



Help for Busy Families

Employment Taxes for Domestic Employers

Prepared for

The World Bank and the International Monetary Fund

January 2013

Presentation Audience

- Information presented applies to employers of foreign domestics working under a G-5 visa.
- Information specific to US Department of State rules for G-5 employment are referenced.
- Employers of US citizens and green card holders, refer to the FAQ at 4nannytaxes.com
- There is ample time for Questions & Answers.



Help for Busy Families

Special Considerations for G-4 Employers and G-5 Employees Background

Special Considerations (G-5 Domestic)

“The Secretary of State shall suspend, for such period as the Secretary determines necessary, the issuance of A-3 visas or G-5 visas to applicants seeking to work for officials of a diplomatic mission or an international organization, if the Secretary determines that there is credible evidence that one or more employees of such mission or international organization have abused or exploited one or more nonimmigrants holding an A-3 visa or a G-5 visa, and that the diplomatic mission or international organization tolerated such actions.”

9 FAM §41.21 Notes September 16, 2009

Special Considerations (G-5 Domestic)

- **Political Realities:**
 - The US Department of State considers the issuance of a G-5 visa a privilege.
 - Abuses of G-5s by their G-4 sponsors have been widely reported.
 - The US Department of State has resisted political pressure to cancel the G-5 program.
 - The US Department of State is forcing sponsoring organizations to insure compliance by their G-4 staff members with applicable employment law, tax law, and anti-trafficking laws.
 - Regulation of minimum pay and requirement of medical insurance policies is intended to avoid situations where the G-5 becomes a financial burden to local social services or medical service providers.

Special Considerations (G-5 Domestic)

- Staff with G-4 Visa Status are generally **not required** to pay US income tax on their wages.
- The domestic, working on a G-5 Visa, **is required** to pay Federal and State income taxes on par with US citizens, green card holders, etc.
- The sponsoring employer (G-4) is required to report and remit all US employment taxes, equivalent to US employers.
- **The G-5 domestic may ONLY work for the G-4 Sponsor.** All employment tax documents must be in the G-4 Sponsor's name.

G-4 Sponsor Responsibilities & Obligations

Obligation	G-4 Responsibility
Allowed payment METHODS to G-5	Bank Check or Direct Deposit ONLY
Allowed payment FREQUENCY	Weekly or Bi-weekly ONLY
Room & Board Deductions allowed?	NO
Minimum Wage	7/1/2012 – 6/30/2013 \$8.80/hr DC Metro 7/1/2011 – 6/30/2012 \$8.46/hr DC Metro
Minimum Weekly Payment*	35 hours
G-5 must have medical insurance. Who pays?	State Department allows per negotiation. In reality, if the remaining wage to the G-5 is considered insufficient, the visa application will be denied. World Bank Staff must pay the premium.
Are time cards required?	YES
Payroll Records subject to audit?	YES
Paid Time Off?	Negotiated per contract

A Fair Wage and Work Conditions

The G-5, A-3 or NATO-7 domestic must ...

- Be paid on either a weekly or bi-weekly basis.
- Be paid by check or EFT into a bank account owned by the employee.
- Have a medical insurance policy, generally paid for by the sponsoring employer.
- Not have their passport withheld by the sponsor.
- Not be required to remain on the premises outside of working hours without compensation.



A Contract or Employment Agreement

- The 9 FAM §41.21, Note 6.2 states that **a contract is a mandatory requirement.**
- The mandatory employment contract must stipulate to all of the provisions concerning wages, deductions, and employment conditions spelled out in 9 FAM §41.21, Note 6.2.
- The sponsoring alien (staff member of qualified organization) must pay the transportation expenses of the sponsored domestic worker from their home country to the United States. At the end of the contract (or when the sponsoring alien departs) the sponsoring alien must provide the transportation from the United States either to the next duty posting location or back to the G-5, A-3 or NATO-7 domestic's home.

A Contract or Employment Agreement

- **The sponsoring alien agrees to pay the G-5, A-3 or NATO-7 domestic for every week that the domestic is legally present and physically able to work in the United States for no less than 35 hours at the contracted hourly rate.** Some NGOs require a 40 hour work week.
- **CALCULATING WAGES:** The G-5 must be paid for every hour on duty, or when required to remain on the premises.
- **VACATION:** Must be stipulated in the employment contract. Typically 2 weeks paid per year.
- **PAID HOLIDAYS:** Must be stipulated in the employment contract. Typically: New Year's Day, Martin Luther King Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day.

Tax Obligations

- The G-5 or NATO-7 domestic is subject to the same taxation as any US wage earner.
- The A-3 domestic is exempt from employment taxes ONLY WHEN PAID DIRECTLY BY THE FOREIGN GOVERNMENT.
- A-3 domestics paid by an A-1 sponsor are subject to employment taxes. Under certain conditions, the A-3 may be exempt from income taxation on US Source income.

Tax Obligations

- A G-5 domestic who is a citizen of a country with a Social Security totalization agreement with the United States (a form of tax treaty) may request that the taxes they paid while working in the United States be credited to their similar retirement plan in their home country.
- Countries who currently have Social Security totalization agreements with the United States include:

Australia

Austria

Belgium

Canada

Chile

Czech Republic (18-Jan-2007)

Denmark (18-Jan-2007)

Finland

France

Germany

Greece

Ireland

Italy

Japan

Luxembourg

The Netherlands

Norway

Poland (01-Mar-2009)

Portugal

South Korea

Spain

Sweden

Switzerland

The United Kingdom

The G-4's records may be subject to audit of the following:

- Written contract signed by both parties
- Proof of medical insurance coverage
- Proof that G-5 received wage payments per the regulations in 9 FAM §41.21, Note 6.2
- Proof of payroll tax compliance (G-4)
- Proof of income tax compliance (G-5)

Audit of records may be performed by the sponsoring organization and/or the consular office upon request for visa issuance or renewal.



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Best Practices for Household Employers

Taxes & Recordkeeping

Employer Best Practices

- Develop an understanding of the mechanics of US payroll taxes, including allowed deductions.
 - **GROSS wage** is the amount before tax deductions (hourly rate x hours worked for example).
 - **NET wage** is the amount the employee actually receives, after allowed deductions.
- Required recordkeeping:
 - Forms W-4 and I-9
 - Timecards/Payroll Calculations
 - Copies of tax returns.



Employer Best Practices

- Written Work Agreement
 - **REQUIRED** for all G-5 employment & in Montgomery County MD.
- Includes:
 - Days/Hours of Employment.
 - Compensation stated in gross HOURLY rate terms, including pay frequency.
 - Treatment of overtime, sick time, vacation time.
 - Clear statement of duties & responsibilities.
 - Confidentiality clause.
 - Termination clause.



Outline of US Employment Taxes



Employment Taxes include...

- Employee Social Security & Medicare tax
- Employer Social Security & Medicare tax
- State Unemployment Tax
- Federal Unemployment Tax

*Employer bears obligation for remittance of **all** employment taxes.*

Outline of US Employee Income Taxes



Employee Income Taxes

- Two types – Federal & State
- The responsibility of the wage earner
- Annual income tax returns are generally required
- Best Practice: Withhold the G-5's estimated income taxes from payroll to avoid large amounts owed at year end

The G-5 must often produce copies of her income tax filings when applying for visa renewal.

Typical DC Area Employment Taxes

G-5 Employee Pays

- **Updated!** 7.65% deducted for Social Security and Medicare Taxes
- Federal Income Taxes (variable rates)
- MD, DC or VA Income Taxes (variable rates)

G-4 Employer Pays

- 7.65% matching Social Security and Medicare Taxes
- State Unemployment Taxes - ~\$300/year/employee
- Federal Unemployment Taxes - ~\$42/year/employee

Typical DC Area Employment Taxes

Employee Pay Calculation Sample

Gross Bi-weekly Wage: \$704.00

Social Security Tax (deducted): (\$43.65)

Medicare Tax (deducted): (\$10.21)

Federal Income Tax: (\$53.20)

DC Income Tax: (\$30.68)

Net Pay (take home): \$566.26

Employer Cost Calculation

Gross Bi-weekly Wage: \$704.00

Social Security Tax (match): \$43.65

Medicare Tax (match): \$10.21

Unemployment Taxes: \$21.12

Estimated expense per bi-weekly pay period: \$778.98

*Employer collects \$137.74 from the employee each pay cycle.
Employer tax contribution averages \$74.98.
Employer will remit total \$212.72 in tax for each pay cycle.
(\$137.74 + \$74.98)*

Internal Revenue Service (Federal)

The G-4 Employer Pays the Federal Government ...
(Internal Revenue Service)



- Both portions of Social Security and Medicare Taxes (15.3% of gross payroll).
 - The G-4 employer is legally obligated under US tax law to remit the entire tax, even if the G-4 should fail to deduct the employee's portion from his/her payroll.
- Federal Unemployment Tax (FUTA) paid **entirely** by employer – generally no more than \$42/employee/year.
- Federal Income Tax, **if collected from the employee's payroll.**
- All taxes above reconciled annually on G-4 Employer's Federal Form 1040 Schedule H, Household Employment Taxes.

State Taxes: Unemployment Taxes

- State Unemployment Tax: Paid entirely by the employer, and averages \$350/year/employee.
- DC: Allows annual remittances of unemployment taxes if properly registered.
- VA: New employers are enrolled for quarterly reporting and remittance.
- MD: Requires quarterly reporting and remittance.

Unemployment taxes are paid where the work is performed.

Employee Income Taxes



- There are BOTH Federal & State Obligations
 - The IRS collects the Federal Income Tax
 - The State where the employee lives collects the State Income Tax
- Employer not legally obligated to deduct
- **Best Practice:** Employer deducts from pay check (collects) because the G-4 is ultimately responsible for G-5's tax compliance.
- **IMPORTANT:** G-5 domestics MUST file income tax returns as a condition of the visa.

Estimating Tax Obligations

Assume employer collects (deducts) employee income tax and Social Security & Medicare Taxes

- EMPLOYER: 10 – 12% in addition to **gross** payroll.
- EMPLOYEE: 10 – 20% deducted from gross payroll, depending on marital status and annual wage of the employee.



Calculating Gross Wage

Nannies and all G-5 domestics are HOURLY employees as determined by the Fair Labor Standards Act.

- **Hourly rate is established in the contract** and can be no less than \$8.80/hour (7/2012 – Current DC METRO AREA)
Minimum rate established annually by the US Government by metropolitan area.
- When minimum wage increases, the contract must be amended.
- The G-5 Domestic must be paid for every hour worked.
- Hours Worked include all time the G-5 is required to remain on the premises or be available “on call” including nap time, time when children are in school if she must be available for sick or early dismissal pick up.

Calculating Gross Wage

Nannies and all domestics are entitled to the overtime differential as determined by the Fair Labor Standards Act.

- Overtime is calculated as **1.5 times the hourly rate** for hours over 40 in a week.
 - **Live-in** domestics in DC and VA paid for all hours but do **not** receive overtime differential.
- Time Cards: Employer is legally responsible for accurate, contemporaneous time tracking. This is also a recordkeeping responsibility of the Code of Conduct.

Pay Frequency

Defined in the work agreement

- Weekly (1x every week on established pay day)
- Bi-weekly (1x every alternate week – 26x per year)

G-5 Domestics MUST be paid either Weekly or Bi-weekly as a condition imposed by the US Department of State and the visa.

Best Practices: Recordkeeping

- The Fair Labor Standards Act requires all employers of hourly employees to maintain accurate, contemporaneous “data about the hours worked and the wages earned.”
<http://www.dol.gov/compliance/guide/minwage.htm#records>
- Includes time and day of week when employee's workweek begins, hours worked each day and total hours worked each workweek, basis on which employee's wages are paid (e.g., "\$9 per hour"), regular hourly pay rate, total daily or weekly straight-time earnings, total overtime earnings for the workweek, all additions to or deductions from the employee's wages, total wages paid each pay period, date of payment and the pay period covered by the payment .

Straight-time earnings are hourly rate * hours worked up to 40 in a work week. ***Overtime earnings*** are hourly rate * hours in excess of 40 in a work week * 1.5.

Privacy & Document Retention

- Employer is legally responsible to take reasonable steps to protect employee personal identifying information
 - Name & Address
 - Date of Birth
 - Social Security Number
- Best Practice: Keep copies of all tax documents in a secure location. Have all tax documents available for inspection when G-5 applies for visa renewal.

IRS advice:

"Keep all employment tax records for at least 4 years after the date that the tax becomes due or is paid, whichever is later. Generally, you must keep your records that support an item of income or deductions on a tax return until the period of limitations for that return runs out. "



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The Mechanics: How You Comply with the Employment Taxes?

Mechanics: Getting Started

- G-4 EMPLOYER: must have a Social Security Number (SSN) prior to enrollment as an employer.
- G-4 EMPLOYER: Must register and obtain employer tax identification numbers from the IRS and state taxing authorities.
- THE G-5 DOMESTIC: Must have a Social Security Number (SSN).

Best Location: 2100 M Street NW, Washington

Mechanics: Federal Filings & Forms

Please note: If you utilize a paid employment tax preparer like HomeWork Solutions (4nannytaxes.com), the service will prepare these documents.

- **Form SS-4** “Application for Federal Employer Identification Number.”
- **Form W-2 Wage and Tax Statement:** Provided to each G-5 no later than January 31 for the prior calendar year.
- **Form W-3 Transmittal.**
- **Form 1040 Schedule H** due annually no later than April 15th.

Mechanics: Federal Forms

- The following are completed by all employees and retained with the employer's permanent payroll records. They are NOT mailed or submitted to any taxing authority.
- IRS Form W-4 "Employee's Withholding Allowance Certificate"
- DHS Form I-9 "Employment Eligibility Certificate", legally required for ALL employers for ALL employees and must be produced in the event of audit.

Mechanics: State Filings & Forms

Please note: If you utilize a paid employment tax preparer like HomeWork Solutions (4nannytaxes.com), the service will prepare these documents.

- Registration with appropriate jurisdiction for Employment Tax Account(s).
 - Unemployment tax account where the employer lives (DC/MD/VA).
 - Withholding tax account, if applicable, where the employee lives (DC/MD/VA).
- New Hire Reporting to appropriate agency in the employer's state.
- Monthly, Quarterly or Annual tax reports and remittances due based on the employer's profile and state law.

Obtain Worker's Compensation Insurance

- Employers in MD and DC must obtain an insurance policy directly from a commercial insurance agent or the state insurance fund. This is ***in addition*** to Unemployment Insurance and is not part of your employment tax filings.
- NOT REQUIRED IN VIRGINIA, but strongly encouraged.

Mechanics: Calculating Payroll



- Domestics must be paid for all hours ***on duty***, even if children are napping or off to school.
- Free Nanny Payroll Tax Calculator Available.
- Recommend that Time Sheets be used for all G-5 staff. Records are subject to audit.

<https://www.4nannytaxes.com/calculator/>

<http://www.4nannytaxes.com/info/g5employment.cfm>

Mechanics: Paying (Remitting) the Taxes

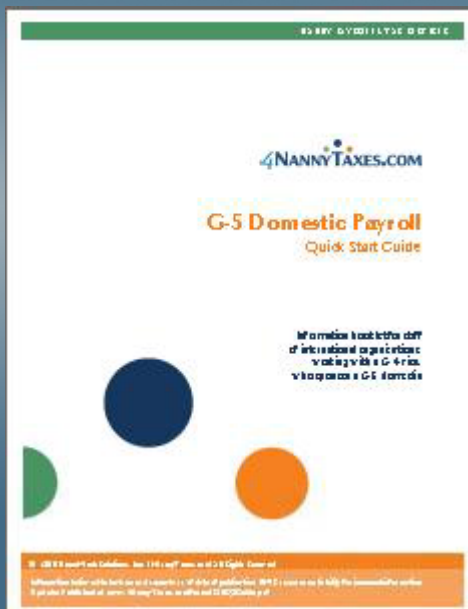
- Federal Tax filings are due by April 15th for prior calendar year obligations.
- If you must file IRS Form 1040 (US Citizens or foreign national with US-source income), you will generally need to make quarterly remittance of federal employment taxes. Quarterly deposits are made using IRS Form 1040ES.
- G-4 employers with NO US source income to report pay the IRS annually and remit the payment with the Form 1040 Schedule H.
- State employment taxes filed per established frequency.

Audit of Records

- The Codes of Conduct published by host organizations stipulate the G-4 records are subject to periodic audit.
- Records Maintenance must include:
 - Copy of the G-5 employment contract.
 - Proof of wage payments – cancelled checks or bank statements with electronic funds transfers.
 - All Federal and State employment tax documents.
 - Proof of payment of all employment taxes.
 - Contemporaneous time cards, calculation of hours worked, wages paid, and deductions (if any) from employee payroll.
 - Other immigration and insurance documents as specified in the Maintenance of Records article in the applicable Code of Conduct.
- World Bank Staff must pay \$300 per G-5 per year audit fee if not utilizing a professional payroll or accounting service.



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Free e-Book for G-4 Staff Sponsoring a G-5 domestic

<http://www.info.4nannytaxes.com/g-5-domestic-payroll-quick-start-guide/>



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- *Household Employment Tax Specialists since 1993*
- *Full payroll & tax services from \$750/year*
- *Tax preparation only services from \$495/year*

- *1-800-NaniTax Free telephone consultation*
800-626-4829

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Because you have better things to do with your time!