10

Managing Payroll and Taxes

In the United States today, GTM Payroll Services estimates that there are more than two million household employees. Exact figures on household help are difficult to obtain. The U.S. Internal Revenue Service (IRS) Schedule H form filings can sometimes provide a glimpse into the numbers and trends in household employment. The IRS Schedule H form must be completed and filed by household employers with their income tax statements. It is used (among other things) to figure household employment taxes. In 2014 (the latest year that numbers for Schedule H filings are available from the IRS), the number of returns with a Schedule H attached was 196,098 and was actually down from 2013 when 201,591 household employers paid taxes via Schedule H. Even accounting for the percentage of household employees with more than one employer, this amounts to a startling number of household employers in noncompliance—whether or not intentional—with paying payroll taxes.

Many people do not pay payroll taxes for caregivers and other household employees because they believe that:

- they will not be caught
- they know friends or neighbors who are noncompliant
- their employees do not necessarily want to be paid above board
- the employees will realize more income
- it costs the employer more

- it is not considered a *real* employment situation in their eyes

Although household payroll taxes may be confusing to many, this chapter describes an easy-to-follow, step-by-step guide to managing household employment payroll and taxes for your senior care worker. (For the latest information on payroll and taxes, visit www.gtm.com.)

Employer Responsibilities

It is your duty to clearly and fully understand what your responsibilities are as a household employer and for reporting and paying required payroll taxes for your senior care worker. (See Appendix A, for a calendar on employer tax responsibilities.) Ignorance is no excuse or defense for not complying with laws and regulations. Payroll taxes must be paid for any senior care worker directly employed in the home. (*Note*: some home health agencies employ and pay senior care workers who work in a home environment. Any individual who hires an in-home caregiver independently, or through a placement agency, employs that household worker and therefore is obligated to pay payroll taxes.)

Household employers who choose to pay their senior care workers off the books are putting themselves and their caregivers at risk. By not paying payroll taxes, the employer is risking hefty fines, penalties, and even jail time, and the employee is losing valuable protection mandated by law, such as unemployment insurance, Social Security credits, Medicare, and disability coverage.)

Household employers are only not obligated to withhold federal or state *income* taxes from the employee's gross wages unless the employer and employee mutually agree to it. For more information, see IRS Publication 926. If these taxes are not withheld by the household employer, the employee can pay these annually if the employee qualifies.

A household employer must understand the federal, state, and local employment laws that pertain to his or her household employment situation. Knowing the risks of noncompliance is part of fully understanding your employment laws. Depending on your location, you may have plenty of requirements to meet.

Many laws require the employer to obtain, file, and submit necessary paperwork. For instance, for each person hired, an I-9 Form must be completed. Tax laws also have paperwork requirements, such as reporting wages to the Department of Labor or a state's Wage and Hour Division. While some laws require employers to submit forms to a designated department or division, others require employers to file completed forms and be ready to produce the paperwork when requested by government officials.

Dealing with taxes and payroll is time-consuming, nerve-racking, and complicated. GTM Payroll Services calculates that a household employer spends more than 60 hours a year handling payroll and tax administration. It is not easy, and many household employers choose to use the services of a professional payroll service. Many household employers find security in knowing that their household payroll and taxes are taken care of by experienced and qualified professionals.

FACTS AND FIGURES
HOUSEHOLD EMPLOYERS' TAX GUIDE

IF you	THEN you need to
A. Pay cash wages of $2,000 or more (2017) to any one household employee **Do not** count wages you pay to: Your spouse Your child under age 21 Your parent Any employee under age 18 at any time in 2017	Withhold and pay Social Security and Medicare taxes: The taxes are usually 15.3 percent of cash wages Your employee's share is usually 7.65 percent* (You can choose to pay it yourself and not withhold it) Your share is 7.65 percent
B. Pay total cash wages of $1,000 or more in any calendar quarter (2017) to household employees **Do not** count wages you pay to: Spouse Child under age 21 Parent	Pay federal unemployment tax The tax is usually 0.6 percent of cash wages (2017) after the FUTA tax credit of up to 5.4% if you paid state unemployment taxes in full on time, and the state is not determined to be a credit reduction state* Wages more than $7,000 a year per employee are not taxed You also may owe state unemployment tax

NOTE: If neither A nor B above applies, you do not need to pay any federal employment taxes, but you may still need to pay state employment taxes.

**See IRS Form 940 to determine credit.*

Source: IRS Publication 926: Household Employer's Tax Guide for wages paid in 2017.

FACTS AND FIGURES

PAYING OFF THE BOOKS—THE RISKS

There is no doubt about it; paying off the books is risky business. It puts the employer and caregiver in peril by not providing the payroll coverage employers and employees are entitled to by law.

Liability to household employer:

- increased exposure to an IRS audit
- a considerable penalty fine for failing to file (or attempting to evade or defeat tax payments) and potential jail time
- a false or fraudulent statement or failure to furnish a tax statement could result in a minimum $1,000 fine
- payment of all back employment taxes, interest, and penalties
- no eligibility for tax breaks, Dependent Care Assistance Program (DCAP), or Child Tax Credit

Liability to caregiver:

- IRS penalties due to failure to file timely income taxes
- no unemployment insurance benefits
- no legal employment history or credit history
- no contributions to Social Security and Medicare, and therefore no eligibility to these benefits
- no workers' compensation or disability coverage

Getting Caught Paying Off the Books

Many employers mistakenly assume that because the employment of domestic work, such as senior care, is within the home they are unlikely to get caught paying their employee illegally. Because there is a long history of household employment being paid in this way, many employers assume that this is the accepted way of paying for work in the home. Even if they are aware of the consequences, many believe getting caught is so unlikely to happen that the risk is worth it. This is not the case. Paying a caregiver off the books may mean an employer is investigated by the IRS. Some of the circumstances where this can occur are as follows.

- If you have formerly paid payroll taxes on past household employees but then do not with a new caregiver.
- You use an agency or an online registry and the IRS audits that entity for information about household employers not reporting payroll taxes.
- You terminate a caregiver who has not been paid legally and they complain to the IRS.
- You have mistakenly assumed the caregiver is an independent contractor and not an employee, so have not withheld the correct tax obligations.
- A former caregiver files for unemployment benefit but cannot get it because you have not paid unemployment tax.
- A caregiver is injured on the job so tries to claim workers' compensation and has to name you as the employer.
- A retired caregiver wants to claim Social Security and reports working for you.

Understanding the Laws

Ignorance is no excuse for breaking the law. As an employer, it is critical for you to understand the laws and regulations governing household employment, payroll taxes, hiring, and so on. This handbook aims to help you do so.

Employee vs. Independent Contractor

As detailed in Chapter 4, determining whether your household help is an employee or an independent contractor is important in household employment.

The majority of household employees are just that—employees. If you hired your caregiver using an agency, he or she may be an employee of the agency who may arrange payroll. If you hired them from an agency, but pay the caregiver yourself, then he or she is your employee. Therefore, they need to be accurately paid according to applicable labor and tax laws and receive a W-2 at the end of the year. More information on employee vs. independent contractor status is available in *Independent Contractor or Employee? (IRS Publication 1779)* and *Supplemental Tax Guide (IRS Publication 15A)*.

Researching Tax Laws

The IRS states that a household employer who pays an employee $2,000 or more (as of 2017) in gross wages during the calendar year must comply with all state and federal laws. For more information, see IRS Publication 926, *Household Employer's Tax Guide*, at www.irs.gov.

Follow Payroll Regulations

According to the *Fair Labor Standards Act* (FLSA), all household employees must be paid at least the federal or state minimum wage, whichever is higher. The federal minimum wage is $7.25 per hour (in 2017), but state minimum wages may be higher. Under certain conditions, benefits such as room and board can account for a portion of the caregiver's wage. Overtime pay is required for most live-out employees (according to FLSA) and there may be additional requirements for caregivers, including live-ins, depending on the state in which the household resides. Paid vacations, holidays, and sick days are not required by law, and are at an employer's discretion, in most states. Some states have laws in place that do require paid time off. See the Domestic Workers' Bill of Rights laws for New York, Hawaii, California, Massachusetts, Oregon, Connecticut, and Illinois.

Expert Opinion

"I cannot imagine trying to do my own tax payments. To me, doing payroll and tax payments yourself is pennywise and pound foolish. I am a strong believer in having professionals do the work. These people are professionals, and this is what they're good at."

— Stephanie Oana
Household Employer
Oakland, CA

Comply with Tax Laws

GTM Payroll Services, which provides tax and payroll services to household employers through its EasyPay Service, estimates that *employers* can expect to pay 9-12 percent of the employee's gross pay for the following:

- federal unemployment insurance (usually 0.6 percent)
- Social Security and Medicare (7.65 percent)
- state unemployment insurance (about 2-5 percent in most states)
- other state and local taxes (e.g., employment training or workforce taxes)

GTM estimates that, according to average salaries, *employees* can expect to pay 10-30 percent of their gross pay for:

- Social Security and Medicare (usually 7.65 percent)
- other state and local taxes (e.g., disability), if applicable
- federal and state income taxes, if they choose (estimated at 15-25 percent)

Though tempting to many, not paying taxes is illegal. By not paying a caregiver lawfully, the employer is liable for all unpaid taxes, interests, and penalties, and may face a potential jail term.

Federal Taxes

There are several federal taxes that apply to the household employer's payroll. Known as *payroll taxes*, these federal taxes are paid to the federal government via the employee's pay and are established to protect the employer and employee in the event the caregiver is no longer employed by the employer. For instance, if the caregiver is no longer needed by the employer, he or she may be covered by federal unemployment insurance. Key federal taxes include Social Security, Medicare, federal income tax, and the Federal Unemployment Tax Act (FUTA).

Social Security

Social Security tax, otherwise known as Old Age Survivor's Disability Insurance (OASDI), is required to be paid by both the employer and the employee. Each pays half of the Social Security taxes owed to the federal government. This usually calculates to 6.2 percent of the employee's gross salary. (Employee is withholding 6.2 percent, plus 6.2 percent from the employer as matching contribution, totaling 12.4 percent.) The tax is capped at a gross salary of $127,200 in a calendar year (2017) for both the employee and the employer.

Paying into Social Security is an important benefit to your caregiver, as it provides retirement coverage when he or she becomes older. Protection for his or her future years is a valuable benefit and shows your caregiver that you respect his or her position.

Medicare

Like Social Security, Medicare taxes require the employer and employee to contribute equally. This tax is 2.9 percent, so both pay 1.45 percent of the employee's gross salary. There is no salary limit earned for this tax.

As with Social Security, Medicare is an important benefit for your employee to have when he or she is older and retired, providing basic medical insurance when many need it the most.

Federal Income Tax

Withholding federal income tax (FIT) from a caregiver's paycheck is optional, but if agreed to by employer and employee, then the employer must withhold income taxes based on the employee's completion of Form W-4. This is an employee-only withholding, and the employer does not incur any additional expenses. The FIT amount owed by each employee varies according to his or her income and filing status.

Paying federal income tax from each paycheck helps the caregiver disburse payment across the year, and not face paying the total federal income tax all at once. It also ensures that both employer and employee are complying with the law.

Federal Unemployment Tax Act

If an employer pays cash wages to a caregiver, totaling $1,000 or more in any calendar quarter, then he or she is responsible for paying the *Federal Unemployment Tax Act* (FUTA). This is an employer tax and is not withheld from an employee's pay. It is calculated on the first $7,000 of gross wages per employee at the usual tax rate of 0.6 percent (2017), if an employer has paid his or her state unemployment taxes on time. (FUTA tax is 6 percent on the first $7,000 of gross wages. There is a FUTA tax credit of up to 5.4% if state unemployment taxes are paid in full on time, and the state is not determined to be a credit reduction state, thus decreasing the tax rate to 0.6 percent.) An employer must report FUTA with the Schedule H form, which is filed with his or her 1040 personal income tax return. Federal unemployment, while an employer tax, benefits a caregiver if he or she finds him- or herself to be out of work.

FACTS AND FIGURES

AN EXAMPLE OF HOW TO FIND OUT WHAT EMPLOYER TAXES TO PAY:

Facts:
Wage = $500 (gross) per week
Location = New York City, New York
Filing = Single, No allowances

1. Federal Unemployment = $3 per week (2017)
2. Social Security = $31 per week
3. Medicare = $7.25 per week
4. New York State Unemployment = $20.50 per week

Those four taxes add up to $61.75 per week. $61.75 (above taxes) plus $500 (gross wages) gives a total out-of-pocket cost, or the employer responsibility, of $561.75 per week.

Note: it may actually cost you a little bit less if you can qualify with your Dependent Care Assistance Plan (DCAP) at work, or use the Child and Dependent Care Tax Credit.

For more information, see GTM Tax Calculator at www.gtm.com.

Employee's Social Security Number

Save for the SS-4, which is discussed below, before you can complete any of the necessary paperwork, you must ensure that your caregiver has a Social Security number. Do not assume that the employee has one, especially if he or she is not a U.S. citizen, and be sure to verify every employee's number with the Social Security Administration. This can be done online at www.ssa.gov/employer/ssnv.htm. If an employee does not have a Social Security number and is a legal U.S. citizen, then he or she can apply for one with Form SS-5 (*Application for a Social Security Card*). If an employee is not a U.S. citizen, an Individual Tax Identification Number (ITIN) can be obtained by using IRS Form W-7 (*Application for IRS Individual Tax Payer Identification Number*). An ITIN is only used for federal withholding tax purposes.

Necessary Paperwork

It is extremely important that you obtain all the necessary paperwork needed when you hire your senior care help. This includes several federal and state forms. Some of the documents you will be familiar with, probably having filled them out yourself when starting a job. Others are more unique to this type of employment or are documents you would probably not be familiar with unless you have been an employer before. From your caregiver's perspective, these are the forms needed to ensure he or she is getting paid and getting paid properly. To properly pay an employee, an employer should obtain the following documents (all the forms that follow are discussed in detail later in this chapter).

Federal Requirements

- Form SS-4 *Employer Identification Number* from the IRS.
- Form W-4 *Employee's Withholding Allowance Certificate* to provide to newly hired employees.
- Form I-9 *Employment Eligibility Verification* to provide to newly hired employees.
- Form W-10 *Dependent Care Provider's Identification and Certification* for DCA Dependent Care Assistance (DCA).
- Form 1040 Schedule H *Household Employment Taxes*, an annual form.
- Form 1040ES *Estimated Tax for Individuals*, optional.

State Requirements

- Registration form for a state unemployment identification number.
- Registration form for a state withholding number (if applicable).
- State withholding certificate (if applicable).
- State's new hire report (if necessary).

Necessary Federal Paperwork

Form SS-4

All employers must have an employer identification number (EIN). This is generally the first document you will complete and gives you a specific tax number, much like your personal Social Security number, for dealing with the IRS and other parties. It is provided by the IRS through Form SS-4 *Application for Employer Identification Number*. An SS-4 form may be obtained by telephoning the IRS at 1-800-829-4933 or visiting www.irs.gov and completing it online.

Form W-4

If an employer and an employee have agreed to withhold income taxes, then the employer should provide the employee with a Form W-4, *Employee's Withholding Allowance Certificate*, and the employee must complete it. Form W-4 can be downloaded from www.irs.gov or www.gtm.com. The W-4 documents how much income tax is withheld from a caregiver's salary. If the W-4 is not submitted, then the employer must withhold the caregiver's income tax at the highest rate—as a single person with no allowances. (See Appendix E, for a sample *W-4 Form*.) Refer to IRS Publication 505 for more information.

Form I-9

Employers need to provide employees with a Form I-9, *Employment Eligibility Verification*. All employers in the United States must obtain a completed I-9 for every employee hired. The I-9 attempts to ensure that only people legally authorized to work in the United States are hired.

Employers can use the I-9 to verify the identity and employment eligibility of caregivers or can register and complete the USCIS e-verify system at www.uscis.gov/e-verify. (See Appendix E, for a sample *Form I-9*.) More information about the I-9 process can be found at www.uscis.gov/i-9central and in chapter 4.

Considering the rapid way in which immigration policies are changing and becoming stricter, it is vital that an employer complete the I-9 with appropriate copies of documentation and keep it in the caregiver's personnel file for three years after the hire date (or one year after the termination of employment date). In short, this proves your caregiver is eligible to be employed in the United States.

Form W-10

Form W-10 *Dependent Care Provider's Identification and Certification* is an optional form that any taxpayer can use to obtain information about the dependent (i.e. senior) care provider. It is especially useful if you plan to claim a credit for dependent care on Form 1040 or 1040A, or, if you receive benefits under your dependent care plan where you work. The IRS states that the taxpayer can use Form W-10 or any of the other methods of due diligence to collect this information, including:

- a copy of the dependent care provider's Social Security card or driver's license that includes his or her Social Security number
- a recently printed letterhead or printed invoice that shows the provider's name, address, and taxpayer identification number (TIN)
- if the provider is your employer's company's dependent care plan, a copy of the statement provided by your employer under the plan
- a copy of the caregiver's W-4, if the provider is the household employee and he or she gave you a properly completed Form W-4 *Employee's Withholding Allowance Certificate*

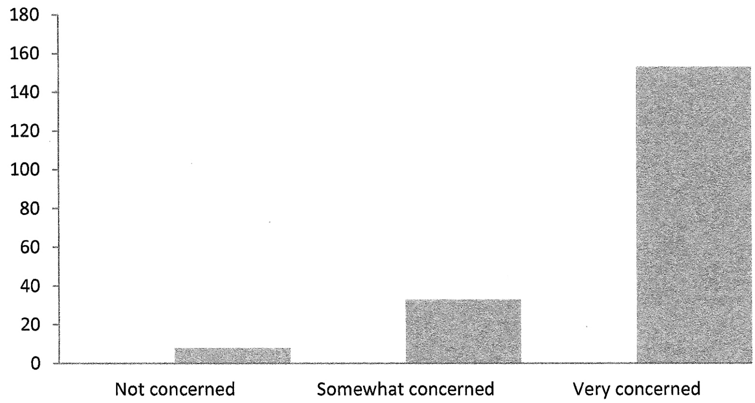
Form 1040 Schedule H

In 1995, the Schedule H (*Household Employment Taxes)* form was added to federal Form 1040 (*U.S. Individual Income Tax Return*) for employers who paid more than a total of $2,000 during the calendar year (as of tax year 2017) to caregivers, or for employers who paid all employees more than $1,000 in any one quarter during the calendar year. Schedule H enables employers to report wages and taxes withheld for household help to the federal government with their own 1040 form.

Form1040-ES

The option of transmitting taxes quarterly versus paying at the end of the year with Form Schedule H (*Household Employment Taxes*) allows a household employer to make estimated tax payments to cover household employment taxes. These vouchers allow you to make payments and pay all of the employment taxes at once or in installments. This form is due on a quarterly basis. (Refer to 1040-ES filing instructions for due dates.)

FACTS AND FIGURES
EMPLOYERS' CONCERNS ABOUT TAX COMPLIANCE



Source: GTM Household Employer Employment Trends 2016

FACTS AND FIGURES
INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER

Regardless of whether a person is legally employed, an IRS Individual Taxpayer Identification Number (ITIN) can be used by those who are ineligible to obtain a Social Security number but who need to pay taxes on wages earned; these people include certain nonresident and resident aliens, and their spouses and dependents. The ITINs are nine-digit numbers beginning with the number nine and formatted like a Social Security number (9XX-XX-XXXX). They are not to be used for nontax purposes (e.g., proof of identity for a driver's license, residency claim or employment, or to apply for welfare and health benefits). The IRS Form W-7 (*Application for IRS Individual Taxpayer Identification Number*) is used to obtain an ITIN and may be submitted to the IRS. According to the IRS, people using an ITIN cannot claim the earned income tax credit.

Q & A

Q. Can we put our in-home senior care employee on our company payroll?

A. Generally, no. Your company payroll should be reserved for those employees who work for your company.

Equally important, you cannot deduct your caregiver's wages from your company's expenses. In most cases, you must pay your federal household employment taxes on your own federal income tax return, either annually or quarterly. The only exception to reporting your federal household employment taxes on your personal federal income tax return is if you are a sole proprietor or your home is on a farm operated for profit. In either of these instances, you may opt to include your federal household employment taxes with your federal employment tax deposits or other payments for your business or farm employees. (See IRS Publication 926 for more information.)

Reporting and Filing Federal Payroll Taxes

There are two options for filing federal payroll taxes: annually or quarterly. Household employers must report and file all federal taxes by using Form 1040 Schedule H, which is an annual reconciliation form that is used by the employer to report to the IRS wages paid to the caregiver throughout the year.

Alternatively, employers may pay estimated taxes on a quarterly schedule to help alleviate the tax burden at the end of the year. In addition, Schedule H must be filed annually with the employer's personal 1040 federal tax return. To do this, an employer will need to file the 1040 Estimated Tax Form. This calculates an estimate of the following:

- employee federal income tax (FIT)
- employer and employee Social Security and Medicare
- employer federal unemployment tax (FUTA)

This sum is an estimated amount for each quarter. The due dates for submitting this form are explained in the box below.

FACTS AND FIGURES

FEDERAL TAXES FILING DEADLINES

Quarter	Due
First (January-March)	April 15
Second (April-May)	June 15
Third (June-August)	September 15
Fourth (September-December)	January 15

Note: some years, estimated tax deadlines can be adjusted a little, due to the date falling on a weekend or a holiday.

If estimated tax payments are not made quarterly, then an employer may want to arrange to have additional federal income taxes withheld from his or her own salary. This will help to avoid owing a significant sum on his or her personal federal tax return and also to avoid a possible 10 percent under-payment penalty.

Each year, an employer must provide employees with Form W-2 (*Wage and Tax Statement*) on or before January 31. This provides a breakdown of all withholding and income throughout the previous calendar year and helps the caregiver submit her or his individual income tax forms.

By January 31, whether filing by paper or electronically, the employer must also file the employer copy of the caregiver's W-2 and W-3 (a wage transmission report) forms to the Social Security Administration. A W-3 is a reconciliation of all W-2s for each employee, even if an employer is only employing one employee.

It is extremely important for your caregiver to be able to prove that he or she has a source of income in establishing credit, getting a loan or a credit card, or benefiting from any tax credits. Plus, both employer and employee may benefit from tax credits: an employer may benefit from credits and from a dependent care account at work, whereas an employee may benefit from the federal earned income tax credit.

Q & A

Q. I am nervous about dealing with the IRS and all federal, state, and local tax forms that I need to complete. What can I do to ensure that I'm doing all I need to be doing, particularly since two friends of mine do not file the same paperwork that I do?

A. Given the circumstances, you're right to be anxious. Following all tax requirements can be confusing and time consuming, but it must be done. Refer to IRS Publication 926 and Publication 15, as well as relevant state and local labor and tax guides. Many household employers contract with payroll services firms like GTM to handle taxes and paperwork and to consult with experts regarding the precise, timely, and lawful handling of wages. Many who choose not to adhere to the tax law unfortunately risk heavy penalties and jail. Paying a caregiver under the table puts the caregiver in a very vulnerable spot, as he or she is without the protection of unemployment insurance, Social Security, and so on. The important thing is to make sure you pay the correct taxes.

State Taxes

Along with federal taxes, household employers are responsible for complying with their state and local tax laws. Be sure that you cover all payroll taxes—federal, state, and local.

Necessary State Paperwork

State Unemployment Identification Number

Household employers are required to obtain a state unemployment identification number with the state where the physical work will be performed. Refer to IRS Publication 926 for a list of State Unemployment Tax Agencies (also available online at www.irs.gov). This ID number is needed to pay state unemployment taxes on a quarterly basis and will appear on the W-2 (*Wage and Tax Statement*) form for each employee.

State Withholding Certificate

It is optional for an employer to withhold state income taxes from the caregiver's paycheck. If an employer and employee decide to withhold these, then the state's registration form should be completed by contacting the state's withholding agency. This provides an employer with an ID number, a coupon booklet, and instructions on how to submit withholding taxes according to the state's laws. This number will also appear on Form W-2 for each employee.

State New Hire Report

New hire reporting is a process by which an employer has to register any newly hired employee with the state within a certain time of the hire date.

This report usually gives contact and basic identification information for each new employee to the state's department of labor, which then transmits the report to the National Directory of New Hires (NDNH). (The most common use of this information is to help the child support collection unit track down debtors for child support payments.)

Workers' Compensation and Disability Insurance

Most states require household employers to carry a workers' compensation and/or disability policy if employing someone full- or part-time. These policies provide compensation to a caregiver who is injured on the job. It is recommended that even if the state where your caregiver is employed does not require employers to have a policy, you should consider obtaining appropriate coverage for peace of mind. Some states also require insurance coverage for nonoccupational injury or illness. If you do not cover yourself for an employee injury, you set yourself up for possibly a very costly lawsuit if your caregiver, housekeeper, or other employee is injured on the job. Homeowner's insurance policies often *do not* cover these situations. With the proper insurance coverage, you will protect yourself and your home—while also protecting your senior's caregiver from the added costs of the injury and potential loss of work.

States that mandate workers' compensation and disability insurance are discussed in Chapter 11.

State Unemployment Insurance

State unemployment insurance is an employer tax and is not withheld from an employee's pay. It is normally due on a quarterly basis. Unemployment insurance contributions are accumulated in every state's unemployment insurance fund for workers who can claim eligibility. State unemployment insurance is generally calculated between 2 percent and 5 percent on a certain amount of each employee's gross wages for the calendar year, which varies state by state. For example, for new employers, Virginia's state unemployment insurance is set at 2.53 percent on the first $8,000 per employee, whereas Arizona requires 2 percent on the first $7,000 (in 2017).

Unemployment is an important factor for any worker. Sometimes, a new caregiver just does not work out, or perhaps circumstances change and you no longer need a caregiver or other household worker. Unemployment insurance would protect your caregiver and his or her family, paying a percent of his or her income, until he or she is hired elsewhere and no longer needs assistance.

Q & A

Q. Is there a difference between being covered by Social Security and being eligible for Social Security?

A. Yes, and the difference is significant. To be eligible for Social Security, an employee must work 40 calendar quarters to be fully insured and eligible for retirement, disability, death, and survivor benefits. To be covered, you must work at least ten calendar quarters to be insured and eligible for limited death benefits.

State Income Tax

State income taxes are employee income taxes based on filing status and wage level. Withholding state income tax is not required, unless agreed upon by the employer and caregiver, but it generally helps the caregiver distribute his or her owed income taxes throughout the year at regular intervals, rather than requiring a total payment at the end of the tax year. The employee may want the employer to withhold state income taxes from his or her paycheck.

Also, much like federal taxes, paying state withholding taxes documents an employee's legal employment history and is critical in establishing and improving him- or herself financially.

Disability Insurance

Some states may require the employer to withhold additional taxes for disability insurance from the caregiver's pay. For example, New Jersey, California, Hawaii, New York, and Rhode Island have a state disability tax. California State Disability Insurance (SDI) is a partial wage-replacement insurance plan for California workers. The SDI program is state mandated and funded through employee payroll deductions. It provides affordable, short-term benefits to eligible workers who suffer a loss of wages when they are unable to work due to a non-work-related illness or injury, or a medically disabling condition from pregnancy or childbirth.

Q & A

Q. I am a caregiver for a senior in his home and my employer (his daughter) is paying my Social Security and Medicare but asked me if I would like income taxes withheld. I am uncertain whether to have income tax withheld from my paycheck. What is the best scenario?

A. What is best depends on you. First, choosing to withhold income tax from your paycheck is not the same as choosing whether to pay it. You must pay it. The option is whether you want your employer to withhold income tax from your paycheck or whether you want to pay the income tax yourself. So, this becomes a budgeting and convenience issue. We strongly discourage employees from trying to pay taxes on their own.

Local Income Tax

Some localities require an employer to withhold local income tax, based on either the place of employment or residence of the employee. Such localities include some in Ohio and Pennsylvania, as well as New York City.

Filing State Taxes

Most states require the quarterly filing of state taxes (state unemployment and other taxes). Unfortunately, state tax quarters do not coincide with federal tax quarters.

Instead, states require taxes to be submitted every three months—typically one month after the quarter ends. After an employer has registered with the state to file taxes, the state sends blank quarterly forms with instructions. If an employer uses a payroll service, then he or she may avoid the hassle of signing checks and filing taxes accurately and timely. If they so choose, the employer and the employee may file state income taxes (state withholding taxes) that are typically due each quarter. However, each state has specific filing frequencies based on how much income tax is withheld. The amount withheld from a caregiver's wages during a quarter generally determines the filing frequency in any given state (e.g., semiweekly, monthly, quarterly, annually). When an employer registers with the state, state tax officials will inform her or him of the filing frequency. Another way to determine filing frequency is to refer to the welcome letter in the correspondence received with the state withholding income number.

More and more states are requiring electronic filing for state taxes, so it is best to check with your state if this is mandatory or not. Penalties may be applied to employers who remit payment by check and do not e-file.

FACTS AND FIGURES
STATE FILING DATES

Quarter	Due
First (January-March)	April 30
Second (April-June)	July 31
Third (July-September)	October 31
Fourth (October-December)	January 31

Although these dates do apply for most states, they can vary from state to state. Be sure to double-check your state's due dates with your state's tax agency.

Q & A

Q. What state taxes am I required to pay as a household employer?

A. State employment laws are similar for a worker in the home or in the corporate office. All states have a state unemployment insurance tax, which employers must pay.

This amount is a percentage (2–5 percent) of the caregiver's gross salary and is capped at an annual wage amount. For example, Illinois requires 3.45 percent on the first $12,960 (2017) of the gross wage per employee. Some states, such as California, New Jersey, Hawaii, New York, and Rhode Island require the employee to contribute a small amount to disability or unemployment out of her or his own gross pay in addition to employer payments.

Record Retention

An employer should make sure that all hiring, tax, and payroll documentation regarding a caregiver's hire, including all IRS and state forms, is kept in a safe place. It is recommended that these forms be kept on file for at least seven years, in case the IRS or Department of Justice needs to check who is, or has been, employed by the employer.

Employee Responsibilities

The caregiver who works in your home is responsible for reporting and paying required payroll taxes too. It is worth making sure that employees are aware of their responsibilities at the start of employment, if they do not already know. Household employees are liable for four key taxes.

1. Social Security (OASDI) at (usually) 6.2 percent (2017). If the caregiver is getting paid $2,000 gross or more in 2017, he or she is required to withhold and pay Social Security.
2. Medicare at 1.45 percent. If the caregiver is getting paid $2,000 gross or more (2017), he or she is required to withhold and pay Medicare.
3. Federal income tax is not required to be withheld by the employer but must be paid by the employee.*
4. State income tax is not required to be withheld by the employer but must be paid by the employee.*

*Federal and state income taxes are not required to be withheld unless agreed on by the employer and the employee. It is advantageous to withhold them though because it helps:

- an employee distribute his or her owed income taxes throughout the year, rather than as a lump sum at the end of the tax year
- to document an employee's legal employment history
- to ensure both employer and employee are in compliance with the law

FACTS AND FIGURES

AN EXAMPLE OF HOW TO FIND OUT WHAT EMPLOYEE TAXES TO PAY

Facts:

Caregiver's wage: $500 gross wage per week

Caregiver's tax classification: claiming single zero

Location: New York City, New York

Federal income tax = $59.40

Social Security = $31*

Medicare = $7.25

State income tax = $14.59

Local income tax = $9.88

Total tax to be withheld = $122.12 per week. Take this from the gross wage of $500, would leave the caregiver with a net take home pay of $377.88 per week.

For more information, use GTM's tax calculator at www.gtm.com.

*calculated at the usual rate of 6.2%

All calculations based on tax rates for 2017

Paying an Employee

Unless an employer already has a firm idea of when he or she wants an employee to be paid, it is probably best to talk to the caregiver to see what best suits his or her needs and to agree on a regular pay interval. Generally, workers must be paid at least twice a month; however, some states require a weekly pay frequency for household employment.

Wages should always be paid by check so both the employer and the caregiver have an earnings and deduction record for the current pay period and year-to-date accumulated totals (see Appendix D, for a sample *Paycheck* *and Payroll Earnings Statement*.) The amount on the check should always be net (after all applicable taxes are withheld).

An employer can also offer the option of direct deposit, which is a convenient payment method for both the employer and the employee.

Some states require more detailed pay rate information, such as under the *New York State Wage Theft Prevention Act*. This law requires a New York State employer to provide in writing how the employee is paid by the hour, shift, day, week, salary, piece, commission, or other, on his or her pay statement and pay rate notice at time of hiring and keep a copy signed by the employee. In 2014, the law was revised to remove onerous employer annual wage notices while stiffening employer penalties allowing employees to recover from $50/week up to $2,500, to $50/day up to $5,000.

For an easy-to-follow, step-by-step tax guide, see Appendix A.

FACTS AND FIGURES
EMPLOYER AND EMPLOYEE BENEFITS OF PAYING TAXES

Employer Benefits of Paying Taxes	Employee Benefits of Paying Taxes
Tax savings which can help underwrite much of the employer's payroll tax expense	Eligible for Social Security credits
Eligibility for federal assistance programs e.g. child care tax credit and Dependent Care Assistance Programs (DCAP). This may allow up to $5,000 in pretax earnings per year that can be set aside for senior care expenses	Legal employment history
Ensuring tax compliance	Coverage for Social Security, Medicare, unemployment, and workers' compensation
Avoiding state and federal fines and penalties	May qualify for earned income credit
Family financial protection, such as workers' compensation in the event the caregiver is hurt while working on the job	Ensuring tax compliance
Peace of mind—knowing you are doing the right thing to protect your family and your caregiver	Peace of mind—knowing you are doing the right thing and abiding by the law

Payroll Tax Checklist

- ❑ Understand and abide by all federal, state, and local laws.
- ❑ Be aware of applicable state and local laws.
- ❑ Be clear about household tax needs and the importance of lawful tax payments for all caregivers.
- ❑ Even if an employee asks to be paid under the table, do not do so. Explain that tax withholding is for the caregiver's benefit and will ensure unemployment and Social Security coverage.
- ❑ Ensure that the caregiver knows about his or her tax obligations as an in-home senior care worker.

When a caregiver is hired, the following applies.

- ❑ Obtain an employer identification number (if not obtained previously).
- ❑ Have employee complete Form W-4 if the employer is withholding income taxes.
- ❑ Obtain Form I-9 for employee eligibility verification.
- ❑ Apply for a state unemployment ID number.
- ❑ Apply for a state withholding number (if applicable).
- ❑ Apply for a state's new hire report (if necessary).
- ❑ Obtain Form 1040-ES for estimated tax payments (if desired).
- ❑ Check workers' compensation policy requirements for the state in which the caregiver is working.
- ❑ Establish a regular pay period schedule following any applicable state laws, and inform the caregiver.

When a caregiver is paid, the following applies.

- ❑ Withhold Social Security and Medicare taxes from the caregiver's pay.
- ❑ Pay on time federal, state, and local taxes that may apply.
- ❑ Withhold federal and state income taxes, if agreed.
- ❑ Provide your employee(s) with Form W-2 (*Wage and Tax Statement*) on or before January 31 each year.

- ❑ Send Copy A of Form W-2 with Form W-3 to the Social Security Administration by January 31 each year (whether filing electronically or by paper).
- ❑ File Schedule H with the employer's federal income tax return (Form 1040) by April 15 each year.
- ❑ Keep records in a safe place for seven years.

Source: IRS Publication 926 Household Employer's Tax Guide