

The Complete Guide to Small Business Payroll



Your Go-to Guide for the Payroll, Tax and
HR Issues That Affect Small Businesses

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PAYROLL & HR

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Introduction

Running a business is no easy task. There are a multitude of obligations and responsibilities that go beyond just the daily routine of selling your product or services to your consumers.

From hiring and paying employees, to calculating and reporting payroll taxes and knowing all of the federal, state, and local labor laws that affect your business, it can seem overwhelming, especially when you are running a small business and don't have a management team to handle everything.

GTM Payroll Services has created this comprehensive guide with the small business owner in mind. You'll find information and advice on all aspects of running a small business, with particular emphasis on processing payroll correctly, knowing your legal obligations when it comes to paying and filing taxes, other expenses to consider, ways to reduce your tax burden, and compliance issues that all business owners must be aware of.

We've also included helpful resources like a tax calendar and links to websites with even more useful information. Plus you'll learn how GTM can act as your management team and help you with all these responsibilities.

This is your go-to guide for the payroll, tax, and HR issues that affect small businesses.

— GTM Payroll Services

“We have a small payroll but GTM handles it like they do for businesses of all sizes – timely, efficiently, and accurately.”

— Capital District Youth Soccer League

Setting up a Payroll System

No matter how many employees you have, it's important to set up a payroll system to make sure you are compliant with regulations and legal obligations, plus it can save you time and protect you from any penalties from the IRS for non-compliance.

The Small Business Administration has created a list of ten steps that will aid you in setting up a payroll system for your business:

- 1. Obtain an Employer Identification Number (EIN).** Before hiring employees, you need to get an employment identification number (EIN) from the IRS. The EIN is often referred to as an Employer Tax ID or as Form SS-4. The EIN is necessary for reporting taxes and other documents to the IRS. In addition, the EIN is necessary when reporting information about your employees to state agencies. You can apply for an EIN online or contact the IRS directly.
- 2. Check Whether You Need State/Local IDs.** Some state/local governments require businesses to obtain ID numbers in order to process taxes.
- 3. Independent Contractor or Employee – Know the Difference.** Be clear on the distinction between an independent contractor and an employee. In legal terms, the line between the two is not always clear and it affects how you withhold income taxes, withhold and pay Social Security and Medicare taxes, and pay unemployment taxes.
- 4. Take Care of Employee Paperwork.** New employees must fill out Federal Income Tax Withholding Form W-4. Your employee must complete the form and return it to you so that you can withhold the correct federal income tax from their pay.
- 5. Decide on a Pay Period.** You may already have a manual process for this, but setting up a pay-period (whether monthly or bi-monthly) is sometimes determined by state law with most favoring bi-monthly payments. The IRS also requires that you withhold income tax for that time period even if your employee does not work the full period.

“It’s important to set up a payroll system to make sure you are compliant with regulations and legal obligations.”



Setting up a Payroll System

- 6. Carefully Document Your Employee Compensation Terms.** As you set up payroll, you'll also want to consider how you handle paid time off (not a legal requirement, but offered by most businesses), how you track employee hours, if and how you pay overtime, and other business variables. Don't forget that other employee compensation and business deductibles such as health plan premiums and retirement contributions will also need to be deducted from employee paychecks and paid to the appropriate organizations.
- 7. Choosing a Payroll System.** Payroll administration requires an acute attention to detail and accuracy, so it's worth doing some research to understand your options. Start by asking fellow business owners which method they use and if they have any tips for setting up and administering payroll. Typically, your options for managing payroll include in-house or outsourced options. However, regardless of the option you choose, you — as the employer — are responsible for reporting and paying of all payroll taxes.
- 8. Running Payroll.** Once you have all your forms and information collated, you can start running payroll. Depending on which payroll system you choose, you'll either enter it yourself or give the information to your accountant.
- 9. Get Record Keeping Savvy.** Federal and some state laws require that employers keep certain records for specified periods of time. For example, W-4 forms (on which employees indicate their tax withholding status) must be kept on file for all active employees and for three years after an employee is terminated. You also need to keep W-2s, copies of filed tax forms, and dates and amounts of all tax deposits.
- 10. Report Payroll Taxes.** There are several payroll tax reports that you are required to submit to the appropriate authorities on either a quarterly or annual basis. If you are in any way confused about your obligations, take a look at the [IRS's Employer's Tax Guide](#), which provides some very clear guidance on all federal tax filing requirements. Visit your state tax agency for specific tax filing requirements for employers.

“Payroll administration requires an acute attention to detail and accuracy, so it’s worth doing some research to understand your options.”

Source: <https://www.sba.gov/managing-business/running-business/managing-business-finances-accounting/10-steps-setting-payroll-system>

Hiring an Employee

Whether you are hiring your first employee or adding to your workforce, there are many considerations and legal responsibilities a small business is required to follow. Ensuring compliance with these obligations will help you avoid any issues arising from audits or red flags should an employee file a complaint with your state's labor department or any other government agency.

Employee Classification

One of the biggest triggers in recent years for a labor audit is with regard to how employees are classified, specifically, the difference between an "employee" who receives a W-2 form at the end of the year, and an "independent contractor" who receives a 1099 form.

Employers may unknowingly trigger risks of labor violation penalties and fines by improperly classifying individuals as independent contractors. By doing so, employers may also be denying workers of certain employee benefits (e.g. overtime and the federal Family Medical Leave Act). In fact, a Cornell University study had estimated the average unemployment insurance taxable wages that was left underreported due to employers misclassifying workers as independent contractors was \$4.28 billion for the state of New York alone.

Workers who are economically dependent on an employer and look to that employer to tell them how and when the tasks that make up their job are to be done are employees. Workers in business for themselves who retain more control over how the finished product is achieved are independent contractors.

Various types of tests (e.g. the IRS "20-factor" test) can be used to help employers distinguish between employees vs. independent contractors. General guidelines include identifying:

- The business relationship that should be clearly based on the "the degree of control and independence" between an employer and the worker,
- Employer withholding of income taxes, withholding and payment of Social Security and Medicare taxes, and payment of unemployment taxes on wages paid to an employee, and
- Employer-provided employment benefits (e.g. vacation, sick leave, or training / tuition reimbursement) to employees.



Hiring an Employee

Misclassification could result in substantial back taxes, IRS penalties, liability for workplace injuries, retroactive benefits, attorney's fees, and other monetary damages.

Validating Form I-9

U.S. law requires companies to employ only individuals who may legally work in the United States – either U.S. citizens, or foreign citizens who have the necessary authorization. This diverse workforce contributes greatly to the vibrancy and strength of our economy, but that attribute also attracts unauthorized employment in the U.S. Form I-9 is used for verifying the identity and employment authorization of individuals hired for employment in the United States. All U.S. employers must ensure proper completion of Form I-9 for each individual they hire for employment in the United States. This includes citizens and noncitizens. Both employees and employers (or authorized representatives of the employer) must complete the form.

Form I-9 is used by employers to send an employee's information to the U.S. Citizenship and Immigration Services (USCIS) for verification that they are legally permitted to work in this country. The information is compared against millions of government records and if the information matches, that employee is eligible to work in the United States. If there is however, a mismatch, the employer will be alerted and the employee generally will be allowed to work while he or she resolves the problem.

Non-employees including volunteers, unpaid interns, and independent contractors should not complete an I-9, as none of these workers (if properly classified) are employees. Additionally, those providing labor to you, who are actually employed by a contractor providing contract services (e.g., employee leasing or temporary agencies), do not need to complete an I-9 with you; the I-9 should be done with their primary employer.



Hiring an Employee

Background Screening and Drug Testing

Employers have become well-attuned to the importance of selecting job candidates that are qualified and will fit well with the organization's culture. Prior to extending an offer of employment to a viable candidate, background checks are used to assess skills, verify professional experience, and to check in with a candidate's references.

Some employers opt to use a third-party consumer reporting services to assist with reference checking and securing consumer reports, such as criminal background checks, education verification checks, and motor vehicle reports. This practice is compliant with the Fair Credit Reporting Act (FCRA) as long as the employer discloses to the applicant, in writing, that the report may be obtained for employment-related purposes.

The Equal Employment Opportunity Commission (EEOC) has established guidance for employers with respect to the use of criminal history information. The guidance disallows employers from basing hiring decisions on an applicant's arrest record; rather, the conviction record is the only criteria that may be used in this regard. The EEOC further requires that all background checks be "job-related" and "consistent with business necessity." For example, it is reasonable for a financial sector employer to conduct a credit history check on a job candidate. There are generally three factors that an employer may take into consideration when determining if the criminal conviction meets this burden:

- Nature and gravity of the offense
- Time elapsed since the conviction or completion of a sentence
- Nature of the position sought

Federal law does not prohibit employers from inquiring about criminal convictions on an employment application. However, many cities (including New York City) and states have passed legislation disallowing employers from asking about criminal convictions on job applications, also known as "ban the box."

You may conduct background checks for some jobs but not others. Different jobs may require different levels of investigation, but for the same job title, make sure you keep your process uniform to avoid charges of background check discrimination. As long as you are consistently background screening similarly situated job types, selective background checks are acceptable. For example, if you have decided that you will conduct background checks for this HR role because the employee will have access to financial information, payroll data, and employee social security numbers, you should, going forward, also conduct background checks for other positions with similar access.

Ultimately, an employer should assess the specific role for which it is hiring and the relevance of an individual's criminal or credit history information in making its employment selections. Offers of employment should be contingent to the results of background checks; thus, if any disqualifying information appears on a candidate's background check, the employer will easily be able to negate the preliminary offer of employment. The candidate will have the right to dispute the accuracy of the background check information by directly contacting the consumer agency.

Paying Your Employees

Exempt or non-exempt? Minimum wage or higher? Tipped or non-tipped? These are some of the questions you need to consider when it comes to paying your employees.

Exempt vs. Non-Exempt Employees

Under the Fair Labor and Standards Act (FLSA), non-exempt employees are paid on an hourly basis and are eligible to receive overtime when they have worked more than 40 hours in a workweek. Exempt employees are paid weekly salaries regardless of hours worked. Practically speaking, this means that the employer does not have to pay the employee overtime. To be considered exempt, an employee's actual job duties must meet very specific criteria. Most white collar or office job exemption criteria include the requirement that the employee be paid a minimum salary (this is set by the FLSA but many states have higher minimums). That predetermined salary cannot be reduced because of variations in the quality or quantity of the employee's work except in specific situations.

Minimum Wage

The federal minimum wage for non-exempt employees is \$7.25 per hour. However, many states and cities have minimum wages higher than the federal one. In cases where the state or city wage differs from the federal wage, the employee is entitled to the higher of the two minimum wages.

New York's 2023 minimum wage schedule is segmented by region: New York City, some downstate counties, and the remainder of the state. There are also separate changes that affect the fast food industry.

- **New York City**
 - The minimum wage for businesses with 11 or more employees in New York City is \$15, with a \$22.50 overtime rate. For businesses with tipped employees, the cash wage rate is \$12.50 with a \$18.75 overtime rate. The tip credit is \$2.50.
- **Nassau, Suffolk, and Westchester Counties**
 - The minimum wage for businesses in these counties is \$15, with a \$22.50 overtime rate. For businesses with tipped employees, the cash wage rate is \$12.50 with a \$18.75 overtime rate. The tip credit is \$2.50.
- **Remainder of New York State**
 - The minimum wage for businesses outside of New York City or Nassau, Suffolk, and Westchester counties is \$14.20, with a \$21.30 overtime rate. For businesses with tipped employees, the cash wage rate is \$11.85 with a \$17.78 overtime rate. The tip credit is \$2.35.
- **Fast Food Establishments**
 - For those businesses falling under the [Fast Food Wage Order](#), the minimum wage for those employees is \$15 for all of New York State including New York City.

Paying Your Employees

Overtime Laws

As mentioned above, non-exempt employees covered under the FLSA are entitled to overtime pay, not less than one and one-half times the regular rate of pay, for every hour worked over 40 in a workweek. Employees classified as exempt are not subject to the FLSA overtime rules, provided they meet the proper criteria for exemption and are paid the minimum salary requirement. Currently this salary minimum is \$684 per week.

However, some states, including New York, have passed overtime exemption rules for executive and administrative exemptions, which are much higher than the federal minimum salary level. The following salary levels are the thresholds for those exemptions:

- **Employers in New York City – Large employers (11 or more employees)**
 - \$1,125 per week (\$58,500 annually)
- **Employers in New York City – Small employers (10 or fewer employees)**
 - \$1,125 per week (\$58,500 annually)
- **Employers in Nassau, Suffolk, and Westchester Counties**
 - \$1,125 per week (\$58,500 annually)
- **Employers Outside of New York City, Nassau, Suffolk, and Westchester Counties**
 - \$990 per week (\$51,480 annually)

These thresholds will increase incrementally each year.

Tip: Excessive overtime may be due to increased work volume, high absenteeism, inefficient distribution of staff, or understaffing. Automated timekeeping helps better manage labor costs.

Reporting and Filing Payroll Taxes

You are required to submit several payroll tax reports that to both federal and state agencies on either a quarterly or annual basis.

Federal

In general, you must deposit both the employer and employee social security and Medicare taxes, along with the federal income tax withheld. Federal tax deposits must be made electronically using the IRS' [EFTPS](#).

[Form 941](#), Employer's Quarterly Federal Tax Return, must be filed each quarter by employers who withhold federal income tax or social security and Medicare taxes. This includes withholding on sick pay and supplemental unemployment benefits.

Form W-2

Employers must complete [Form W-2](#), Wage and Tax Statement, to report wages, tips and other compensation paid to an employee at the end of each year. Copy A of all paper Forms W-2 must be sent with [Form W-3](#), Transmittal of Wage and Tax Statements, to the Social Security Administration (SSA). Copy 1 must be filed with an employee's state or local tax department.

New York State

In New York, employers must electronically file and pay withholding tax returns. Filing paper returns may subject employers to penalties and delays in processing.

All employers required to withhold tax from wages must file [Form NYS-45](#), Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return, each calendar quarter.

- If you withhold less than \$700 during a calendar quarter, remit taxes withheld with your quarterly return, Form NYS-45.
- If you withhold \$700 or more during a calendar quarter you must remit the tax with [Form NYS-1](#), Return of Tax Withheld, within 3 or 5 business days after the payroll that caused the accumulated tax withheld to equal or exceed \$700.

Employers are also required to report annual wage and withholding totals for every employee during the year on the last NYS-45 filed for the calendar year.



Expenses Beyond Wages

Paying wages to your employees is one thing, but there are other expenses for which employers are responsible that must get paid.

Social Security and Medicare

Social Security provides financial coverage when an employee retires from the work force. The employer pays 6.2 percent of their employee's gross salary and withholds the same percentage from their employee's pay for a total contribution of 12.4 percent.

Medicare provides basic medical insurance when a person is retired. As with Social Security, the employer and employee contribute the same amount. Both pay 1.45 percent of the employee's gross salary.

Federal Income Tax

Withholding federal income tax from your employee's pay is optional. However, you must withhold income taxes based on your employee's W-4 form. This is an employee-only withholding. You do not contribute to the federal income tax. How much your employee owes in federal income tax depends on their income and filing status.

State Income Tax

As with federal income tax, withholding state income tax is not required unless agreed upon by you and your employee. However, withholding taxes on a regular basis will help your employee distribute their owed income tax over the course of a year, rather than paying it all at once when taxes are due.

Federal Unemployment Tax Act

The Federal Unemployment Tax Act (FUTA), with state unemployment systems, provides for payments of unemployment compensation to workers who have lost their jobs. Most employers pay both a Federal and a state unemployment tax. Only the employer pays FUTA tax; it is not deducted from the employee's wages.

New Employer State Unemployment Insurance

This is the State Unemployment Insurance (SUI) tax rate that all employers pay when they first become employers. Those with previous employees may be subject to a different rate. In New York, the new employer SUI rate is 4.1 percent (2023).

Ways to Reduce Tax Payments

While the tax burden on an employer may seem overwhelming, there are many avenues a business can take to help reduce that burden.

Federal Tax Credits

The IRS has a whole list of [credits available for businesses](#), but here are a few that you may be able to take advantage of:

- **Employer-Provided Child Care Credit**

- Get credit for 25% of expenses up to \$150,000 a year if you directly pay the child care expenses for your employees

- **Disabled Access Credit**

- If you make your business more accessible to disabled individuals under the guidelines of the Americans with Disabilities Act (ADA), you may be able to claim this credit. Your business qualifies if it grossed \$1 million or less or didn't employ more than 30 full-time employees in the preceding tax year. If you qualify, you can claim credit of about 50 percent of the first \$10,000 of qualified expenses, with a maximum credit of \$5,000.

- **Work Opportunity Tax Credit (WOTC)**

- The WOTC is a Federal tax credit available to employers who hire individuals from eligible target groups with significant barriers to employment. Employers can earn a tax credit of between \$2,400 and \$9,600 per employee, depending on the target group of the new employee and the number of hours worked in the first year. Employees must work at least 120 hours in the first year of employment to receive the tax credit. Eligibility is determined by hiring employees from the following groups:
 - Veterans
 - Temporary Assistance for Needy Families (TANF) Recipients
 - SNAP (food stamp) Recipients
 - Designated Community Residents
 - Vocational Rehabilitation Referral
 - Ex-Felons
 - Supplemental Security Income Recipients
 - Summer Youth Employees

Tip: Using a payroll service will streamline the process of determining eligibility, filing claims, and receiving tax credits for the WOTC.

Ways to Reduce Tax Payments

Federal Tax Deductions

In addition to the tax credits a business can claim, there are also tax deductions, or “write-offs,” that can help employers with their expenses. These even include expenses like your employees’ pay, business-related insurance costs, and retirement benefit costs. The IRS has a full list of [available business tax deductions](#), but here are a few common ones:

- **Renting Business Property**
 - The cost of renting space — an office, storefront, factory, or other type of facility — is fully deductible.
- **Depreciation**
 - The cost of buying property for your business can be deducted, including equipment purchases up to \$500,000. It also includes 50 percent bonus depreciation.
- **Repairs**
 - Ordinary repairs and maintenance costs are fully deductible.

State Tax Credits

Many states offer additional credits and incentives to help employers reduce their tax payments. New York has an extensive list of available credits, including the Green Building credit, the Hire a Veteran credit, and the Workers with Disabilities tax credit. See the list of New York credits [here](#), or visit your state’s tax department website for more information.



Business Insurance

Insurance for your business provides coverage against loss or damage to your property, employees, and assets. While there are all kinds of insurance options, there are a few that are important and may also be legally required for you to have.

General Liability Insurance

Business owners purchase this insurance in case of legal issues due to accidents, injuries, or claims of negligence. Payments made as the result of bodily injury, property damage, medical expenses, and more are covered by a general liability policy.

Commercial Property Insurance

In the event of fire, smoke, wind and hail storms, civil disobedience and vandalism that cause loss and damage of company property, this insurance will cover you. In general, “property” includes lost income, business interruption, buildings, computers, company documents, and money.

Workers’ Compensation

Workers’ Compensation will cover necessary medical bills and a portion of your employee’s wages should he/she become injured or ill on the job, as a result of a work-related incident. In New York, all employers with at least one employee are required to have workers’ compensation insurance.

Disability Insurance

Disability insurance protects workers from non-occupational injury or sickness by providing some compensation for lost wages. All employers in New York State who employ one or more employees on each of 30 days in a calendar year becomes a covered employer and must provide this coverage effective at the end of four consecutive weeks following the 30th day of employment until four weeks after termination. This is a benefit that protects workers 24 hours a day, seven days a week, for non-work related accident or illness, including pregnancy.

Business Insurance

5 Tips to Reduce Workers' Comp Premiums

1. Written Safety Program and Training

Prevention can go a long way in keeping premiums as low as possible. A written and active safety training program is one of the best ways to reduce claims of work-related illnesses and injuries. Educating employees on how to recognize, avoid, and prevent unsafe conditions within the workplace helps to reduce injuries.

2. Allocating Insurance Costs

Allocation of insurance costs is a quick way to educate managers about the importance of controlling accidents. Under such a plan, insurance expenses become a direct part of the managers' budget, providing motivation and incentive to train employees and prevent workers' comp claims.

3. Modified Duty Programs

Such a program lets employees who have been injured return to work and perform tasks that have been tailored for what they're physically capable of doing. It's important that the affected employee feels that they're contributing despite being injured, therefore the duties assigned should be meaningful and make the employee feel valued.

4. Investigate Accidents (Including "Near-Miss" Ones)

A thorough investigation into all accidents is critical. Talk to multiple witnesses to determine exactly what happened. By taking the time to inspect the accident area and keeping all your findings organized, you can make sure that the accident or injury won't happen again. When a "near-miss" accident occurs, try to figure out what caused it so you can prevent it from happening in the future.

5. Keep Accurate Records

All businesses in New York are required to have an annual workers' comp audit. If records contain inaccurate numbers, you could end up paying a higher premium than necessary. Also keep Certificates of Insurance from any sub-contractors; if an audit shows you used a sub-contractor who didn't have workers' comp coverage, you may be charged for their workers' comp exposure.



Compliance Issues

Beyond payroll, taxes, and insurance, employers are required to comply with numerous laws and regulations regarding their employees and company data.

Recordkeeping and Maintaining Data

Businesses need to periodically go through their files to maintain and protect employment records. The general rule of thumb is to file information that can be the legal basis for employment-related decisions. Having up-to-date employment records and best practices to ensure overall integrity makes good business sense. You minimize your risk exposures, establish a better foundation of critical information (and reputation), and can make more sound employment decisions for your continued business success.

It's also critical that records be stored properly, either on-site or off-site.

On-site Option: Conduct due diligence to determine how to best protect your HR records. Some key criteria include:

- Physical area (e.g. Exposure to light, heat, and / or humidity).
- Security measures (e.g. Access controls such as keys).
- Protective measures (e.g. Fire and / or burglary protection). Also, consider the manner of storage such as hardcopy vs. electronic documentation.

Off-site Option: Practice similar due diligence for storing of the records off-site as you would for those being stored on-site.

- Determine all relevant information involving site management (e.g. Property insurance and bond coverage).
- Get important information about the site's physical location (e.g. Criminal reports of incidents on and around the site).
- Visit the site, and assess security systems (e.g. Storage facility's fire protection).
- Learn about the HR practices at the site (e.g. Staff access levels to the storage area for the records).



Compliance Issues

Here are the files and retention requirements for an employee's HR file:

- **Hiring Records:** job applications, resumes records relating to refusal to hire, advertisements about openings, promotions, or training opportunities. Retain 1 year.
- **Basic Employee Information:** I-9 for all, work permits for minors. Retain 3 years after hire or 1 year after termination, whichever is later.
- **Payroll Records:** name, address, SSN, date of birth, job classification, job title, daily schedules, pay rate, weekly compensation, amounts and dates of payments, daily and weekly hours, overtime hours and pay, annuity and pension payments, benefits, deductions and additions. Retain 4 years.
- **Tax Records:** Retain 4 years.
- **Employment Actions:** hires, separations, rehires, promotions, demotions, transfers, layoffs, recalls, training opportunities, employment test results. Retain 1 year from date of action.
- **Health, Medical, Safety Data:** Retention varies
- **Job related illnesses and injuries:** Retain 5 years.
- **Requests for accommodation of disability:** Retain 3 years.
- **Medical exams:** Retain 3 years.
- **Toxic substance exposure records:** Retain 3 years.
- **Blood-borne pathogen exposure records:** Retain 3 years.
- **Family Medical Leave Act (FMLA):** Retain 3 years.

Compliance Issues

Labor Laws

There are federal, state, and local labor laws that employers must comply with.

Family Medical Leave Act (FMLA): The FMLA is a federal law that provides both job-protected leave and benefits continuation rights to employees who need to take leave for any of these reasons:

- The birth of a son or daughter or placement of a son or daughter with the employee for adoption or foster care;
- To care for a spouse, son, daughter, or parent who has a serious health condition;
- For a serious health condition that makes the employee unable to perform the essential functions of his or her job; or
- For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status

All public agencies, regardless of size, and private employers with 50 or more employees are required to comply with the provisions of the FMLA. For an employee to be eligible, they must have worked for the company for at least 12 months in the last seven years, have worked at least 1,250 hours for the company during the 12 calendar months immediately preceding the leave, be employed at a work site that has 50 or more employees within a 75-mile radius, and have a serious medical condition that precludes them from working a regular schedule. If the employee meets all of these criteria, they are eligible for up to 12 weeks of unpaid leave, which may be taken either in a lump sum or on an intermittent basis.

Americans with Disabilities Act (ADA): The ADA is a federal law that not only prohibits employers from discriminating against employees with disabilities, but also requires employers to provide reasonable workplace accommodations to qualified applicants and employees with disabilities. The ADA applies to all public employers and any private employer with 15 or more employees. A disability is generally defined as a physical or mental impairment that substantially limits one or more major life activity. The employer is required to provide reasonable accommodations as long as doing so does not create an undue hardship on the organization.



Compliance Issues

Equal Opportunity Employment Commission (EEOC)

Federal Laws prohibit workplace discrimination and are enforced by EEOC. These are passed by Congress and signed by the President. They include:

- **Title VII of the Civil Rights Act of 1964 (Title VII)** — This law makes it illegal to discriminate against someone on the basis of race, color, religion, national origin, or sex.
- **The Pregnancy Discrimination Act** — This law makes it illegal to discriminate against a woman because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.
- **The Equal Pay Act of 1963 (EPA)** — This law makes it illegal to pay different wages to men and women if they perform equal work in the same workplace.

See the full list of EEOC-enforced laws [here](#).

State & City Sick Leave Laws

While 16 states and the District of Columbia have passed paid sick leave laws, more and more municipalities—including New York City, Los Angeles, San Diego, and Chicago—have passed ordinances that require employers to provide paid sick time.

New York City: Employers with five or more employees that work more than 80 hours in a calendar year (any regular and consecutive 12-month period of time) must provide up to 40 hours of paid sick leave at the regular hourly rate of pay (but no less than minimum wage).

Employers with one to four employees must still allow up to 40 hours of sick leave. If the employer's net income is \$1 million or more, the sick leave is paid. Sick leave can be unpaid if the employer's net income is less than \$1 million.



Compliance Issues

New York Paid Family Leave

In 2016, New York State passed a Paid Family Leave (PFL) law that provides partial income replacement and job protection while workers are on leave for covered reasons. Employers are required to purchase a PFL insurance policy or self-insure.

The income replacement will be fully funded by mandatory employee payroll deductions.

The New York State Department of Financial Services (DFS) has set the maximum contribution rate at 0.455% (2023) of an employee's weekly wage, up to \$1,688.19 (the current statewide average weekly wage for 2023). Employers should not take a deduction from any portion of an employee's income that exceeds this amount.

Some key elements of New York's Paid Family Leave Benefit:

Eligibility

- All employees who work full-time (20+ hours per week) for 26 weeks, or part-time for 175 days, are eligible to use PFL.
- All employers with one or more employees are subject to the law.
- Employees do not have to use accrued sick leave, vacation, or other paid time before using PFL.

Use

- Employees may take PFL during the first 12 months following the birth, adoption, or fostering of a child.
- Employees may take PFL to care for a close relative with a serious health condition.
- Employees may take PFL if they are eligible for time off under the military provisions of the Family Medical Leave Act (FMLA) when a spouse, child, domestic partner, or parent of the employee is on active duty or has been notified of an impending call or order of active duty.
- Employees may not use PFL for their own serious condition or qualifying military event.

Compliance Issues

New York Paid Family Leave

Job Protection

- Employers must hold an employee's job for them while they are away on PFL, or reinstate them to a comparable position with the same or better pay, benefits, and terms and conditions of employment.
- Employers must continue to provide the employee's existing health benefits while on PFL.
- Employees must continue to pay the usual portion of their health benefits premium while on PFL.
- Employers may not discriminate or retaliate against employees in any way for using or asking to use their PFL, including discipline, reduced hours, or reduced pay or benefits.

Notice to Employees

- Employers who provide a handbook with other benefit and leave information should include information about PFL in their handbook.
- If an employer does not have a handbook it must provide other written notice about PFL to employees. We recommend that all employers provide employees with the written notice produced by the state when it becomes available. The state is encouraging employers with questions to call the Paid Family Leave Helpline at 844-337-6303 between 8:30 a.m. and 4:30 p.m. ET, Monday through Friday.

Tip: Using a human resource management system allows you to track PFL benefits and ensure that you are complying with the law and that employees are using it properly.

Compliance Issues

Employee Handbook

Employers must establish fair personnel practices and policies, and apply them equally to all staff. Providing each employee with an employee handbook that explains the workplace's rules, practices, and policies is a necessity, and presents clear advantages to the employer. Employees will gain a better sense of the organization and employers will know that they have made the policies and expectations clear to its workers.

A single discrimination law suit can cost a company hundreds of thousands of dollars in defense expenses and settlement or jury awards. In addition to the monetary cost, there are the significant impacts to business operations due to a workforce that is distracted by the litigation and the internal upheaval it brings with it, a loss of employee morale and the damage of the employer's reputation in the community.

An up-to-date, compliant handbook is a viable first line of defense against huge litigation costs. The implementation of clear, concise policies that employees understand and managers apply consistently can help employees feel like they are being treated fairly and can reduce the number of claims filed against the employer. If an employee or former employee does file a claim, a handbook can provide valuable documentation to demonstrate that the employer had equitable and compliant workplace policies in place.

While not required by law, employers should consider requiring employees to sign the employee handbook acknowledgment form upon hire and whenever the existing handbook is updated. The purpose of a signed acknowledgment is to demonstrate that the employee has not only received the handbook but also acknowledges the organization's workplace policies.

An up-to-date, compliant employee handbook:

- Introduces employees to the organization's culture, mission, and values
- Communicates to employees what is expected of them
- Educates employees about what they can expect from management and leadership
- Helps ensure key company policies are clearly and consistently communicated
- Showcases the benefits the organization offers
- Ensures compliance with federal and state laws
- Helps defend against employee claims
- Lets employees know where to turn for help

Compliance Issues

Labor Posters

By law all U.S. businesses are required to display current federal and state law postings, including replacement posters whenever there's a change. The perception is that when you buy a poster it's only a once in a lifetime purchase, but the law states every employer must comply with each change. Labor posters are a critical line of defense in the event of a lawsuit.

Generally, federal workplace posters must be displayed in conspicuous places where they are easily visible to all employees. To comply with these legal requirements, employers typically place all workplace posters in a break room or similar location frequented by employees.

NOTE: the Family Medical Leave Act (FMLA), Equal Employment Opportunity (EEO), and Employee Polygraph Protection (EPPA) posters must be placed where they can be seen by applicants for employment.

If you have any remote employees, it's important that they have access to the same information as office staff. If a remote employee visits the office regularly – at least once per quarter – and the posters were visible during their orientation, then that will satisfy the posting requirement. Labor posters can also be posted on the company intranet or a shared file location so employees can access it from anywhere at any time. You can also send posters to remote employees via mail, email, or fax. Remember that as with office staff, remote employees must be able to access the poster information whenever laws change and new posters are produced.

Tip: Restaurants are required to post not only the Federal and State posters, but specific posters such as Handwashing and Choking. Use a poster service that supplies everything you need.

Tax Calendar

Use this tax calendar to stay on top of important deadlines for businesses, including when Quarterly Unemployment, state, and estimated Federal taxes, among others, are due.

Month	Date	Event
JANUARY	31st	4th Quarter (Prior Year) Federal 940 Report Due
	31st	4th Quarter (Prior Year) Federal 941 Report Due
	31st	4th Quarter (Prior Year) State Income Taxes Due
	31st	4th Quarter (Prior Year) State Unemployment Taxes Due
	31st	W-2 form(s) mailed to employee(s)
	31st	W-3 and W-2 forms (Prior Year) to be filed with the Social Security Administration
FEBRUARY		No Deadlines
MARCH		No Deadlines
APRIL	30th	1st Quarter Federal 941 Report Due
	30th	1st Quarter State Income Taxes Due
	30th	1st Quarter State Unemployment Taxes Due
MAY		No Deadlines
JUNE		No Deadlines
JULY	31st	2nd Quarter Federal 941 Report Due
	31st	2nd Quarter State Income Taxes Due
	31st	2nd Quarter State Unemployment Taxes Due
AUGUST		No Deadlines
SEPTEMBER		No Deadlines
OCTOBER	31st	3rd Quarter Federal 941 Report Due
	31st	3rd Quarter State Income Taxes Due
	31st	3rd Quarter State Unemployment Taxes Due
NOVEMBER		No Deadlines
DECEMBER		No Deadlines

Download the IRS Federal Tax Calendar, [Publication 509](#).

Why Use GTM Payroll Services

As you can see from the previous pages in this guide, managing and administrating all aspects of your business payroll is a daunting task. You have enough to do – outsourcing your payroll, insurance, and HR needs to GTM will save you time so you can focus on growing your business.

Our Solutions

Payroll and Tax: Our cutting-edge payroll processing technology is fully integrated with your HR, timekeeping, and benefits data with no software to install, simplifying your process. Easily generate reports, download payroll data, and access tax returns. Efficient, accurate, secure, and easy payroll processing, every time. And because we process your payroll locally, you gain flexibility for last-minute changes and updates.

Time and Attendance: GTM's automated timekeeping takes the hassle out of collecting, tracking, and reporting employee time. Our system fully integrates with your payroll, which means no more exporting, importing, or duplicate data entry. All of your time-tracking needs are managed right within the platform. Track and monitor meals, breaks, and overtime, calculate and manage comp time, track employee locations when they clock in and out, monitor errors, and manage other time policies for complete and accurate time cards.

HR Management: GTM works with you to create a customized employee handbook that is compliant with state and federal laws. Get access to HR consultants for custom support in every aspect of managing your people, from handbook development to the creation of proper policies and procedures. Use our HR Support Center for a library of up-to-date information on employment laws, regulations, relationship management, job descriptions, and more.

Workers' Compensation and Disability Insurance: Our pay-as-you-go feature eliminates down payment requirements, calculates premiums based on actual payroll, avoids "premium surprises," and allows you to match your payments to your cash flow. Our enhanced disability policy option significantly increases the benefits of a statutory policy, allowing your employees to receive a more valuable benefit.

Labor Poster Compliance: Labor laws change fast, and they often take place "under the radar"—making it nearly impossible for business owners to keep up. GTM eliminates this worry by providing the most current federal and state postings required by law, including replacement posters when laws change.

Background Checks: GTM offers clients instant and affordable background checks through our unique partnership with National Crime Search (NCS). Through our custom portal, we can provide clients complete employment screening services. Our background screening service gives you quick and easy access to the following employment screening services:

- Instant National Criminal Background Searches
- Employment Credit Reports
- SSN Validation and Address Tracker
- Multi-State Sex & Violent Offenders Search
- Motor Vehicle Records

Get a free quote and learn more about our business services by calling (518) 373-4111.

Download our [Small Business Payroll brochure](#) for more information.

Resources

Business Payroll Forms

[Form I-9](#)

[Form I-9 Instructions](#)

[Form W-4](#)

[Automatic Check Signing Form](#)

[NYS \(LS54\) Pay Rate Notice Form \(for Hourly Employees\)](#)

[NYS \(LS59\) Pay Rate Notice Form \(for Exempt Employees\)](#)

Business Tax Forms

[Publication 15 – Circular E – Employer’s Tax Guide](#)

[Publication 15-B, Employers Tax Guide to Fringe Benefits](#)

[IRS Publication 51, Circular A, Agricultural Employer Tax Guide](#)

[New York State Form IT-2104, Employee’s Withholding Allowance Certificate](#)

[W4 Form Employee Withholding Allowance Certificate](#)

Federal Sites

[Internal Revenue Service](#)

[Department of Labor](#)

[W-4 Calculator](#)

[Links to IRS Forms & Publications](#)

Local Sites

[NYS Department of Labor](#)

[NYS Insurance Fund: Worker’s Comp. & Disability Benefits](#)

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