



Employment Taxes for Domestic Employers

Prepared for the World Bank | IMF December 2014

Presentation Audience



- Employers of foreign domestics working under a G-5 visa
- Employers of US citizens and green card holders
- Addresses US Department of State rules for G-5 employment
- There is ample time for Questions & Answers

NaniPay

Complete outsourcing of payroll and payroll tax compliance.



NaniTax Plus

You pay your employee directly, we manage tax remittance and reporting.



NaniTax

We prepare your payroll tax returns, you pay your employee and submit all tax payments and reports.

Background



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

Background



“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 non-immigrants 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 for G-5 Domestics

Political Realities



**Issuance of a
G-5 Visa a
Privilege.**



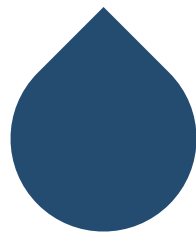
**Abuses of G-5s by
their G-4 sponsors
have been widely
reported.**



**Political pressure
to cancel the G-5
program.**

Special Considerations for G-5 Domestics

Political Realities



Sponsoring organizations required to insure compliance by their G-4 staff members with applicable employment law, tax law, and anti-trafficking laws.



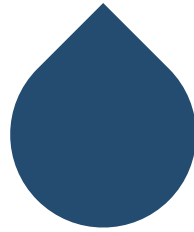
Regulations intended to avoid situations where the G-5 becomes a financial burden to local social services or medical service providers.

Special Considerations for G-5 Domestics

Political Realities



G-4 staff are generally **not required** to pay US income tax on their wages.



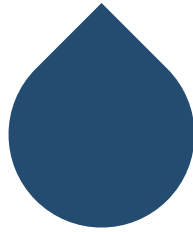
G-5 domestic **is required** to pay Federal and State income taxes.



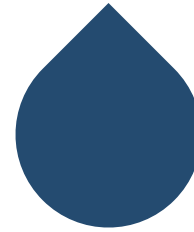
G-4 sponsor is required to report and remit all US employment taxes.

Special Considerations for G-5 Domestic

Political Realities



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 and 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	7/1/2014 – 6/30/2015 \$8.39/hr DC Metro 7/1/2013 – 6/30/2014 \$8.98/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...

1

Be paid on either a weekly or bi-weekly basis.

4

Not have their passport withheld by the sponsor.

2

Be paid by check or EFT into a bank account owned by the employee.

5

Not be required to remain on the premises outside of working hours without compensation.

3

Have a medical insurance policy, generally paid for by the sponsoring employer.

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 in 9 FAM
§41.21, Note 6.2.

A Contract or Employment Agreement

The sponsoring alien 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.

A Contract or Employment Agreement

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 Includes: 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.

Australia

Austria

Belgium

Canada

Chile

Czech Republic

Denmark

Finland

France

Germany

Greece

Ireland

Italy

Japan

Luxembourg

The Netherlands

Norway

Poland

Portugal

Slovak Republic

South Korea

Spain

Sweden

Switzerland

The United Kingdom

Audit of Records

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

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



Written contract signed by both parties



Proof of payroll tax compliance (G-4)



Proof of medical insurance coverage



Proof of income tax compliance (G-5)



Proof that G-5 received wage payments per the regulations in 9 FAM §41.21, Note 6.2

Taxes and Recordkeeping



Best Practices for Household Employers

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
- DC Pay Rate Notice
- Timecards/Payroll Calculations
- Copies of tax returns

[HWS on YouTube](#)

Employer Best Practices

Written Work Agreement

- **REQUIRED** for all G-5 employment & in Montgomery County MD for all domestic workers
- A BEST PRACTICE for all household employers

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

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

Employment Taxes include...



Employee Social Security and
Medicare tax



Employer Social Security and
Medicare tax



State Unemployment Tax



Federal Unemployment Tax

Typical DC Area Employment Taxes

G-5 Employee Pays

1

Social Security & Medicare

7.65% of gross payroll, deducted from wages.

2

Federal Income Taxes

Amount varies based on income and filing status.

3

State Income Taxes

Amount varies based on income and filing status. Based on where employee lives.

Employer Pays

1

Social Security & Medicare

7.65% of gross payroll, matching contribution.

2

State Unemployment Tax

~ \$350 per employee per year.

3

Federal Unemployment Tax

~ \$42 per employee per year.

Typical DC Area Employment Taxes

Sample Employee Pay	Employer Pays
Gross Bi-weekly Wage: \$718.40	Gross Bi-weekly Wage: \$718.40
Social Security Tax (deducted): (\$44.54)	Social Security Tax (match): \$44.54
Medicare Tax (deducted): (\$10.42)	Medicare Tax (match): \$10.21
Federal Income Tax: (\$54.54)	Unemployment Taxes: \$21.12
DC Income Tax: (\$32.00)	
NET PAY (TAKE HOME): \$576.90	ESTIMATED EXPENSE PER BI-WEEKLY PAY PERIOD: <u>\$794.27</u>

Employer collects \$141.50 from the employee each pay cycle.

Employer tax contribution averages \$75.87.

Employer will remit total \$217.37 in tax for each pay cycle.

(\$141.50 + \$75.87)

Internal Revenue Service (Federal)

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 Employment Taxes & Insurance

State Unemployment Taxes are...

- Paid where the work is performed
- Average \$350 per year per employee

Workers' Compensation Insurance...

- Is legally required in DC and MD, strongly advised in VA
- Is NOT a tax, and is obtained from a commercial insurance company

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:**

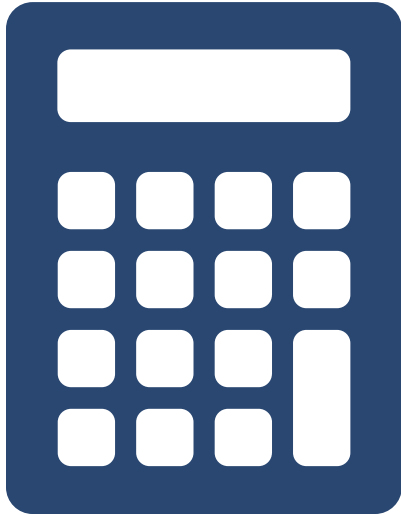
10 – 12% in addition to **gross** payroll.

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 \$8.39/hour (7/2014 – Current MD & VA) or \$9.50 (7/2014 DC)
- 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:

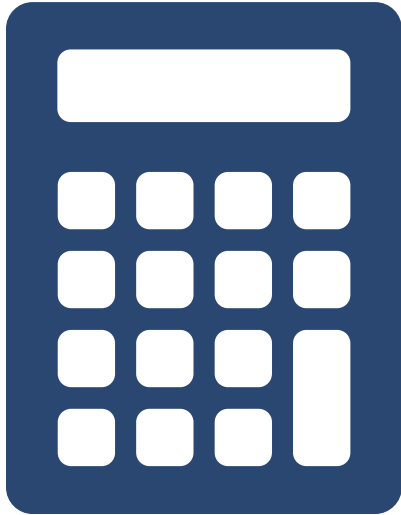
Overtime is calculated as **1.5 times the hourly rate** for hours over 40 in a week.

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)

Choose One or the Other:

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

Recordkeeping

The Fair Labor Standards Act requires all employers of hourly employees to maintain accurate, contemporaneous timekeeping 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., "\$9.50 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 and Document Retention

Employer is legally responsible to take reasonable steps to protect employee personal identifying information

- Name & Address
 - Date of Birth
 - Social Security Number
-

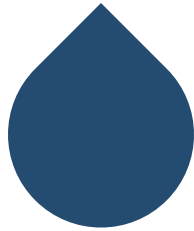
Best Practice: Keep copies of all tax documents in a secure location for no less than 4 years after the tax was due. Have all tax documents available for inspection when G-5 applies for visa renewal.

The Mechanics



**How Do You Comply
with the Employment Taxes?**

Getting Started



G-4 Employer:
must have a Social Security Number (SSN) prior to enrollment as an employer



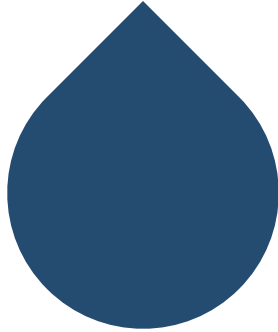
G-4 Employer:
Must register and obtain employer tax identification numbers from the IRS and state taxing authorities



G-5 Domestic:
Must have a Social Security Number (SSN)

Best Location: 2100 M Street NW, Washington

Federal Filings and Forms

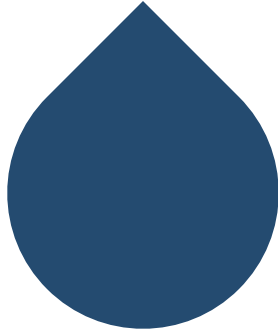


Please Note:

If you utilize a paid employment tax preparer like HomeWork Solutions (HomeWorkSolutions.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.

Federal Filings and Forms



The Following:

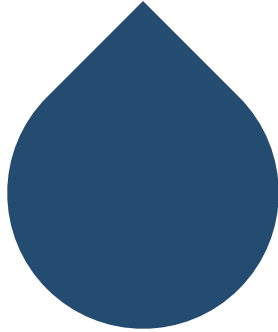
Are completed by all employees and retained with the employer's permanent payroll records. They are NOT mailed or submitted to any taxing authority.

- **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.

State Filings and Forms

Please Note:

If you utilize a paid employment tax preparer like HomeWork Solutions (HomeWorkSolutions.com), the service will prepare these documents.



- Registration with appropriate jurisdiction for Employment Tax Account(s).
 - Unemployment tax account where the employer lives
 - Withholding tax account, if applicable, where the employee lives
- New Hire Reporting to appropriate agency in the employer's state.
- Periodic payments (usually quarterly) of unemployment and withheld income taxes.

Calculating Payroll



Domestics must be paid for all hours **on duty**, even if children are napping or off to school.

G-5 staff must maintain time cards that document the calculations. Records are subject to audit.

Free Household Payroll Tax Calculator Available (HomeWorkSolutions.com).

Audit of Records

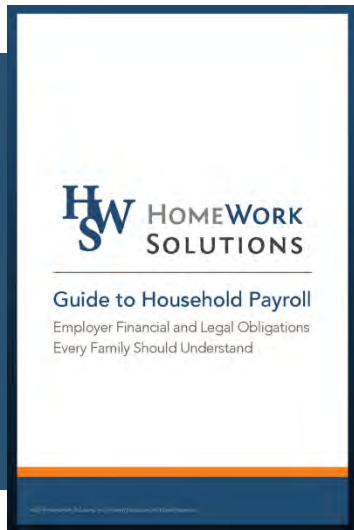
G-4 records are subject to periodic audit by host organization.

World Bank Staff must pay \$300 per G-5 per year audit fee if not utilizing a professional payroll or accounting service.

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 G-4 Code of Conduct.

The Mechanics



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

[Download our Domestic Payroll Quick Start Guide Today](#)



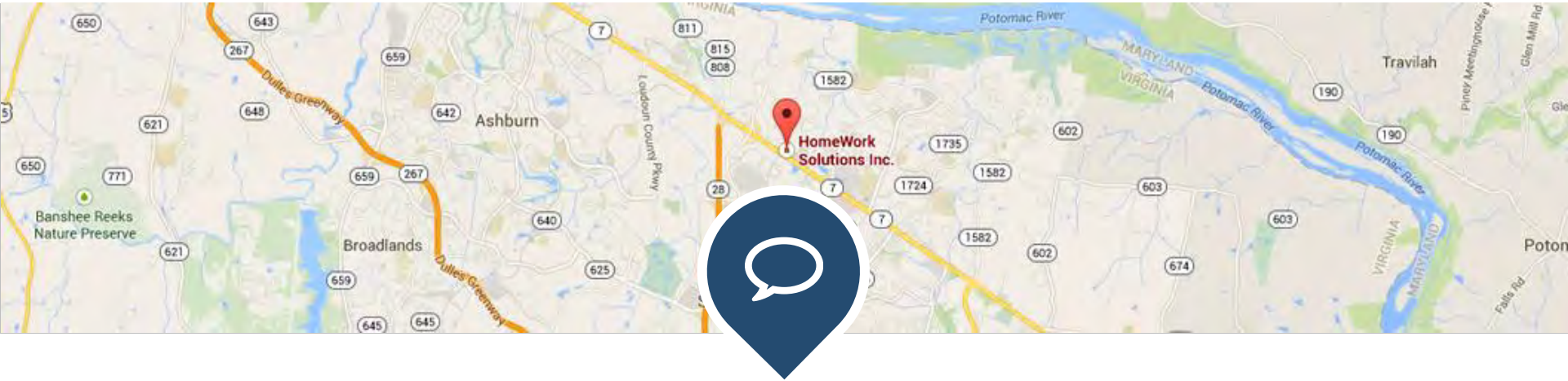
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