

## CHECKLIST FOR HIRING AN EMPLOYEE

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The following information generally outlines federal and state tax and other requirements that apply to the employment relationship. Detailed descriptions of these requirements, including any exceptions and special requirements that may apply, can be found in information bulletins and instruction booklets published by the agency listed. Addresses and telephone numbers appear in the Resource Directory section of this Guide. For specific advice on individual situations consultation with a qualified professional advisor is strongly recommended.

**Note:** Corporations wholly-owned by the person who also performs services for that business are generally considered to be employers, and that owner is likewise generally considered to be an employee. As explained elsewhere in this Guide, persons working in the construction industry may be treated as employees for purposes of workers' compensation unless certain conditions are met.

### 1. Determine whether the worker is an employee.

A worker generally is considered an "employee" if the person who obtains the worker's services has the legal right to control the manner and means of performing the work. A worker may be considered an employee for certain purposes, such as payment of FICA taxes – and not for other purposes, such as income tax withholding.

If a worker is an employee, the requirements described in this checklist will apply whether the person is employed full-time or part-time. Before determining that a worker is not an employee it is advisable to consult with your attorney or with the appropriate agency – such as the Internal Revenue Service, Minnesota Department of Revenue, Minnesota Department of Employment and Economic Development, or Minnesota Department of Labor and Industry.

Detailed discussion of whether a worker is an employee appears in the section of this Guide titled "Who is an Employee." The following forms and materials are available to help determine if a worker is an employee.

#### **Income tax withholding, FICA and Federal unemployment taxes:**

Form: [SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding.](#)

[Publication 15-A, Employers' Supplemental Tax Guide, \(Supplement to Pub. 15, Employer's Tax Guide\)](#), provides further information.

Available from: Internal Revenue Service.

Filed with: The IRS Service Center designated on the form.

How often: In response to worker's request for determination of status for purposes of federal employment taxes and income tax withholding.

## **Minnesota Unemployment Insurance**

Register with the Minnesota Unemployment Insurance (UI) Program of the Minnesota Department of Employment and Economic Development through its self-service unemployment insurance reporting system. The MN UI Program determines whether a worker is an employee or independent contractor based on Minnesota Statute. Refer to the [Unemployment Insurance \(UI\) Employer Handbook](#).

Register: [Minnesota Unemployment Insurance \(UI\) Program](#)

When: As soon as possible after first wages are paid for covered employment.

### **Workers' compensation**

The Minnesota Department of Labor and Industry has adopted rules addressing the conditions under which workers will be considered employees or independent contractors for workers' compensation purposes. These rules can be found at Minnesota Rules 5224. Copies of Minnesota Rules are available at law libraries and many public libraries.

## **2. Obtain federal Employer Identification Number (EIN).**

Form: [SS-4, Application for Employer Identification Number](#)

Available from: Forms and instructions are available at [About Form SS-4, Application for Employer Identification Number \(EIN\)](#)

Filed with: The IRS. It helps to have a completed Form SS-4 available before beginning the online application process.

Review [How to Apply for an EIN](#)

[Apply for an Employer Identification Number \(EIN\) Online](#)

Apply by Fax: 855-641-6935 toll-free.

Apply by mail: Internal Revenue Service, Attn: EIN Operation, Cincinnati, OH 45999.

- The IRS no longer issues EINs by telephone for domestic taxpayers. Only international applicants can receive an EIN by telephone.

How often: Once, unless business ownership or form of organization changes.

### **3. Obtain Minnesota Taxpayer Identification Number.**

Form: [ABR, Application for Business Registration](#)

Register with the Minnesota Department of Revenue:

- Online at [Business Tax Registration](#)
- Register by phone at 651-282-5225 or 800-657-3605.

Available from: Minnesota Department of Revenue.

Filed with: Minnesota Department of Revenue.

How often: Once, unless business ownership or form of organization changes.

### **4. Obtain Minnesota workers' compensation insurance.**

Form: None required.

Available from: Coverage is obtained through the employer's insurance company.

Filed with: Not applicable.

How often: Workers' compensation coverage is required for the entire time the employer has employees. Certain exemptions may exist. For information on these exemptions, contact your insurance company or the Minnesota Department of Labor and Industry, Workers' Compensation Division.

### **5. Obtain Minnesota Unemployment Insurance (UI) Employer Account Number.**

Form: Unemployment Insurance (UI) Employer Account Number. Register:

- Online at [Minnesota Unemployment Insurance \(UI\) Program](#)
- By phone at 651-296-6141, option 4.

Available from: Minnesota Department of Employment and Economic Development, Unemployment Insurance (UI) Program.

Filed with: Minnesota Department of Employment and Economic Development, Unemployment Insurance (UI) Program.

How often: Under Minnesota Unemployment Insurance Law, every individual or organization that pays covered wages in Minnesota must register with the MN Unemployment Insurance (UI) Program. Registration should be done as soon as possible after the first wages are paid for covered employment in Minnesota. Registration must occur prior to the due date of the first quarterly wage detail report the employer is required to submit.

Refer to the [Unemployment Insurance \(UI\) Employer Handbook](#), sections *Who Needs to Register* and *How to Register*.

## 6. Verify compliance with immigration law.

Form: Refer to [Complete and Correct Form I-9](#) and [Handbook for Employers M-274](#). See discussion of [E-Verify](#) earlier in this Guide.

Available from: Bureau of U.S. Citizenship and Immigration Services (USCIS).

Filed with: The Form I-9 is not filed with any government agency but is subject to audit and inspection by the U.S. Departments of Homeland Security and the U.S. Department of Labor.

Form I-9 must be retained by the employer for three years following the date of hire or one year after the individual's employment is terminated, whichever is later.

How often: Generally, a new Form I-9 must be completed each time an individual is hired within three business days of the employee's first day of work. An employer who rehires a person within three years of the date the I-9 was originally completed may be able to update and re-verify employment eligibility on the original Form I-9.

Details are available at [USCIS's I-9 Central](#).

## 7. Obtain employee withholding information (Forms W-4, W-4MN; child support and spousal maintenance obligations).

Form: [Federal Form W-4, Employee's Withholding Allowance Certificate](#) is used to determine the amount of federal income tax withholding.

Minnesota form, [W-4MN, Minnesota Employee Withholding Allowance / Exemption Certificate](#) should be completed in addition to federal Form W-4 in all cases.

Available from: Internal Revenue Service ([Form W-4](#)) and the Minnesota Department of Revenue ([Form W-4MN](#)).

Filed with: Employers must keep copies of completed federal Forms, W-4 or state Forms W-4MN for their employees in their files. The forms verify that federal and state income taxes are being withheld according to the employee's instructions and needs to be available for inspection by the IRS or the state.

Employers may be directed, in written notice or in published guidance, to send certain W-4 forms to the IRS.

Employers must send copies of Form W-4MN to the Minnesota Department of Revenue if any of the following apply:

- The employee claims more than 10 Minnesota withholding allowances.
- The employee claims to be exempt from Minnesota withholding and you reasonably expect the employee's wages to exceed \$200 per week. Exception: If the employee is a resident of reciprocity states Michigan or North Dakota and has completed [Form MWR, Reciprocity Exemption/ Affidavit of Residency for Tax Year 2021](#).
- You believe the employee is not entitled to the number of allowances claimed.

Mail to: Minnesota Department of Revenue, Mail Station 6501, 600 N. Robert Street, St. Paul, MN 55146-6501.

How often: Forms W-4 and W-4MN are generally valid until the employee provide new ones. But employees who claim to be exempt from withholding must renew the exemption annually by filing new Forms W-4 or W-4MN by February 15 each year.

When an employee replaces existing Forms W-4 or W-4MN with a new one, the employer must put the new information into effect no later than the start of the first payroll period ending on or after the 30th day after the day on which the replacement Form W-4 or W-4MN is received.

If there is no payroll period, the replacement Forms W-4 or W-4MN must be put into effect with the first payment of wages on or after the 30th day after the day on which the replacement Forms W-4 or W-4MN is received. The replacement Forms W-4 or W-4MN can be put into effect sooner, if the employer wishes.

## 8. New Hire Reporting.

The Claims Resolution Act of 2012 requires all employers to report all newly hired, re-hired and returning to work employees to a state directory within 20 days of the date they are hired, rehired, or return to work.

Form: The [Minnesota New Hire Reporting Form](#) or W-4 Form.

Available from: Minnesota Department of Human Services (DHS).

Filed with: Minnesota New Hire Reporting Center. You can file:

- Online at [Minnesota New Hire Reporting Center](#).
- By mail at Minnesota New Hire Reporting Center, P.O. Box 64212, St. Paul, MN 55164-0212.

How often: Employers must report within 20 days of a new employee's hire date. Employers who submit reports electronically must do so in two monthly transmissions not more than 16 days apart.

In addition to reporting to the Minnesota Department of Human Services, employers must ask all new employees if they have court-ordered medical support or dependent insurance obligations that must be withheld from income, and the terms of any court order.

If amounts for medical support must be withheld, the employer must do the appropriate withholding. If the employee is required to obtain dependent insurance the employer must tell the employee about the application process and enroll the employee and the dependents in the plan. Employers are required to make such withholdings within a specific time period, and there are limits on the percentage of wages that can be withheld.

**9. Withhold federal income tax and FICA tax (employee share) and withhold Minnesota income taxes.**

Form: No specific form is required. These are accounting entries on the employer's books. The amounts also must be listed on the employee's pay statement.

Tables showing amounts to be withheld are provided by the Internal Revenue Service, see [Publication 15 \(Circular E\) Employer's Tax Guide](#) and the Minnesota Department of Revenue, see [Minnesota Income Tax Withholding Instruction Booklet and Tax Tables](#).

Available from: Not applicable.

Filed with: Accounting records are retained by the employer and are subject to inspection by the Internal Revenue Service and Minnesota Department of Revenue.

How often: Withholding must be done each time wages are paid.

## 10. Account for employer's share of payroll taxes.

Payroll taxes include the employer's share of the FICA (Social Security and Medicare) tax, Federal Unemployment Tax Act (FUTA) and Minnesota unemployment tax.

Form: No specific form is required. These are accounting entries made on the employer's books each time wages are paid. The taxes are paid through deposits or with quarterly or annual tax returns.

Available from: Not applicable.

Filed with: These taxes must be deposited in a bank as specified by, or paid directly to, the Internal Revenue Service and the Minnesota Department of Employment and Economic Development.

**Note:** Electronic filing of these taxes may be required.

How often: The accounting entries are made each time wages are paid.

## 11. Deposit withheld federal income tax and employer's and employees' share of FICA tax and deposit federal unemployment (FUTA) tax.

Form: With few exceptions, electronic fund transfers are made using [Electronic Federal Tax Payment System \(EFTPS\)](#) for all federal tax deposits.

Filed with: Deposits are made to the U.S. Department of Treasury using EFTPS.

Information is available at [About EFTPS](#) or by calling the U.S. Treasury Department customer service at 800-555-4477.

How often: For federal income tax and FICA tax, the accumulated liability usually must be deposited monthly or semiweekly (or by the next day if the liability is \$100,000 or more). The "liability" is the sum of the withheld federal income tax, the employees' and the employer's share of Social Security and Medicare.

Generally, employers with a liability of \$50,000 or less accrued during a designated four-quarter period will deposit monthly, and employers whose liability is more than \$50,000 are required to deposit semi-weekly. The employer will follow the appropriate deposit schedule for the entire calendar year.

The specific rules may be found in IRS Publication 15, Circular E, Employer's Tax Guide which may be obtained from the Internal Revenue Service.

FUTA tax deposits are made quarterly (by the end of the month following the end of the quarter), unless the amount of FUTA tax owed but not deposited is \$500 or less. If the tax is \$500 or less at the end of the quarter, no deposit is required. The tax is added to the tax for the next quarter.

## 12. Deposit withheld Minnesota income tax.

Form: The employer can make Minnesota tax deposits in one of two ways:

1. Online with Minnesota Department of Revenue [e-Services Payment Voucher System](#).
2. By mail with a payment voucher.

Some employers are required to pay electronically.

Filed with: Minnesota Department of Revenue.

How often: The employer must deposit Minnesota withholding tax following a semi-weekly or monthly schedule.

For deposit schedule information, see the [Minnesota Income Tax Withholding Instruction Booklet and Tax Tables](#), available from the Minnesota Department of Revenue.

## 13. File federal withholding return (quarterly) or employment taxes (annually)

### *Quarterly filers*

Form: [Form 941, Employer's QUARTERLY Federal Tax Return](#)

Different forms are required for employers of agricultural employees.

Available from: Internal Revenue Service.

Filed with: The IRS Service Center designated on the form.

How often: The employer must file a return quarterly.

Annually for employers of agricultural employees using [Form 943, Employer's Annual Federal Tax Return for Agricultural Employees](#)

### *Annual filers*

Form: [Form 944, Employer's Annual Federal Tax Return](#) (optional).

Available from: Internal Revenue Service.

Small businesses may be affected by changes to [Form 944, Employer's Annual Federal Tax Return](#). The changes include the ability for small employers to elect whether they want to file Form 944 or [Form 941, Employer's Quarterly Federal Tax Return](#).



Filed with: Employers who have estimated employment tax liability of \$1,000 or less for the entire calendar year are eligible to file annual Form 944 rather than the quarterly Form 941. In the past, filing this form has been mandatory for employers who met the qualifications and were notified by the Internal Revenue Service to file Form 944.

How often: Employers who are Form 944 filers can opt out by telephone at 800-829-4933 no later than April 1 of the current year, or in writing no later than March 15 of the current year. Form 941 employers, who want to file Form 944 and are eligible, can opt in to filing a Form 944 during the same election period by the same methods. Whether opting in or opting out of Form 944 filing, after contacting the IRS, the taxpayer will be notified in writing about which return to file.

Information about filing employment taxes annually is available at [Certain Taxpayers May Now File Their Employment Taxes Annually](#).

#### **14. File Minnesota quarterly withholding return.**

Form: Quarterly Withholding Tax Return

Available from: Minnesota Department of Revenue

Filed with: Returns must be filed electronically:

- Online with Minnesota Department of Revenue [e-Services](#).

How often: Quarterly. A return must be filed even if the employer paid no wages subject to withholding, had no employees during the quarter or had no tax withheld or deposited.

#### **15. File Minnesota unemployment insurance wage detail.**

Form: All wage detail reports must be submitted electronically. For more information see MN Unemployment Insurance (UI), [Wages & Taxes](#).

Available from: Minnesota Department of Employment and Economic Development, Unemployment Insurance (UI) Division.

Filed with: Minnesota Department of Employment and Economic Development, Unemployment Insurance (UI) Division.

How often: Quarterly. A wage detail report must be filed even if the employer paid no wages or had no employees during the quarter.

**16. File federal unemployment tax (FUTA) return.**

Form: [Form 940, Employer's Annual Federal Unemployment \(FUTA\) Tax Return](#)

Available from: Internal Revenue Service.

Filed with: The IRS Service Center designated on the form.

How often: Annually, by January 31 of each year.

**17. Provide Form W-2 to employee and others.**

Form: [W-2, Wage and Tax Statement](#)

Available from: Internal Revenue Service

Filed with: Employee (three copies).

Social Security Administration (one copy).

Minnesota Department of Revenue (one copy).

One copy is retained by the employer.

How often: At the end of the year, the employer must complete [Form W-2, Wage and Tax Statement](#) to report wages, tips and other compensation paid to an employee. A copy of this form must be given to the employee by January 31 for the previous year.

If the employee stops working for the employer and requests the W-2 before the January 31 deadline, it must be provided within 30 days following the request. The employer must also send a copy of the W-2 to the Social Security Administration (SSA) by January 31.

Employers can prepare and file up to 20 W-2s at a time at the Social Security Administration's online W-2 filing. Go to [Employer W-2 Filing Instructions & Information](#). Employers can also print out all the necessary copies of the W-2 for their employees, state taxing agencies, etc. Also refer to Minnesota Department of Revenue [Submitting Form W-2 and 1099s](#).

Forms W-2 and W-3 may be obtained from the Internal Revenue Service by ordering at [Online Ordering for Information Returns and Employer Returns](#)

## 18. File Minnesota annual withholding return (approved annual filers only).

Form: Annual Withholding Tax Return

Available from: Minnesota Department of Revenue

Filed with: Returns must be filed electronically:

- Online with Minnesota Department of Revenue [e-Services](#).

How often: Annually, by January 31 of each year.

To qualify for annual filing, you must have a filing history of \$500 or less of withholding in the prior calendar year. If you believe you qualify and want to file your returns annually, contact the Minnesota Department of Revenue.

## 19. Information returns, pensions and other payments.

Form: Form 1099-MISC.

Employers who make payments to consultants, independent contractors, and others who are exempt from withholding may be required to provide a federal Form 1099-MISC to those individuals, and file the form with the Internal Revenue Service.

The IRS has brought back Form 1099-NEC, to be used beginning with 2020 information returns.

Refer to IRS information: [Forms and Associated Taxes for Independent Contractors](#); [About Form 1099-MISC, Miscellaneous Income](#); and [Instructions for Form 1099-MISC and Form 1099-NEC](#).

Available from: Internal Revenue Service.

Filed with: Internal Revenue Services.

How often: Annually.

Public Law 114-113, Division Q, section 201, requires Form 1099-MISC to be filed on or before January 31 when you are reporting nonemployee compensation payments in box 7.

Otherwise, file by February 28, if you file on paper, or by April 1, if you file electronically. The due dates for furnishing payee statements remain the same.

Refer to the IRS [General Instructions for Certain Information Returns \(Forms 1097, 1098, 1099, 3921, 3922, 5498, and W-2G\)](#).

Employers who pay pensions are required to issue Form 1099R to the recipients. The Internal Revenue Service and the Minnesota Department of Revenue have established special rules applicable to these situations.