

# BANANAS HANDOUT

## Financial Facts About Caregivers Who Work in Your Home

- You and another parent hire a caregiver to take care of your two infants in one or both of your homes...
- A college student picks up your first grader after school and watches him until you get home from work...
- You take classes and have an in-home caregiver watch your two children every Tuesday and Thursday evening...

Did you realize that in the eyes of the government, you are probably an employer with reporting responsibilities?

### Can't My Caregiver Be an Independent Contractor?

The IRS is very strict about who is or is not an independent contractor (self-employed). A gardener who takes care of a number of yards, brings his own tools and makes his own schedule is **not** the employee of any of the families who use his services. But an in-home caregiver who is over 18 years old, whom you hire and can fire, who follows your specific directions and uses your supplies in caring for your child is an employee, which means **you're** an employer and have to pay taxes. The only exception is when you use a caregiver supplied by an agency and you pay the agency, not the worker. In that case, the agency is the employer.

### What Are My Federal Responsibilities?

**Social Security & Medicare:** You are responsible for paying both your and your employee's share of Social Security and Medicare taxes if you paid the same child care provider \$1,500 or more in 2007. The rates are 6.2% for Social Security and 1.45% for Medicare for the employer's share. The same percentages need to be withheld from the employee's wages, for a total of 15.3%. So, if you pay a caregiver \$10,000 this year, you'll owe \$1,530 in federal employment taxes. Many caregivers prefer not to have Social Security taken out of their wages, but it protects them in the future. Since you as the employer could be backbilled for both your and the employee's share of these taxes, it is advisable to pay them currently. Also, you can only take a child care tax credit on your federal income taxes if you pay Social Security.

**Here's how to pay the tax:** Use a Form SS-4 to obtain an Employer Identification Number (EIN) from the IRS. The forms are available from your local IRS office, [www.irs.gov](http://www.irs.gov) or 800-TAX-FORM (800-829-3676). Form SS-4 has information on how to apply for an EIN by mail or phone. Report and pay the Social Security and Medicare taxes by filing Schedule H with your annual federal income tax return

(Form 1040). A penalty can apply if you don't withhold enough federal income tax to cover both your personal taxes and the federal unemployment taxes you owe on your in-home caregiver. You may want to increase your federal withholding or pay estimated tax payments in advance to avoid a penalty. Call 800-TAX-FORM to request Form 1040-ES *Estimated Tax for Individuals* or download the form from [www.irs.gov](http://www.irs.gov).



You should also obtain the useful IRS Publication 926, *Household Employer's Tax Guide* for detailed information on your responsibilities.

**Federal Income Tax Withholding, Earned Income Credit & W-2 Requirements:** Caregivers who work in your home are household employees and exempt from mandatory federal withholding of income taxes, but you can choose to withhold these taxes if the employee asks you to. The employee must fill out a W-4 form and you report and pay any federal income taxes you withhold with your annual Form 1040. An employee who is eligible for the Earned Income Tax Credit may elect to receive advance payments during the year with his/her pay. The employee must give you a completed, signed W-5 to request the advance payments. For more information, see IRS Publication 15, Circular E, *Employer's Tax Guide*. As an employer, you also must issue your employee a W-2 form by Jan. 31 and file a copy with the Social Security Administration by February 28.

**Federal Unemployment Insurance:** If you paid your employee \$1,000 or more in one calendar quarter in 2007, you must pay a Federal Unemployment Tax (FUTA) on these wages with your annual Schedule H of your 1040 Form. The 2007 rate is 6.2% of the first \$7,000 in wages. You can take a 5.4% credit against this tax if you paid your full State Unemployment Insurance (SUI) payments before the filing due date for the 1040 Form.

**Exceptions:** Wages paid to employees who are under 18 years old and who are not full-time household employees (such as a student) are exempt from Social Security and Medicare taxes. There are also some complicated excep-

tions to the rules if the in-home caregiver is a relative (spouse, child or grandparent). For more information about relative caregivers, Social Security, Medicare or FUTA, contact the IRS, 800-829-1040, [www.irs.gov](http://www.irs.gov) or the local IRS office: 1301 Clay Street, Suite 160, Oakland, CA 94612, 510-637-2487 (electronic assistance only.)

**Federal Immigration Status:** You are required to complete an Employee Eligibility Verification Form (I-9) to keep on file for the federal government. This form establishes that the employee is eligible to work in the United States. To receive this form, contact U.S. Citizenship and Immigration Services at [www.uscis.gov](http://www.uscis.gov).

### What Are My State Requirements?

You are not required to withhold state income taxes from the wages of a caregiver who works in your home. But if you pay him/her \$750 or more in a calendar quarter, you are supposed to withhold a certain percentage of the employee's salary for **State Disability Insurance (SDI)**. The SDI withholding rate for 2007 is 0.6%.

If you pay your caregiver more than \$1000 in any calendar quarter, you must also pay into **Unemployment Insurance (SUI)** at a rate of approximately 3.4% on the first \$7,000 of wages. An additional 0.1% **Employment Training Tax (ETT)** is paid at the same time. Both the employee's contribution to SDI and your contributions to SUI and ETT are paid to the state either quarterly or annually if wages are \$20,000 or less. For more information on State Disability, Unemployment Insurance or the Training Tax, or to order an employer "registration packet," contact the Employment Development Department (EDD) at 888-745-3886 or visit the department's website, [www.edd.ca.gov](http://www.edd.ca.gov). See the EDD's *Household Employer's Guide* (DE 8829) form for details.

**Additional State Requirements:** You must **report your new employee** to the Employment Development Department, P.O. Box 997016, MIC 96, West Sacramento, CA 95799 (fax: 916-319-4400) within 20 days of start of work. You can download the DE-34 reporting form at [www.edd.ca.gov](http://www.edd.ca.gov) or request one at 916-255-1743.

**A Workers' Compensation Policy** is required to cover any in-home caregiver. If you have a homeowner's policy, occasional sitters who work in your home are usually covered, but a full-time caregiver may require extra coverage. Some, but not all, renters' policies cover household employees or can be written to do so. Check with your insurance agent about the coverage of your particular policy. If you're not covered through your existing insurance, you need to buy a policy. The State Compensation Insurance Fund usually offers the least expensive policy for a single employee. For more information, contact the Fund at 877-405-4545, or go to their website, [www.scif.com](http://www.scif.com).

**What If Two or More Parents Share a Caregiver?** Each family must report and pay Social Security (and any other applicable taxes) individually on just the wages it pays the worker. (BANANAS has a Handout, *Parent-Created Child Care – Shares*, available for \$3 at our office or by mail – which goes into more detail.)

### What Will It Really Cost to Hire an In-home Caregiver?

As an employer you would pay the following taxes on your caregiver's wages:

6.20%	Social Security
1.45%	Medicare
.80%	Net FUTA after SUI credit; 6.2% - 5.4% = .8%
3.40%	Estimated SUI
.10%	Training Tax
4.81%	Estimated Workers' Compensation
16.76%	

If you pay your caregiver \$10 per hour, you would pay an additional \$1.67 in taxes (16.76% of \$10) for a total cost of \$11.67 per hour. If you choose to pay your caregiver's share of Social Security/Medicare taxes, which some families do, you would add an additional 76.5¢ (7.65% of \$10) and not withhold this money from the employee's check. The same applies if you elect to pay the State Disability Insurance, which would add another 0.6% in 2007.

**Do I Have to Pay My Caregiver Minimum Wage?** Federal and California minimum wage laws apply to caregivers employed on a regular basis who either earn \$50 or more in a calendar quarter or work more than eight hours in any workweek. So the teenage babysitter who sits for you now and then is probably not covered by California's minimum wage of \$8.00 per hour (as of 1/1/08). However, you may have to pay more if you want to keep a caregiver for any length of time!

**Tax Compliance Services** – A number of services do payroll and/or recordkeeping for families using in-home caregivers (e.g. babysitters or nannies). Some of these services have websites with calculators to figure out how much taxes to pay; others sell do-it-yourself software; still others will do the whole process for you, including writing a check to the provider and preparing your tax reports. Type "nanny taxes" in your search engine and you'll find services, such as [paycycle.com](http://paycycle.com), [4nannytaxes.com](http://4nannytaxes.com) and [breedlove-online.com](http://breedlove-online.com). Paychex and ADP also provide payroll and tax payment services for in-home caregivers. Visit the [www.parents.berkeley.edu](http://www.parents.berkeley.edu) website for feedback from parents using some of these businesses.

**Summary** – Parents who use the same in-home caregiver daily or frequently should investigate their reporting responsibilities. Given the complexity of the reporting rules and the additional cost, many – if not most – parents who should pay taxes don't. But problems can arise when a caregiver applies for Social Security benefits, or if s/he is injured while working in your home.