk.	~\$890.00	~\$1200
Employee Rate/Hour Employee OT Rate/Hr.	\$14.77 \$22.18	\$19.72 \$29.58

The table above clearly illustrates the tremendous difference the two net wage scenarios have on the financial commitment of the family.

Another important consideration is that any amounts the employer reports and pays for the employee’s income taxes are HER money. If she ends up getting a tax refund at the end of the year, this is HER tax refund. While no one can guarantee that the nanny will not either owe some money or receive a refund upon filing an annual tax return, there are reasonable steps to take that can get this calculation as close to break even as possible. Again, the statement in the work agreement and the WPTA required notice must state the agreed GROSS wage.



**HOMEWORK
SOLUTIONS**

Thousands of families turn to HomeWork Solutions for household payroll and nanny tax compliance services every year. We simplify the "Nanny Tax."

Wage Theft Prevention Act

Notice and Acknowledgment of Pay Rate and Payday Under § 195.1 of the New York State Labor Law For Hourly Rate Domestic Service Employees

The employee must receive a signed copy of this form. The employer must keep the original for 6 years. Clients may fax the completed form to 703.404.8155 for inclusion in your payroll tax file.

Employer Information

Name

Address

City

State

Zip code

Telephone

FEIN (optional)

Employee Wage Information

Employee's Rate of Pay
\$ per hour

Employee's Overtime Rate ¹
\$ per hour

Regular Pay Day

Pay Frequency
 (NYS Domestic Workers' Bill of Rights MANDATES Weekly payroll.)

Employee Acknowledgment

*I have been notified of my pay rate, overtime rate (if eligible), allowances, and designated pay day on the date given below.
I told my employer what my primary language is.*

Notice Given

☐ At Hiring. ☐ Annual Notice on/before February 1. ☐ Before change in pay rate(s), allowances claimed or payday.

Check One

☐ I received the pay notice in English, my primary language. ☐ My primary language is Spanish and I received the pay notice in English and in Spanish.

Employee Name (Print)

Prepared By (Print Employer Name)

Employee Signature


Date

Household Employer

1. Must be at least 1 1/2 times the worker's regular rate of pay. Live in domestics receive the overtime rate for hours worked in excess of 44 in the 7 day work week. Live out domestics receive the overtime rate for hours worked in excess of 40 in the 7 day work week.)

Give HWS a call at 800.626.4829 to discuss your needs or visit HomeWorkSolutions.com to learn about our flexible service options.
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