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**PRODUCT & SERVICE GUIDE**

# How to Keep Your Nanny Tax Clients Happy

If you have household employment (a.k.a. "nanny tax") clients, you know how much extra work goes into making sure their taxes are in order. For those unfamiliar with this part of the tax code, household employers have a "Casual Babysitting Exemption" when they pay an individual less than \$1,900 in a calendar year. However, once they cross that threshold, they have employer tax withholding and reporting obligations at the state and federal levels (IRS Publication 926).

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Unfortunately, most families have neither the time nor the expertise to handle these obligations properly. As a result, tax and labor law mistakes are common – often snowballing into a jumble of paperwork and delinquent state tax returns.

The good news is, most of this is preventable if the family addresses it head on during the hiring process. And the best way to do that is to execute an employment agreement that includes the employee's pay details. So, to help your nanny tax clients, here is some important guidance you can pass along as they begin the search for a caregiver:

### **1. Always discuss money in terms of gross pay**

The household employment industry has been afflicted with workers being paid in cash under the table. There is momentum building toward tax compliance, but many domestic workers are used to negotiating pay on a net basis. With one party talking gross and the other talking net, significant financial chasms can occur. The simple solution is to run some payroll scenarios and use sample pay stubs during the interview process. Clear delineation of gross pay, tax withholdings and net pay will eliminate confusion and costly misunderstandings.

### **2. Household employees should be paid by the hour**

The Fair Labor Standards Act classifies household employees as non-exempt workers, which mandates they be paid for every hour worked. Fixed salaries are illegal. For convenience and predictability, a family may guarantee a certain amount of pay each pay period, but they need to be careful. Should they work the employee additional hours one week, those hours would be compensable and the family would be held liable in the event of a wage dispute. This is true even if the employee worked fewer hours the week before – there is no “banking” of hours.

### **3. Remember to pay overtime**

As non-exempt workers, household employees are also entitled to overtime if they work more than 40 hours in a 7-day work week. The rate of pay must be at least 1.5 times the regular hourly rate and should be disclosed to the nanny in the work agreement. For instance, the family can make an offer to pay \$12/hour gross for the first 40 hours of work and \$18/hour for all additional hours. The recent Domestic

Worker Bill of Rights laws passed in New York, Hawaii and California over the past few years have strongly emphasized overtime and we anticipate that more states will follow suit in 2014. It's definitely a topic your clients need to understand because their employees may ask about it.

**Note:** Federal law does not require families to pay overtime to live-in household employees, but they must be paid for every hour they work. Some states expand upon the federal overtime requirements with state law to include live-in employees or daily overtime requirements. It's important to understand what is [required in your state](#) so your clients don't find themselves in an expensive wage dispute.

#### 4. Address paid time off, holidays and sick time

Federal law does not require families to provide paid time off for vacations, holidays or sick time to a household employee. (New York, Washington, D.C. and the city of San Francisco have paid time off requirements). But, as with any profession, these things are recommended in order to attract and retain a good employee. The best practice for your nanny tax clients is to list all holidays that will be paid and unpaid in their work agreement along with the number of vacation and sick days the employee is allowed to take. This way both parties are on the same page and can plan effectively.

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*Stephanie Breedlove is the VP of [Care.com HomePay](#), Provided by Breedlove. Care.com HomePay strives to offer everything busy families need, including tax preparation and filing, payroll management, HR and labor law guidance and expert support and advice. Stephanie received her BBA in Finance from the University of Texas and an MBA with concentrations in tax and marketing from the University of Houston and began a successful career as a financial analyst and consultant with Andersen Consulting. Today, Stephanie and the Care.com HomePay team have helped more than 55,000 families comply with the law. When she isn't busy keeping up with her two grown boys, Stephanie enjoys spending time outdoors hiking, biking and fishing.*

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