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THE WHITE HOUSE

WASHINGTON

March 24, 1997

MEMORANDUM FOR AGENCY OFFICIALS RESPONSIBLE FOR EVALUATION OF NON-CAREER SES CANDIDATES

FROM: **Peter Erichsen**
Associate Counsel to the President

Stacy Reynolds
Staff Attorney

SUBJECT: **Procedures**

This memorandum is intended to give a brief overview of the vetting process for non-career SES (NC-SES) candidates. Our aim is to ensure uniformity in the vetting process throughout the agencies. Such uniformity affords equal and fair treatment to all candidates, protects the integrity of the vetting process, and maximizes our ability to prevent embarrassment to the Administration.

As you know, agencies are responsible for vetting all NC-SES candidates who are not being appointed to serve in regional positions (i.e., Regional Administrator). The White House will continue to vet the regional NC-SES candidates. The vetting process includes a careful review of the candidate's completed forms, an IRS tax check, an FBI name check, a public record search, and an extensive interview with the candidate. This memorandum will address each element in turn.

Enclosed are copies of the following:

1. A set of sample forms for candidates
2. Memoranda explaining the recommended public record search
3. A sample interview form for the interviewer
4. Information about certain household help issues that commonly arise
5. A sample form for faxing the clearance notification to Presidential Personnel

This information is intended to provide a model for conducting the vetting process and should be kept on file and referred to each time a candidate is vetted by the agency.

I. Forms

Once a candidate has been named for an NC-SES position, the following forms should be sent to that person immediately with instructions that they are to be completed as quickly as possible:

1. Personal Data Statement Questionnaire
2. FBI Consent Form
3. Tax Check Waiver Form
4. Acknowledgment and Consent Regarding Intent to Appoint Form
5. Ethics Memorandum

The candidate should complete and return items 1 through 4. Item 5 is merely informational and is intended to educate the candidate about the ethics rules he or she will have to observe during and after employment in the Federal government. The FBI consent form is provided as a model; even if your agency uses its own form, you should make sure that the form you use is approved by the FBI. Similarly, the Ethics memo provided is the one currently used for candidates for Presidential appointments with Senate approval and may be used as a model for a memo from the ethics officers at your agency.

II. Public Record Search

The next step in the process is the public record research. A limited search of the public record should be conducted on each candidate vetted. The public record research involves looking for articles by or about the candidate in a variety of newspapers, magazines, journals, etc. This search can be conducted on Lexis/Nexis and the search we recommend is explained in the information included. Where practicable, all publications by the candidate should be reviewed.

The purpose of the public record search is to determine whether there are any issues that could prove to be controversial, embarrassing to the candidate or the Administration, or disqualifying. Any material issues revealed in the public record should be discussed with the candidate during the interview and should be considered in the decision whether to proceed with the recommendation to appoint.

III. IRS and FBI Checks

Once the forms are returned by the candidate, the FBI consent form and the IRS tax check waiver form should be forwarded to the relevant offices in the FBI and IRS. The vetting officials in each agency should check with their personnel and security offices to determine whether there is already a process for getting an FBI name check or a tax check and who is authorized to request such checks. Each agency should have a list of people within the agency who are authorized to request FBI name checks and IRS tax check. Such a list should be approved by the General Counsel or his or her delegate. The person at the FBI to contact regarding name checks is Peggy Larson (202-324-4895).

Some agencies do not currently participate in the IRS tax check program. If there is no such process, one should be established by contacting Bill Lovelace at the IRS (202-622-3941).

IV. Personal Data Statement (PDS)

Prior to interviewing the candidate, the Personal Data Statement (PDS) should be carefully reviewed to determine whether any data is missing and to establish a complete list of potential issues. In reviewing the PDS, check to make sure every question is answered and, where applicable, attachments are included. The interviewer should then identify potential issues in the answers provided and be ready to ask for additional information. For example, if the PDS indicates that the candidate has or has had household help, the interviewer should flag that answer as a potential household help issue and be ready to ask the candidate about tax and immigration issues arising from the employment of household help.

V. Interview

After reviewing the PDS, the interviewer should conduct an interview with the candidate covering the questions in the interview form and the issues raised in the public record search and the PDS. Additionally, if the IRS tax check report or the FBI name check are back, the interviewer should ask about any issues raised in those reports. If the IRS tax check report or the FBI name check report are not received until after the interview, the interviewer should call the candidate back to ask about any additional issues raised in those reports.

VI. Clearance

After the public record research and the interview have been completed and the IRS tax check report and the FBI name check report have been received, a decision must be made as to whether to clear the candidate for appointment based on all the information received. No one should be cleared until after each element described above has been completed satisfactorily. Some issues that come up during the vetting process can be resolved (i.e., full compliance with laws relating to current domestic employees), allowing the person to be cleared after such resolution. The interviewer should continue to work with the candidate on these issues to verify that the candidate has resolved the problem satisfactorily prior to clearance. Other issues cannot be resolved (i.e., certain instances of past drug use) and may prevent the candidate from being cleared for appointment. If there are issues or concerns that make you question whether a candidate should be cleared, you can call Peter Erichsen at (202) 456-6229 for advice. If you have questions about the public record research or the interview process itself, you can call Stacy Reynolds at (202) 456-1650 for assistance. If there are any doubts, we should be consulted.

If the candidate is cleared for appointment, you should fax notification of this fact to Doug Sheorn in the Office of Presidential Personnel, using the enclosed form. His fax number is (202) 456-6294.

Enclosures

PERSONAL DATA STATEMENT QUESTIONNAIRE FOR NON-CAREER SES APPOINTEES

As part of the clearance procedures for your prospective position, please answer all of the following questions (please do not respond "not applicable" or "N/A" if your response is "no" or "none"). In responding to the questions, please supply any information regarding your spouse or relatives that you deem to be relevant. Your responses to this questionnaire, which is not subject to public disclosure, are confidential.

You can type your responses in memorandum form on a separate sheet of paper with each answer corresponding to the number of the question. You do not need to retype the questions, but please sign and date the response.

If you have any questions or need assistance in responding to this questionnaire, please do not hesitate to contact this office. Thank you for your cooperation.

Personal and Family Background

1. Please list your full name; home address and telephone number; office address and telephone number; date and place of birth; citizenship; and social security number.

2. Please identify your current marital status; spouse's name, citizenship, occupation, and current employer; and the names and ages of your children.

3. Do you have any medical conditions that could interfere with your ability to fulfill your duties? Please explain.

Professional and Educational Background

4. Please list each high school, college, and graduate school you attended; the dates of your attendance; and degrees awarded.

5. Please furnish a copy of your resume and a brief biographical statement.

6. Please chronologically list activities, other than those listed on your resume, from which you have derived earned income (e.g., self-employment, consulting activities, writing, speaking, royalties, and honoraria) since age 21.

7. Please list each book, article, or publication you have authored, individually or with others.

8. Identify each instance in which you have testified before Congress in a non-governmental capacity and specify the subject matter of each testimony.

9. Please list all corporations, partnerships, trusts, or other business entities with which you have ever been affiliated as an officer, director, trustee, partner, or holder of a significant equity or financial interest (i.e., any ownership interest of more than 5%), or whose decisions you had the ability to influence. Please identify the entity, your relationship to the entity, and dates of service and/or affiliation.

10. Please provide the names of all corporations, firms, partnerships, trusts, or other business enterprises, and all non-profit organizations and other institutions with which you are now, or during the past five years have been, affiliated as an advisor, attorney or consultant. It is only necessary to provide the names of major clients and any client matter in which you and your firm are involved that might present a potential conflict of interest with your proposed assignment. Please include dates of service.

11. With regard to each of the entities identified in the preceding question, please identify your relationship or duty with regard to each. Please include dates of service.

12. Other than the entities identified in question number 10 above, please provide the names of organizations with which you were associated which might present a potential conflict of interest with your proposed assignment. For each entity you identified in your response to this question, please provide your relationship or duty with regard to each. Please include dates of service.

13. Please describe any contractual or informal arrangement you may have made with any person or any business enterprise in regard to future employment or termination payments or financial benefits that will be provided you if you enter government employment.

14. If you are a member of any licensed profession or occupation (such as lawyer, doctor, accountant, insurance or real estate broker, etc.), please specify: the present status of each license; and whether any such license has ever been withdrawn, suspended, or revoked, and the reason therefor.

15. Do you have a significant interest in any relationship with the government through contracts, consulting services, grants, loans or guarantees? If yes, please provide details.

16. Does your spouse or any family member or business in which you, your spouse or any family members have a significant interest have any relationship with the federal government through contracts, consulting services, grants, loans or guarantees? If yes, please provide details.

17. If you have performed any work for and/or received any payments from any foreign government, business, or individual in the past 10 years, please describe the circumstances, and identify the source and dates of services and/or payments.

18. Please list any registration as an agent for a foreign principal, or any exemption from such registration. Please provide the status of any and all such registrations and/or exemptions (i.e., whether active and whether personally registered).

19. Have you ever registered as a lobbyist or other legislative agent to influence federal or state legislation or administrative acts? If yes, please supply details including the status of each registration.

Tax and Financial Information

20. As of the date of this questionnaire, please list all assets with a fair market value in excess of $1,000 for you and your spouse and provide a good faith estimate of value.

21. As of the date of this questionnaire, please list all liabilities in excess of $10,000 for you and your spouse. Please list the name and address of the creditor, the amount owed to the nearest thousand dollar, a brief description of the nature of the obligation, the interest rate (if any), the date on which due, and the present status (i.e., is the obligation current or past due).

22. Please describe all real estate held in your name or in your spouse's name during the last six years. Please include real estate held in combination with others, held in trust, held by a nominee, or held by or through any other title-holding entity. Please also include dates held.

23. Have you and your spouse filed all federal, state and local income tax returns?

24. Have you or your spouse ever filed a late income tax return without a valid extension? If so, describe the circumstances and the resolution of the matter.

25. Have you or your spouse ever paid any tax penalties? If so, describe the circumstances and the resolution of the matter.

26. Has a tax lien or other collection procedure ever been instituted against your or your spouse by federal, state or local authorities? If so, describe the circumstances and the resolution of the matter.

Domestic Help Issue

27. Do you presently have or have you in the past had domestic help? (i.e., a housekeeper, babysitter, nanny, or gardener) If yes, please indicate years of service for each individual and also give a brief description of the services rendered.

Public and Organizational Activities

28. Please list current and past political party affiliations.

29. Have you ever run for public office? If yes, does your campaign have any outstanding campaign debt? If so, are you personally liable? Please also provide complete information as to amount of debt and creditors.

30. Please list each membership you have had with any civic, social, charitable, educational, professional, fraternal, benevolent or religious organization, private club, or other membership organization (including any tax-exempt organization) during the past 10 years. Please include dates of membership and any positions you may have had with the organization.

31. Have you or your spouse at any time belonged to any membership organization, including but not limited to those described in the preceding paragraph, that as a matter of policy or practice denied or restricted affiliation (as a matter of either policy or practice) based on race, sex, ethnic background, religious or sexual preference?

Legal and Administrative Proceedings and Filings

32. Please list any lawsuits you have brought as a plaintiff or which were brought against you as a defendant or third party. Include in this response any contested divorce proceedings or other domestic relations matters.

33. Please list and describe any administrative agency proceeding in which you have been involved as a party.

34. Please list any bankruptcy proceeding in which you or your spouse have been involved as a debtor.

35. Have you or your spouse ever been investigated by any federal, state, military or local law enforcement agency. If so, please identify each such instance and supply details, including: date; place; law enforcement agency; and court.

36. Have you or your spouse ever been arrested for, charged with, or convicted of violating any federal, state or local law, regulation or ordinance (excluding traffic offenses for which the fine was less than $100)? If so, please identify each such instance and supply details, including: date; place; law enforcement agency; and court.

37. Have you or your spouse ever been accused of or found guilty of any violations of government or agency procedure (specifically including security violations and/or any application, or appeal process)?

38. Please list any complaint ever made against you or by any administrative agency, professional association or organization, or federal, state or local ethics agency, committee, or official.

39. Please list any and all judgments rendered against you including the date, amount, the name of each case and subject matter of the case, and the date of satisfaction. Please include obligations of child support and alimony and provide the status of each judgement and/or obligation.

40. With regard to each obligation of child support and/or alimony, please state the following: Have <u>any</u> payments been made late or have there been any lapses in payment? Have any motions or court actions for modification of child support or alimony been filed or instituted? Have any actions or motions to compel payment or initiate collections of late payments and/or past due amounts been filed or threatened? Have any writs of garnishment been issued? If your response was yes to any of the above questions, please provide details.

<u>Miscellaneous</u>

41. Have you ever had any association with any person, group or business venture that could be used, even unfairly, to impugn or attack your character and qualifications for a government position?

42. Do you know anyone or any organization that might take any steps, overtly or covertly, fairly or unfairly, to criticize your appointment, including any news organization? If so, please identify and explain the basis for the potential criticism.

43. Please provide any other information, including information about other members of your family, that could suggest a conflict of interest or be a possible source of embarrassment to you, your family or the President.

Date ______________________

To: Federal Bureau of Investigation
Attn: EADSU (Room 4965)

From: (*NAME OF AGENCY*)

Subject's full name ____

Other names used (including birth, prior married, and nicknames) ____________________

Social Security Number ____________ Date of birth __________ Place of birth ____________________

Permanent address
(also current residence, if different) ____

Current employer(s) ____

SUBJECT'S CONSENT: I hereby authorize the FBI to provide namecheck information to the (NAME OF AGENCY).

____________________________ ____________
(Subject's Signature) (Date)

Request of FBI (Use of this form to request information developed by the FBI or contained in FBI files requires the subject's consent. Exceptions will only be permitted as authorized by the Attorney General/Deputy Attorney General.)

☐ Name check (EADSU)

The applicant is being considered for:
☐ Senior Executive Service
☐ Schedule C

Remarks/
special instructions: ____

I certify, subject to 18 U.S.C. § 1001, that the above is sought for official purposes only and I understand that obtaining this information under false pretenses or any unauthorized disclosure may be a violation of the Privacy Act, 5 U.S.C. § 552a.

Requested by: ________________________
Title: ________________________

This request has been reviewed and approved by:

____

THE WHITE HOUSE

WASHINGTON

TAX CHECK WAIVER

I am signing this waiver to permit the Internal Revenue Service (IRS) to release information about me which would otherwise be confidential. This information will be used in connection with my appointment or employment by the United States Government. This waiver is made pursuant to 26 U.S.C. 6103(c).

I request that the Internal Revenue Service release the following information to: President Clinton and the Office of Counsel to the President, acting on behalf of the President.

1. Have I failed to file a Federal income tax return for any of the last three years for which the filing of a return might have been required? (If the filing date without regard to extensions and normal processing period for the most recent year's return has not yet elapsed on the date IRS receives this waiver, and the IRS records do not indicate a return for the most recent year, the "last three years" will mean the three years preceding the year for which returns are currently being filed and processed.)

2. Were any of the returns in #1 filed more than 45 days after the due date for filing (determined with regard to any extension(s) for time for filing)?

3. Have I failed to pay any tax, penalty or interest liability during the current or last three calendar years within 45 days of the date on which the IRS gave notice of the amount due and requested payment?

4. Am I now or have I ever been under investigation by the IRS for possible criminal offenses?

5. Has any civil penalty for fraud been assessed against me during the current or last three calendar years?

I authorize the IRS to release any additional relevant information necessary to respond to the questions above.

To help the IRS find my tax records, I am voluntarily giving the following information:

MY NAME:______________________________ MY SSN:______________________
(Please Print or Type)

CURRENT ADDRESS: ____

____

TELEPHONE NUMBERS: (HOME) ______________ (WORK) ________________
(PLEASE INCLUDE AREA CODES)

IF MARRIED AND FILED A JOINT RETURN:

NAME OF SPOUSE: ____________________ SPOUSE'S SSN: ______________

NAMES AND ADDRESSES SHOWN ON LAST THREE RETURNS (IF DIFFERENT FROM ABOVE:)

YEAR	**NAME(S)**	**ADDRESS**

If a return for any of the last three years was not filed, please explain why. If there was insufficient income to meet filing requirements or filing requirements were met by filing with a foreign tax agency (e.g., Puerto Rico or the Virgin Islands), please describe the circumstances.

____

____

____

____

DATE: ______________________
(WAIVER INVALID UNLESS RECEIVED BY THE IRS WITHIN 60 DAYS OF THIS DATE)

SIGNATURE: ______________________
(SIGNATURE OF TAXPAYER AUTHORIZING THE DISCLOSURE OF RETURN INFORMATION)

THE WHITE HOUSE

WASHINGTON

ACKNOWLEDGMENT AND CONSENT REGARDING INTENT TO APPOINT

The undersigned acknowledges and agrees to the following:

1. The undersigned (the "Prospective Appointee"), by his or her signature below, acknowledges and consents to consideration by the President of the United States for appointment to a position within the Executive Branch.

2. The Prospective Appointee agrees that, following completion of a preliminary investigation into the Prospective Appointee's background using procedures established by the Office of Counsel to the President, the Prospective Appointee may be identified publicly as a person the President intends to appoint to a position in the Executive Branch, and consents to such identification.

3. The Prospective Appointee further agrees that, notwithstanding such identification: (I) the Prospective Appointee will not, at such time, have actually been appointed by the President; (ii) an investigation into the personal and financial background of the Appointee will continue, including but not limited to completion of an investigation by the FBI and the Senate if the Prospective Appointee is subject to Senate confirmation; (iii) the Prospective Appointee will have no vested interest of any kind in the position for which he or she is considered; (iv) consideration of the Prospective Appointee may be withdrawn at any time by the President; and (v) upon completion of all investigation into the Prospective Appointee's background, the Prospective Appointee may be asked, as part of his or her confirmation or appointment, to divest certain assets, to resign certain positions, and/or to agree to recuse himself or herself from involvement in matters which may arise in the conduct of Prospective Appointee's official duties.

The Prospective Appointee, by his or her signature below, agrees to the above and foregoing.

DATED THIS ____________ DAY OF __________________________, 1997.

____
(signature of Prospective Appointee)

____
(social security number)

Sample

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR PROSPECTIVE NOMINEES

FROM: KATHLEEN M. WHALEN KMW
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Conflicts of Interest and Related Laws

President Clinton is committed to providing the citizens of the United States with an Administration that maintains the highest standards of integrity. It is thus important for you to be aware of the requirements that will apply to you as a full-time Presidential appointee. Depending on the position in question, more or fewer requirements may apply than are described here. This is meant only to provide general guidance. Later in the clearance process, the Designated Agency Ethics Official (DAEO) at your prospective agency will provide further clarification and advice. After your appointment, the DAEO will be your primary point of contact on ethics' matters.

Financial Conflicts of Interest

A federal criminal conflict of interest law will prevent you, as a government employee from taking part in Government matters that will affect your financial interests (18 U.S.C. § 208). In addition to personal financial interests, the financial interests of your spouse, minor children, and general partner, and those of any organization (including a non-profit) in which you are an officer, director, trustee, general partner, or employee or with which you have an arrangement for future employment or are negotiating for employment, are attributed to you.

If you have a conflict, the most practical options will likely be disqualification, divestiture, or waiver. To handle a potential conflict through disqualification, you will refrain from participating in the particular matter in which the conflict exists. Where disqualification is impracticable, a waiver may be available. Where that too is not feasible, it may be necessary for you to divest a holding or resign from a position. **Do not divest any holdings or resign any positions before receiving advice from the agency ethics official after your confirmation.** Regarding each of these options, the DAEO at the agency to which you are to be appointed will provide guidance regarding disqualification, divestiture, or waiver.

Board Membership/Officer Positions

Pursuant to White House policy, all full-time Presidential appointees are required to resign from all **for-profit** boards and officer positions. We permit retention of positions on **non-profit** boards provided that the DAEO determines that there are no conflicts of interest.

Financial Disclosure

In addition to the financial disclosure report you must file for the nomination process, you will be required to file public financial disclosure reports annually (May 15) and within 30 days after termination of your position.

Standards of Conduct Regulations

You should receive a copy of the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635, from the DAEO of the agency to which you will be appointed. Generally, the regulations require that you:

- refrain from using or appearing to use your office for private gain (whether your own or another's);
- not use any inside information obtained as a result of your Government service for private gain;
- may not, subject to certain exceptions, accept or solicit gifts or anything of value from persons having business with your agency or that are given because of your official position; and
- avoid situations creating an appearance of a conflict of interest.

Outside Activities

As a full-time Presidential appointee, you will be prohibited by Executive Order from earning any outside income. This does not, however, prohibit you from earning investment income.

In addition to the conflict of interest restrictions outlined above, including the White House policy regarding board membership, certain outside activities during Federal service are limited:

- You are prohibited from being or acting as an agent of a foreign principal required to register under the Foreign Agents Registration Act. *See* 18 U.S.C. § 219.
- You may not solicit or receive pay for representational services before any agency on behalf of a party other than the United States (18 U.S.C. § 203); or act as agent or attorney (except in the course of your Government duties) before a federal agency or court (18 U.S.C. § 205).

These restrictions also prohibit you from accepting a share of fees from representations made by others with whom you are a partner.

Emoluments Clause

The Emoluments Clause of the Constitution prohibits Federal employees from accepting any gift, office, title or emolument, including salary or compensation, from any foreign government.

Post-Employment Conflicts of Interest

Depending on your level of pay, certain restrictions will apply when you terminate government service. Because the restrictions will vary depending on your pay level, you should consult the DAEO at the agency to which you will be appointed regarding the prohibitions that are applicable to you.

Generally, all former federal employees are subject to basic statutory restrictions which prohibit them from communicating before a government agency with respect to a "same particular matter involving specific parties" in which they participated while employed with the government. Former senior and very senior employees will be limited for 1 year from making representational contacts before their former agency with respect to all matters seeking official government action. Similarly, an executive order enacted by President Clinton established a pledge that extends the contact limitation for 5 years after terminating government service. A copy of the post employment pledge is enclosed in the package of forms you received from our office. You should make yourself familiar with it.

Restrictions on Political Activity

There are restrictions that govern certain political activities. The Hatch Act, which has recently been amended, permits federal employees, particularly Presidential appointees who are Senate-confirmed, to engage in a wide range of political activities, such as participation in the management of campaigns or acting as a delegate to a convention. However, the Hatch Act strictly prohibits certain partisan political activity, such as: (1) using one's official position to influence an election; (2) soliciting, accepting, or receiving a contribution (other than uncompensated volunteer services) on behalf of a political organization; (3) soliciting, accepting, or receiving uncompensated volunteer services from subordinate staff for a political purpose; and (4) using government resources in conducting political activity. In addition to those restrictions which apply to yourself, you should be aware also that federal employees, other than political appointees who are Senate-confirmed, are prohibited from participating in political activity during the business day or in a federal building.

Because there may be rules that are particular to the agency to which you are appointed, please contact the DAEO at your agency before participating in political activities.

DETERMINED TO BE AN
ADMINISTRATIVE MARKING
INITIALS: JAM DATE: 2/13/15
2006-1066-F

Privileged and ~~Confidential~~

Guidelines for Public Record Research

Public record research is conducted using the Lexis/Nexis on-line research service on all political Senior Executive Service ("SES") candidates. Depending upon the sensitivity of the position or the amount of time allowed to complete research, one should expect to review approximately 100 cites on each candidate.

I. NEWS;ALLNWS

A. Name Search

The first database you will use is "news;allnws." All candidate searches begin with a "name" search. If you are researching Jane Doe, for example, you should type in **Jane pre/2 Doe and Doe**. You should use "pre/2" because you want NEXIS to catch all the Jane's that are one or two words before the word Doe. You should type "and Doe" so that Nexis picks up references to the name throughout an article, and not just when the first name appears with it. In a long article about Jane Doe, for example, she will undoubtedly be referred to as "Doe," or "Ms. Doe," after the author's initial reference to her.

If you know the middle name or initial of the candidate, you should type in **(Jane or Jane L.) pre/1 Doe and Doe** or **(Jane or Jane L. or Jane Lane) pre/1 Doe and Doe**. With these searches, you can eliminate all the Jane Doe's with other middle initials or middle names. If there are too many cites to look through at this point, you should modify the search by using one of the mechanisms described in the following sections.

B. Job Search

You should conduct a job search only if your original name search produces cites on many different people with the same name. This often happens if someone has a common name.

A job search is conducted by typing in the candidate's name and then adding key words to your search so that it will only produce articles about your candidate. For example, you would type **Jane pre/2 Doe and Doe and Doe w/30 (assistant secretary or department of defense or DOD or acquisition or Clinton campaign or professor or military or army or Wesleyan or Illinois Clean Water or Governor's Task Force)**. As the above example illustrates, a job search should include places that the candidate has worked, positions held, schools attended, boards on which the candidate has served and any other words that would help limit your search to just your candidate, but would not lead you to miss crucial articles. This is a delicate balancing act because you want to find as many articles about the candidate as possible without pulling up too many other people.

C. Scandal Search

You should use a scandal search if a job search still produces too many stories, or if the initial name search produces too many articles, all of which involve the correct person.

A scandal search should be conducted by typing **Jane pre/2 Doe and Doe and Doe w/30 (illegal! or drug! or convict! or arrest! or indict! or discriminat! or harass! or clinton* or republican* or investigat! or contov! or scandal! or illicit! or critic! or blam! or embarrass! or improp! or complain! or dispute! or corrupt!).** If you are conducting a job search and a scandal search concurrently, you should type **Jane pre/2 Doe and Doe and Doe w/30 [jobs] and Doe w/30 [scandal]** because a search should always include the last name by itself, and each of the "w/30" modifiers should be connected to a separate entry of the last name.

If the full scandal search brings up too many articles, certain words can be eliminated. In eliminating words, the researcher should use his or her judgment to determine what words are likely to bring up a lot of articles containing no potential issues. However, if at all possible, retain the base scandal search terms: **(illegal! or drug! or convict! or arrest! or indict! or discriminat! or harass!)**. If you still have too many articles, it might be advisable to discuss the search with someone else.

D. Other Limiting Searches

If the job search and scandal search still produce too many articles, there are a few other searches that can be used to limit the search and produce a manageable number of stories.

1. And Not Searches

The first additional limiting search is the "and not" search. This search can be used when there is someone with the same name as the candidate who has some identifying characteristic. For example, if there is a Jane Doe who is a Vice President of Mega Corp. and the candidate has never been connected to Mega Corp., then you can type: **Jane pre/2 Doe and Doe and not (mega corp!)**. A common "and not" search to be used for candidates who often appear before Congress is: **and**

not (fns or reuter!). This modification is intended to primarily eliminate instances when the candidate is named in a list of people to testify before Congress in the daybooks published by FNS (Federal News Service) and Reuter. However, Reuter is a wire service and should only be eliminated if there seem to be an excessive number of Daybook entries.

It is important to remember to ALWAYS put the "and not" search last because it will negate anything that comes after it, even in a subsequent search level.

2. Atleast2 Searches

Another search that can be used if none of the above searches seems to help is the "atleast2" search, which can be conducted by typing: **Jane pre/2 Doe and Doe and atleast2 (Doe)**. This search requires that the candidate's last name appear at least two times in the article before retrieving it. The atleast search is a good search to use when a person's name has been equated with a particular issue or product (i.e. the "Zoe Baird issue") and is mentioned often in articles that are not relevant to the candidate. The number can be can be changed from 2 to a higher number, but should not go above 5 without consulting someone else.

3. Headline/Lead Searches

A headline/lead search will produce only stories in which your candidate is mentioned in the headline, or lead sentence, of an article. You write such a search by typing **Jane pre/2 Doe and Doe and Hlead (Doe)**. You should only use this as a last resort, as it severely limits the number of stories your search will produce.

E. Special Notes

It is very important to remember three things:

1. Always have one entry of a candidate's last name by itself, one connected to the candidate's first name and one for each modification.

2. Always put the "and not" search last.

3. Always conduct a byline search when you do a jobs, scandal or other additional search.

II. Byline Searches

Whenever you limit a search by using a job, scandal or other additional search, you should couple that with a byline search, produced by typing **Jane pre/2 Doe and Doe and Byline (Doe)**. This ensures that you will catch all of the articles or letters written by Ms. Doe. All articles by the candidate should be printed out in full unless there is an excessive amount.

III. GENFED;MEGA

The second database you will use is "genfed;mega." All candidate searches begin with a basic "name" search. (See above, I.A.) If there are too many cites to look through at this point, you should modify the search by using **name ((Jane or Jane L. or Jane Lane) pre/1 Doe) and Doe**. This search will retrieve all cases in which Jane Doe is a named party.

SAMPLE LEXIS/NEXIS SEARCHES ON JOHN JAY DOE

Library: nexis;allnws

I. NAME SEARCH: (john or john j or john jay or johnny or johnny j or johnny jay or jack or jack j or jack jay or j jay or j j or jay) pre/1 doe and doe

**Note: We try to use every possible nickname and combination of names. Always include the last name alone so that it is highlighted throughout the article. If you do not have a middle name, use pre/2 instead of pre/1.

If the Name Search retrieves more than about 150 articles, type "**.m1**" to modify and narrow it by adding the following searches to the end of the name search:

AND NOT: and not (daybook)

Note: **Always put this last. Other terms can be added inside the parenthesis if they definitely apply to the wrong person. For example, use: and not (daybook or football) if many of the stories name a football player who is not our candidate. Be careful not to be too broad.

JOBS SEARCH: and doe w/30 (new job or current job or old job or old job or school)

**Note: Jobs should be listed broadly enough to retrieve all references to candidate but narrowly enough to avoid too many other people being pulled in. Use both the position and place of employment separately.

SCANDAL SEARCH: and doe w/30 (illegal! or drug! or convict! or arrest! or indict! or discriminat! or harass! or clinton! or republican! or investigat! or controv! or scandal! or illicit! or critic! or blam! or embarrass! or improp! or complain! or dispute! or corrupt!)

**Note: If the Scandal Search and the Job Search combined do not get you below 200 stories, eliminate words from the Scandal Search. If at all possible, retain the words that, in the example above, appear before clinton. If you still have too many articles, discuss the search with someone else.

II. BYLINE SEARCH: (john or john j or john jay or johnny or johnny j or johnny jay or jack or jack j or jack jay or j jay or j j or jay) pre/1 doe and doe and byline (doe)

Note: If you do a Jobs Search or a Scandal Search, you **must do a separate Byline Search.

Library: genfed;mega

III. GENFED SEARCH: name ((john or john j or john jay or johnny or johnny j or johnny jay or jack or jack j or jack jay or j jay or j j or jay) pre/1 doe) and doe

**Note: This search is intended to find any cases in which the candidate is a named party and will not retrieve cases where he or she was a witness or an attorney. The search may only be narrowed by using the candidate's birth date: and date aft (00/00/1900)

INTERVIEW OF PROPOSED SENIOR EXECUTIVE SERVICE APPOINTEE

Name:

Telephone:

Position:

SSN:

Date of Interview:

Interviewing Attorney:

RECOMMENDATION:

NOTES AND COMMENTS:

1. Do you have any medical problems that might interfere with your ability to fulfill your duties?

____

____

____

2. Have you ever experienced problems on or off the job because of any emotional or mental condition that could interfere with your ability to fulfill your responsibilities to the Administration?

____

____

____

3. Any treatment or counseling by a psychologist, psychiatrist or similar professional?

____

____

   a. Symptoms?

____

____

   b. Diagnosis/prognosis?

____

____

   c. Medication?

____

____

4. a. Have you ever had any problems with alcohol or any incidents of public drunkenness?

____

____

____

   b. Any DWI/DUI or similar traffic charges involving alcohol or drugs?

____

____

____

5. a. Since age 18, have you used any illegal substances, including marijuana?

b. Have you ever sold or purchased any illegal substances? Manufactured?

6. a. Have you ever been charged with or convicted of a felony offense?

b. Misdemeanors (including reckless driving, etc)?

c. Have you ever been arrested at all (including juvenile offenses)?

7. Are there currently any charges pending against you for any criminal offense?

8. To the best of your knowledge, are you currently the subject of any criminal, civil, or administrative investigation?

9. Have you ever been investigated regarding, or cited for, a security violation?

10. a. Have you ever been a defendant in a lawsuit, either in your personal or professional capacity?

b. Party to an arbitration proceeding?

c. Have you ever been the subject of, or otherwise involved in, any EEO complaint?

11. Have you ever had any problems with employees or co-workers, including any allegations of discrimination (either racial, gender, religious, age or disability) or sexual harassment?

12. To your knowledge, have there ever been allegations that you engaged in domestic violence (i.e., spousal or child abuse)?

13. Have you ever been disciplined or cited for, or been the subject of a complaint regarding a breach of ethics or unprofessional conduct?

14. Have you filed and paid all federal, state and local taxes when due?

____

____

____

a. Do you ever file for valid extensions?

____

____

____

b. Have you ever filed beyond the extended date?

____

____

____

c. Have you ever paid any penalties? _______ If so, what was the reason?

____

____

____

d. Have you ever been the subject of an audit by the Internal Revenue Service or a state or local agency responsible for tax collection?

____

____

____

e. Are there **any** tax problems or issues that the White House should be made aware of (relating to income property, real estate or any other taxes)?

____

____

____

____

15. a. Do you currently have outstanding debts that exceed your assets?

____

____

____

b. Do you currently have excessive balances on any of your credit cards (if yes, how much and why) ?

c. Are you current with all credit or loan payments?

d. Any student loan problems (defaults, payments lapses, judgements, etc.)?

e. Any incidents of bankruptcy in your personal or professional background?

f. Are there **any** problems in your credit history (credit cards revoked, credit denied, etc.) ?

16. Have you had a chance to review the information we provided to you regarding Executive Branch ethics policies? __________

Are you fully comfortable with the requirements of the ethics policy?

17. At this time, a full review of your financial disclosure form has not yet occurred. Is there anything that you own or have an interest in, or from which you receive income, that you would not be willing to divest as a condition of employment with the Federal Government?

18. Are you a member of any boards of directors? Are there any from which you would be unwilling to resign?

19. Is there any possibility that any of your current or prior work or your past or present clients could create a conflict of interest, relative to your new position with the Federal Government?

20. Do you currently have any foreign clients or business associates that could create a potential or perceived conflict or interest?

21. Are you now or have you ever been a registered agent for any foreign country, government, political party or organization?

22. a. Are you married? _____

b. Is your spouse a U.S. citizen? _________

c. Have you ever been divorced? _____

d. Are there any potentially embarrassing issues related to the divorce?

____

____

____

23. a. Have you ever had, or do you currently have, anyone providing personal services in your household (i.e., housekeeper, child care provider, lawn care provider) on either a full-time or part-time basis? __________

b. What type of employees?

____

____

____

c. Do you comply with the following:

- Immigration laws (post-1986 bar on hiring individuals who do not have authorization to work in the U.S.)?

____

____

____

- I-9 Form? ____

- FICA Requirements?

____

____

____

____

- All other applicable laws (Federal Unemployment Tax Requirements, Worker's Compensation, Fair Labor Standards Act, and State and local tax and employment laws)?

____

____

____

24. Do you vote regularly?

25. Have you written any articles, columns, books, etc...which contain positions or opinions that might be perceived to be inconsistent with those of the Clinton Administration?

26. Are you a member of any clubs or organizations? Do any of them discriminate in policy or practice? Do they have any minority or female members?

27. Have you ever been a candidate for public office? __________________

a. As such, did you ever receive controversial or allegedly illegal contributions?

b. Do you have a campaign fund deficit? __________ Surplus? ________

c. Have you ever been the target of a significant amount of independent campaign expenditure?

28. Have you ever helped raise funds or received contributions on behalf of a political candidate? If yes, were there any problems or complaints regarding your fundraising or the sources or circumstances of contributions?

29. Have you ever been the subject of any adverse media attention?

30. Is there anything in your personal, professional or political background that you think might be used by others to either compromise or embarrass the President or yourself?

31. Are there any individuals or organizations that you believe might oppose your appointment?

32. Is there anything that I have not specifically asked that you think we should know before you are appointed by the President?

Additional Notes and Comments:

Department of the Treasury
Internal Revenue Service

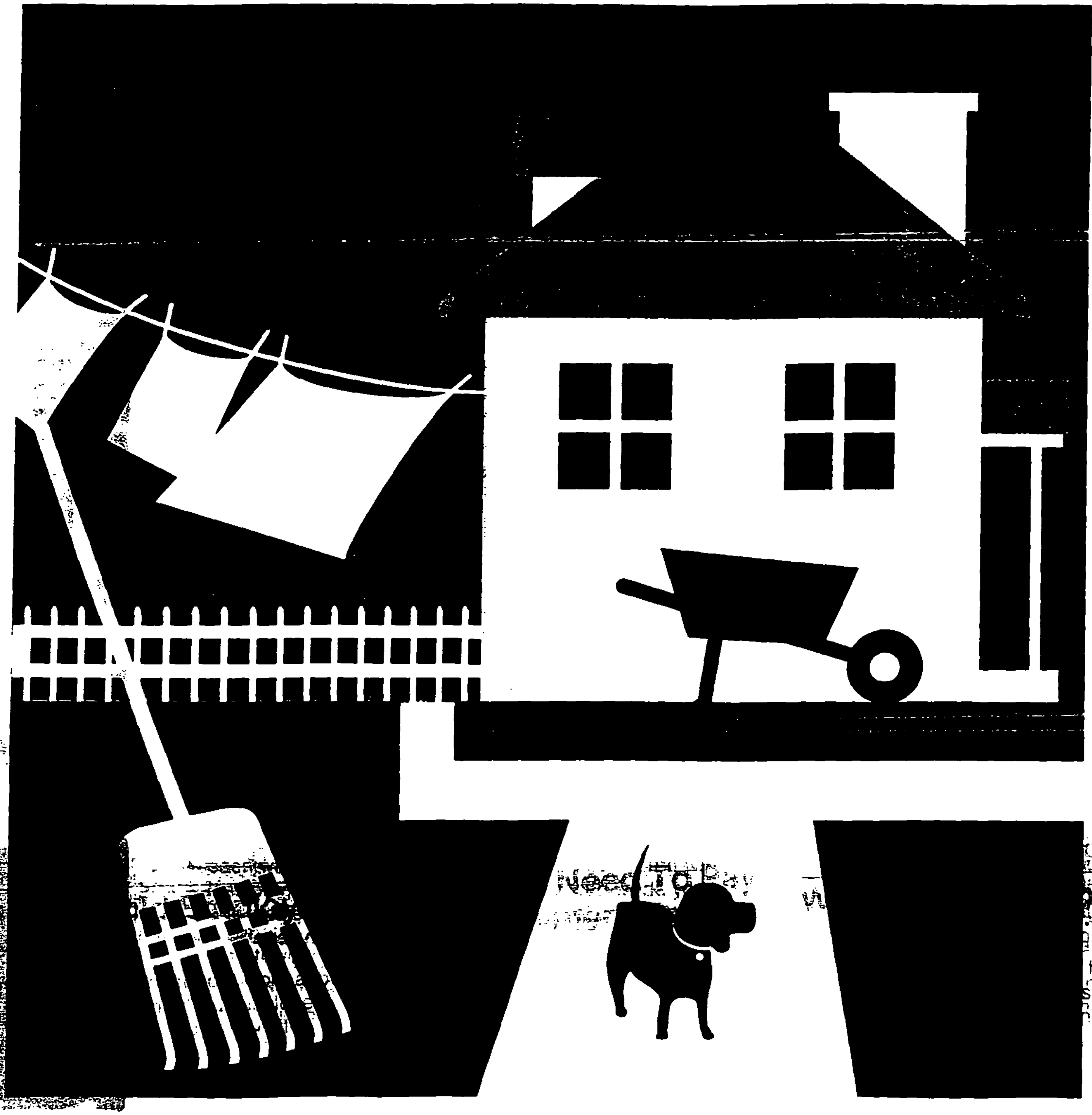
Household Employer's Tax Guide

Publication 926
Cat. No. 64286 A

(Rev. July 1995)

Here are the tax rules you should know when you employ a household worker such as a:

- Babysitter
- Caretaker
- Health aide
- Housekeeper
- Maid
- Nanny
- Private Nurse
- Yard Worker



Contents

Introduction

If you have a household employee, you may need to pay state and federal employment taxes. This publication will help you decide whether you have a household employee and, if you do, whether you need to pay federal employment taxes. It explains how to figure, pay, and report social security tax, Medicare tax, federal unemployment tax, and federal income tax withholding for your household employee.

This publication also tells you where to find out whether you need to pay state unemployment tax for your household employee.

Who Is a Household Employee?

The information in this publication applies to you only if you pay someone to perform household work and that worker is your employee. Household work includes work performed in or around your home by babysitters, nannies, health aides, private nurses, maids, caretakers, yard workers, and similar domestic workers.

A household worker is your employee if you can control not only what work is done, but how it is done. If the worker is your employee, it does not matter whether the work is full time or part time, or that you hired the worker through an agency or from a list provided by an agency or association.

If only the worker can control how the work is done, the worker is not your employee but is self-employed. A self-employed worker usually provides his or her own tools and offers services to the general public in an independent business. If an agency provides the worker and controls what work is done and how it is done, the worker is not your employee.

More information about who is an employee is in Publication 937, *Employment Taxes.*

Example 1. You pay Betty Shore to babysit your child and do light housework 4 days a week in your home. Betty follows specific instructions you give her regarding household and child care duties. You provide the household equipment and supplies that Betty needs to do her work. Betty is your household employee.

Example 2. You pay John Peters to care for your lawn. John also offers lawn care services to other homeowners in your neighborhood. He provides his own tools and supplies, and he hires and pays any helpers he needs. Neither John nor his helpers are your household employees.

Can Your Employee Legally Work in the United States?

It is unlawful for you to knowingly hire or continue to employ an alien who cannot legally work in the United States. When you hire a household employee to work for you on a regular basis, he or she must complete the employee part of the Immigration and Naturalization Service (INS) Form I–9, *Employment Eligibility Verification.* You must verify that the employee is either a U.S. citizen or an alien who can legally work and then complete the employer part of the form.

Two copies of Form I–9 are contained in the INS *Handbook for Employers.* Call the INS at 1–800–755–0777 to order the handbook or additional copies of the form, or to get more information.

Do You Need To Pay Employment Taxes?

If you have a household employee, you may need to withhold and pay social security and Medicare taxes, or you may need to pay federal unemployment tax, or you may need to do both. To find out, read Table 1, *Do You Need To Pay Employment Taxes?* on page 3.

You do not need to withhold federal income tax from your household employee's wages. But if your employee

Table 1. **Do You Need To Pay Employment Taxes?**

If you:	Then you need to:
A—Pay cash wages of $1,000 or more in 1995 to any household employee. But do not count wages you pay to— • Your spouse, • Your child under age 21, • Your parent, or • Any employee under age 18 during 1995. } See page 4 for exceptions	Withhold and pay social security and Medicare taxes. *(Page 3)* • The taxes are 15.3% of cash wages. • Your employee's share is 7.65%. (You can choose to pay it yourself and not withhold it.) • Your share is a matching 7.65%.
B—Pay total cash wages of $1,000 or more in any calendar quarter of 1994 or 1995 to household employees. But do not count wages you pay to— • Your spouse, • Your child under age 21, or • Your parent.	Pay federal unemployment tax. *(Page 5)* • The tax is usually 0.8% of cash wages. • Wages over $7,000 a year per employee are not taxed. • You may also owe state unemployment tax.

Note: If neither A nor B above applies, you do not need to pay any federal employment taxes. But you may still need to pay state employment taxes.

asks you to withhold it, you can choose to do so. See *Do You Need To Withhold Federal Income Tax?* on page 5.

If you need to pay social security, Medicare, or federal unemployment tax or choose to withhold federal income tax, read Table 2, *Household Employer's Checklist*, on page 4 for an overview of things you may need to do.

If you do not need to pay social security, Medicare, or federal unemployment tax and do not choose to withhold federal income tax, the rest of this publication does not apply to you. But you still may have to collect or pay state taxes for your household employee.

State employment taxes. You should contact your state unemployment tax agency to find out whether you need to pay state unemployment tax for your household employee. For the address and phone number, see the list beginning on page 10 of this publication. You should also find out whether you need to pay or collect other state employment taxes, or carry workers' compensation insurance.

Taking the child and dependent care credit for employment taxes. If your household employee cares for your dependent who is under age 13 or your spouse or dependent who is not capable of self care so that you can work, you may be able to take an income tax credit of up to 30% of your expenses. If you can take the credit, you can include your share of the federal and state employment taxes you pay, as well as the employee's wages, in your qualifying expenses. For information about the credit, get Publication 503, *Child and Dependent Care Expenses.*

Social Security and Medicare Taxes

Social security and Medicare taxes pay for benefits that workers and their families receive under the Federal Insurance Contributions Act (FICA). Social security tax pays for benefits under the old-age, survivors, and disability insurance part of FICA. Medicare tax pays for benefits under the hospital insurance part.

Both you and your household employee may owe social security and Medicare taxes. The taxes for each of you are 7.65% (6.2% for social security tax and 1.45% for Medicare tax) of the employee's social security and Medicare wages.

You are responsible for payment of your employee's share of the taxes as well as your own. You can either withhold your employee's share from the employee's wages or pay it from your own funds. Pay the taxes as discussed under *How Do You Make Tax Payments?* on page 6. Also, see *What Forms Must You File?* on page 7.

Social security and Medicare wages. You figure social security and Medicare taxes on the social security and Medicare wages you pay. If you pay your household employee cash wages of $1,000 or more in 1995, all cash wages you pay to that employee in 1995 (regardless of when the wages were earned) are social security and Medicare wages.

Wages not counted. Do not count wages you pay to any of the following individuals as social security and Medicare wages:

1) Your spouse.

2) Your child who is under age 21.

Table 2. Household Employer's Checklist

You may need to do the following things when you have a household employee. Page numbers are given to help you find the related discussion in this publication.

When you hire a household employee:	☐ Find out if the person can legally work in the United States. *(Page 2)* ☐ Find out if you need to pay state taxes. *(Page 3)*
When you pay your household employee:	☐ Withhold social security and Medicare taxes. *(Page 3)* ☐ Withhold federal income tax. *(Page 5)* ☐ Make advance payments of the earned income credit. *(Page 6)* ☐ Decide how you will make tax payments. *(Page 6)* ☐ Keep records. *(Page 8)*
By January 31, 1996:	☐ Get an employer identification number. *(Page 7)* ☐ Give your employee Copies B, C, and 2 of Form W-2, *Wage and Tax Statement. (Page 7)*
By February 29, 1996:	☐ Send Copy A of Form W-2 to the Social Security Administration. *(Page 7)*
By April 15, 1996:	☐ File Schedule H (Form 1040), *Household Employment Taxes. (Page 8)* **Where to file:** Attach Schedule H to your income tax return. See your tax booklet for the address.

3) Your parent. ***Exception:*** Count these wages if both of the following apply:

   a) Your child lives with you and is either under age 18 ***or*** has a physical or mental condition that requires the personal care of an adult for at least 4 continuous weeks in a calendar quarter, and

   b) You are divorced and have not remarried, or you are a widow or widower, or you are married to and living with a person whose physical or mental condition prevents him or her from caring for your child for at least 4 continuous weeks in a calendar quarter.

4) An employee who is under age 18 at any time during the year. ***Exception:*** Count these wages if providing household services is the employee's principal occupation. If the employee is a student, providing household services is not considered to be his or her principal occupation.

Also, if your employee's social security and Medicare wages reach $61,200 in 1995, do not count any wages you pay that employee during the rest of the year as social security wages to figure social security tax. (But continue to count the employee's cash wages as Medicare wages to figure Medicare tax.)

Cash wages. Cash wages include wages you pay with checks, money orders, etc. Cash wages do not include the value of food, lodging, clothing, and other noncash items you give your household employee. However, cash you give your employee in place of these items is included in cash wages.

If you reimburse the amount your employee pays to commute to your home by public transit (bus, train, etc.), do not count the reimbursement (up to $60 per month) as wages.

Withholding the employee's share. You should withhold the employee's share of social security and Medicare taxes if you expect to pay your household employee social security and Medicare wages of $1,000 or more in 1995. Even if you are not sure you will pay that much, you may still withhold the taxes. However, if you prefer to pay the employee's share yourself, see *Not withholding the employee's share*, next.

Withhold 7.65% (6.2% for social security tax and 1.45% for Medicare tax) from each payment of social security and Medicare wages. You can use the table on page 12 to figure the proper amount to withhold. Instead of paying this amount to your employee, you will pay it to the IRS with a matching amount for your share of the taxes. Pay the taxes as discussed under *How Do You Make Tax Payments?* on page 6.

If you make an error by withholding too little, you should withhold additional taxes from a later payment. If you withhold too much, you should repay the employee.

Example. You hire a household employee (who is an unrelated individual over age 18) to care for your child and agree to pay cash wages of $100 every Friday. You expect to pay your employee $1,000 or more for the year. From each $100 wage payment you should withhold $6.20 ($100 × 6.2%) for your employee's share of social security tax and $1.45 ($100 × 1.45%) for your employee's share of Medicare tax. You will match the $7.65 ($6.20 + $1.45) you withhold with $7.65 from your own funds when you pay the taxes. You pay your employee the remaining $92.35 ($100 − $7.65) every Friday.

Not withholding the employee's share. If you prefer to pay your employee's social security and Medicare taxes from your own funds, you do not have to withhold them from your employee's wages. The social security and Medicare taxes you pay to cover your employee's share must be included in the employee's wages for income tax purposes. However, they are not counted as social security and Medicare wages or as federal unemployment (FUTA) wages.

Example. You hire a household employee (who is an unrelated individual over age 18) to care for your child and agree to pay cash wages of $100 every Friday. You expect to pay your employee $1,000 or more for the year. You decide to pay your employee's share of social security and Medicare taxes from your own funds. For each $100 wage payment you will pay $15.30 when you pay the taxes. This is $7.65 ($6.20 for social security tax plus $1.45 for Medicare tax) to cover your employee's share plus a matching $7.65 for your share. You pay your employee $100 every Friday without withholding any social security or Medicare taxes.

Federal Unemployment (FUTA) Tax

The federal unemployment tax is part of the federal and state program under the Federal Unemployment Tax Act (FUTA) that pays unemployment compensation to workers who lose their jobs. Like most employers, you may owe both the federal unemployment tax (the FUTA tax) and a state unemployment tax. Or, you may owe only the FUTA tax or only the state unemployment tax. To find out whether you will owe state unemployment tax, contact your state's unemployment tax agency. See the list of state unemployment agencies in the Appendix on page 10 for the address.

The FUTA tax is 6.2% of your employee's FUTA wages. But it is reduced to 0.8% for 1995 if the FUTA wages you pay are not more than the wages that are subject to state unemployment tax, and you pay all state unemployment tax you owe for 1995 by April 15, 1996.

Do not withhold the FUTA tax from your employee's wages. You must pay it from your own funds. Pay the tax as discussed under *How Do You Make Tax Payments?* on page 6. Also, see *What Forms Must You File?* on page 7.

FUTA wages. You figure the FUTA tax on the FUTA wages you pay. If you pay cash wages to household employees totaling $1,000 or more in any calendar quarter of 1995, the first $7,000 of cash wages you pay to each household employee in 1995 and 1996 is FUTA wages. (A calendar quarter is January through March, April through June, July through September, or October through December.) If your employee's cash wages reach $7,000 during the year, do not figure the FUTA tax on any wages you pay that employee during the rest of the year. For a discussion of "cash wages," see page 4.

If you pay less than $1,000 cash wages in any calendar quarter of 1995, but you had a household employee in 1994, the cash wages you pay in 1995 may still be FUTA wages. They are FUTA wages if the cash wages you paid to household employees in any calendar quarter of 1994 totaled $1,000 or more.

Wages not counted. To decide whether you are paying FUTA wages, do not count wages you pay to any of the following individuals:

1) Your spouse.
2) Your child who is under age 21.
3) Your parent.

Example. You hire a household employee (who is not related to you) on January 1, 1995, and agree to pay cash wages of $200 every Friday. During January, February, and March you pay the employee cash wages of $2,600. Because you pay cash wages of $1,000 or more in a calendar quarter of 1995, the first $7,000 of cash wages you pay the employee (or any other employee) in 1995 or 1996 is FUTA wages. The FUTA wages you pay are also subject to your state's unemployment tax.

During 1995, you pay your household employee cash wages of $10,400. You pay all your state unemployment tax by April 15, 1996. Your FUTA tax for 1995 is $56 ($7,000 × 0.8%).

Do You Need To Withhold Federal Income Tax?

You are not required to withhold federal income tax from wages you pay a household employee. However, if your household employee ***asks*** you to withhold federal income tax and you ***agree***, you must withhold federal income tax from the employee's wages. The employee must give you a completed Form W–4, *Employee's Withholding Allowance Certificate.*

If you agree to withhold federal income tax, you are responsible for paying it to the IRS. Pay the tax as discussed under *How Do You Make Tax Payments?* on page 6. Also, see *What Forms Must You File?* on page 7.

Use the income tax withholding tables in Publication 15, *Circular E, Employer's Tax Guide*, to find out how much to withhold. Figure federal income tax withholding on wages before you deduct any amounts for other withheld taxes. Withhold federal income tax from each payment of wages based on the filing status and exemptions shown on your employee's Form W–4. Publication 15 contains detailed instructions.

Wages. You figure federal income tax withholding on both cash and noncash wages you pay. Measure wages you pay in any form other than cash by the value of the noncash item.

Do not count as wages any of the following items:

- Meals provided at your home for your convenience.
- Lodging provided at your home for your convenience and as a condition of employment.
- Up to $60 a month for bus or train tokens (passes) you give your employee, or for any cash reimbursement

you make for the amount your employee pays to commute to your home by public transit.

- Up to $160 a month for the value of parking you provide your employee at or near your home or at or near a location from which your employee commutes to your home.

See Publication 15 for more information on cash and noncash wages.

Paying tax without withholding. Any income tax you pay for your employee without withholding it from the employee's wages must be included in the employee's wages for federal income tax purposes. It is also counted as social security and Medicare wages and as federal unemployment (FUTA) wages.

What Do You Need To Know About the Earned Income Credit?

Certain workers can take the earned income credit (EIC) on their federal income tax return. This credit reduces their tax or allows them to receive a payment from the IRS if they do not owe tax. You may have to make advance payments of part of your household employee's EIC along with the employee's wages. You also may have to give your employee a notice about the EIC.

Advance EIC payments. You must make advance EIC payments if your employee gives you a properly completed Form W–5, *Earned Income Credit Advance Payment Certificate*. Any advance EIC payments you make reduce the amount of social security and Medicare taxes and withheld federal income tax you need to pay to the IRS. Use the advance EIC payment tables in Publication 15, *Circular E, Employer's Tax Guide*, to find out how much to pay your employee. But do not pay more than the amount of social security and Medicare taxes and withheld federal income tax you would otherwise need to pay to the IRS.

Notice about the EIC. The employee's copy (Copy C) of the IRS 1995 Form W–2, *Wage and Tax Statement*, has a statement about the EIC on the back. If you give your employee that copy by January 31, 1996 (as discussed under *Form W–2* on page 7), you do not have to give the employee any other notice about the EIC. Otherwise, you must give your household employee a notice about the EIC only if you agree to withhold federal income tax from the employee's wages (as discussed under *Do You Need To Withhold Federal Income Tax?* on page 5), but the income tax withholding tables show that no tax should be withheld. Even if not required, you are encouraged to give the employee a notice about the EIC if his or her 1995 wages are less than $26,673.

Your notice about the EIC can be any of the following:

1) A substitute Form W–2 with the same EIC information on the back of the employee's copy that is on Copy C of the IRS Form W–2,
2) Notice 797, *Possible Federal Tax Refund Due to the Earned Income Credit (EIC)*, or
3) Your own written statement with the same wording as Notice 797.

If you must file Form W–2 for your employee, you must give your notice about the 1995 EIC to the employee by January 31, 1996, or if later, within one week of the date you give the employee a substitute Form W–2 that does not have the EIC statement. If Form W–2 is not required, you must give your notice to the employee by February 7, 1996.

How Do You Make Tax Payments?

When you file your 1995 federal income tax return, you will add the federal employment taxes on the wages you pay to your household employee in 1995, less any advance earned income credit payments you make to the employee, to your income tax. (For information about reporting the employment taxes on your return, see *Schedule H* on page 8.) The amount you owe with your return is due to the IRS by April 15, 1996.

For different payment rules that may apply if your home is on a farm or you also have employees who work in your business, see *Payment rules for business employers*, later in this discussion.

You can avoid owing tax with your return if you pay enough federal income tax before you file to cover the employment taxes for your household employee, as well as your income tax. If you are employed, you can ask your employer to withhold more federal income tax from your wages in 1995. If you get a pension or annuity, you can ask for more federal income tax withholding from your benefits. Or, you can make estimated tax payments for 1995 to the IRS, or increase your payments if you already make them.

You may have to pay an estimated tax penalty if you do not have enough federal income tax withheld or pay enough estimated tax. But for 1995, 1996, and 1997, the penalty does not apply to employment taxes for your household employee. Beginning with the taxes for 1998, the penalty can apply.

For information about paying taxes through federal income tax withholding and estimated tax payments and figuring the estimated tax penalty, get Publication 505, *Tax Withholding and Estimated Tax*.

Asking for more federal income tax withholding. If you are employed and want more federal income tax withheld from your wages to cover the employment taxes for your household employee, give your employer a new Form W–4, *Employee's Withholding Allowance*

Certificate. Complete it as before, but show the additional amount you want withheld from each paycheck on line 6.

If you get a pension or annuity and want more federal income tax withheld to cover the employment taxes for your household employee, give the payer a new Form W–4P, *Withholding Certificate for Pension or Annuity Payments* (or a similar form provided by the payer). Complete it as before, but show the additional amount you want withheld from each benefit payment on line 3.

To make sure you will have the right amount withheld, get Publication 919, *Is My Withholding Correct for 1995?* It will help you compare your total withholding for 1995 with the combined income tax and employment taxes that you can expect to figure on your 1995 return.

Paying estimated tax. If you want to make estimated tax payments to cover the employment taxes for your household employee, get Form 1040–ES, *Estimated Tax for Individuals.* Use its payment vouchers to make your payments. You can pay all of the employment taxes at once, or you can pay them in installments. If you have already made estimated tax payments for 1995, you can increase your remaining payments to cover the employment taxes. Estimated tax payments for 1995 are ordinarily due April 17, June 15, and September 15, 1995, and January 16, 1996.

Payment rules for business employers. If you own a business other than a farm as a sole proprietor and pay federal employment taxes for business employees, you can choose either of two ways to pay the 1995 federal employment taxes for your household employee. You can pay the taxes with your federal income tax as described above, or you can pay them with your deposits or other payments of the taxes for your business employees.

If your home is on a farm, you must pay the 1995 employment taxes for your household employee under the rules for depositing and paying employment taxes for farmworkers. For information on those rules, get Publication 51, *Circular A, Agricultural Employer's Tax Guide.* Include the taxes for your household employee with your deposits or payments of the taxes for other farmworkers.

If you pay the employment taxes for your household employee with business employment taxes, you must report them with those taxes on Form 941 and Form 940 (or 940–EZ). If your household employee is a farmworker, you must report the employment taxes and those for any other farmworkers on Form 943 and Form 940 (or 940–EZ). See *Business employment tax returns* on page 8.

What Forms Must You File?

You must file certain forms to report your household employee's wages and the federal employment taxes for the employee if you:

1) Pay social security and Medicare wages,
2) Pay FUTA wages, or
3) Withhold federal income tax.

The employment tax forms and instructions you need will be sent to you automatically in January 1996 if you reported employment taxes for 1994 on Form 942, *Employer's Quarterly Tax Return for Household Employees.*

Employer identification number (EIN). You must include your employer identification number (EIN) on the forms you file for your household employee. An EIN is a 9-digit number issued by the IRS. It is not the same as a social security number. You ordinarily will have an EIN if you previously paid taxes for employees, either as a household employer or in a business you own as a sole proprietor. If you already have an EIN, use that number.

If you do not have an EIN, get Form SS–4, *Application for Employer Identification Number.* The instructions for Form SS–4 explain how you can apply for an EIN either by mail or by telephone. If you apply by telephone (not a toll-free call), an EIN will be assigned for your use immediately, but you must still send your completed Form SS–4 to the IRS. If you apply by mail, you will receive your EIN in the mail in approximately 4 weeks.

Form W–2. File a separate 1995 Form W–2, *Wage and Tax Statement,* for each household employee to whom you pay:

1) Social security and Medicare wages, or
2) Wages from which you withhold federal income tax.

You must complete Form W–2 and give Copies B, C, and 2 to your employee by January 31, 1996. You must send Copy A of Form W–2 to the Social Security Administration by February 29, 1996.

Employee who leaves during the year. If an employee stops working for you before the end of 1995, you may file Form W–2 and provide copies to your employee immediately after you make your final payment of wages. You do not need to wait until 1996. If the employee asks you for Form W–2, give it to him or her within 30 days after the request or the last wage payment, whichever is later.

Form W–3. If you must file Form W–2 for more than one household employee, use Form W–3, *Transmittal of Wage and Tax Statements,* to send the Forms W–2 to the Social Security Administration.

Schedule H. Use Schedule H (Form 1040), *Household Employment Taxes*, to report the federal employment taxes for your household employee if you:

1) Pay social security and Medicare wages,

2) Pay FUTA wages, or

3) Withhold federal income tax.

File Schedule H with your 1995 Form 1040 or 1040A by April 15, 1996. If you get an extension to file your Form 1040 or 1040A, the extension will also apply to your Schedule H.

Business employment tax returns. Do not use Schedule H (Form 1040) if you pay the employment taxes for your household employee with business employment taxes. (For information on choosing to pay the taxes that way, see *Payment rules for business employers*, on page 7.) Instead, each calendar quarter, include the social security, Medicare, and withheld federal income taxes for the employee for the quarter on the Form 941, *Employer's Quarterly Federal Tax Return*, you file for your business. Include the FUTA tax for the employee on your Form 940 (or 940–EZ), *Employer's Annual Federal Unemployment (FUTA) Tax Return*.

Also, do not use Schedule H if your household employee is a farmworker. Instead, report the social security, Medicare, and withheld federal income taxes for the employee and any other farmworker on Form 943, *Employer's Annual Tax Return for Agricultural Employees*. Report the FUTA tax for the employee and any other farmworker on Form 940 (or 940–EZ).

If you report the employment taxes for your household employee on Form 941 or Form 943, file Form W-2 for the employee with the Forms W-2 and Form W-3 for your business employees.

What Records Must You Keep?

Keep your copies of the employment tax forms you file and related Forms W-2, W-3, W-4, and W-5. You must also keep records to support the information you enter on the forms you file. If you are required to file Form W-2, you will need to keep a record of your employee's name, address, and social security number.

Wage and tax records. On each payday you should record the date and amounts of:

1) Your employee's cash and noncash wages,

2) Any employee social security tax you withhold or agree to pay for your employee,

3) Any employee Medicare tax you withhold or agree to pay for your employee,

4) Any federal income tax you withhold,

5) Any advance EIC payments you make, and

6) Any state employment taxes you withhold.

Employee's social security number. You must keep a record of your employee's name and social security number exactly as they appear on his or her social security card if you pay the employee:

1) Social security and Medicare wages, or

2) Wages from which you withhold federal income tax.

You must ask for your employee's social security number no later than the first day on which you pay the wages. You may wish to ask for it when you hire your employee.

An employee who does not have a social security number must apply for one on Form SS–5, *Application for a Social Security Card*. An employee who has lost his or her social security card or whose name is not correctly shown on the card should apply for a new card. Employees may get Form SS–5 from any Social Security Administration office or by calling 1–800–772–1213.

How long to keep records. Keep your employment tax records for at least 4 years after the due date of the return on which you report the taxes or the date the taxes were paid, whichever is later.

Where Can You Get More Information?

You can use the following phone numbers to order IRS publications and forms or ask tax questions.

Ordering publications and forms. To order free publications and forms, call 1–800–TAX–FORM (1–800–829–3676). You can also write to the IRS Forms Distribution Center nearest you. Check your income tax package for the address.

Asking tax questions. You can call the IRS with your tax question Monday through Friday during regular business hours. Check your telephone book for the local number or you can call 1–800–829–1040.

Telephone help for hearing-impaired persons. If you have access to TDD equipment, you can call 1–800–829–4059 with your tax questions or to order forms and publications. See your income tax package for the hours of operation.

Appendix: State Unemployment Tax Agencies

The following list of state unemployment agencies was provided to the IRS by the U.S. Department of Labor. If the telephone number listed for your state would be a long distance call from your area, you can use the name of the agency to look for a local number in your telephone book.

Alabama

Department of Industrial Relations
649 Monroe Street
Montgomery, AL 36131
(205) 242-8371

Alaska

Employment Security Division
PO Box 25509
Juneau, AK 99802-5509
(907) 465-2757

Arizona

Department of Economic Security
Phoenix, AZ 85005
(602) 255-4755

Arkansas

Employment Security Division
PO Box 2981
Little Rock, AR 72203
(501) 682-3253

California

Employment Development Department, MIC-90
PO Box 942880
Sacramento, CA 94280-0001
(916) 653-1528

Colorado

Department of Labor and Employment
1515 Arapahoe, Tower 3, Suite 200
Denver, CO 80202
(303) 839-4959

Connecticut

Employment Security Division
Labor Department
200 Folley Brook Blvd.
Wethersfield, CT 06109
(203) 566-2128

Delaware

Department of Labor
Division of Unemployment Insurance
PO Box 9149
Newark, DE 19714
(302) 368-6635

District of Columbia

Department of Employment Services
500 C Street, NW
Washington, DC 20001
(202) 724-7462

Florida

Department of Labor and Employment Security
102 Caldwell Building
Tallahassee, FL 32399
(904) 921-3100

Georgia

Department of Labor
148 International Blvd.
Atlanta, GA 30303
(404) 656-6225

Hawaii

Department of Labor and Industrial Relations
800 Punchbowl Street
Honolulu, HI 96813
(808) 586-8927

Idaho

Department of Employment
317 Main Street
Boise, ID 83735
(208) 334-6240

Illinois

Bureau of Employment Security
401 South State Street
Chicago, IL 60604
(312) 793-1916

Indiana

Division of Employment Security
10 North Senate Avenue
Indianapolis, IN 06204
(317) 232-7682

Iowa

Department of Job Services
1000 East Grand Avenue
Des Moines, IA 50319
(515) 281-8200

Kansas

Department of Human Resources
401 Topeka Avenue
Topeka, KS 66603
(913) 296-5026

Kentucky

Division of Unemployment Insurance
CHR Building
PO Box 948
Frankfort, KY 40602
(502) 564-6838

Louisiana

Office of Employment Security
PO Box 44186
Baton Rouge, LA 70804
(504) 342-2992

Maine

Maine Department of Labor
20 Union Street
PO Box 309
Augusta, ME 04332-0309
(207) 287-1239

Maryland

Office of Unemployment Insurance
1100 North Eutaw Street
Baltimore, MD 21201
(410) 333-5782

Massachusetts

Department of Employment and Training
19 Staniford Street
Boston, MA 02114
(617) 727-5054

Michigan

Employment Security Division
7310 Woodward Avenue
Detroit, MI 48202
(313) 876-5131

Minnesota

Department of Economic Security
390 North Robert Street
St. Paul, MN 55101
(612) 296-3736

Mississippi

Employment Security Commission
PO Box 22781
Jackson, MS 39225-2781
(601) 961-7755

Missouri

Division of Employment Security
Box 59
Jefferson City, MO 65104
(314) 751-3328

Montana

Unemployment Insurance Division
PO Box 1728
Helena, MT 59604
(406) 444–3686

Nebraska

Division of Employment
Box 94600
State House Station
Lincoln, NE 68509
(402) 471–9839

Nevada

Employment Security Department
500 East Third Street
Carson City, NV 89713
(702) 687–4599

New Hampshire

Department of Employment Security
32 South Main Street
Concord, NH 03301
(603) 224–3311 (ext. 270)

New Jersey

Division of Employment Security Revenue
Labor Building, CN 947
Trenton, NJ 08625–0947
(609) 292–2810

New Mexico

Employment Security Department
PO Box 2281
Albuquerque, NM 87103
(505) 841–8568

New York

State Department of Labor
State Campus, Building 12
Albany, NY 12240
(518) 457–4120

North Carolina

Employment Security Commission
PO Box 26504
Raleigh, NC 27611
(919) 733–7395

North Dakota

Job Service of North Dakota
PO Box 5507
Bismarck, ND 58502
(701) 328–2814

Ohio

Bureau of Employment Services
145 South Front Street
PO Box 923
Columbus, OH 43216
(614) 466–2578

Oklahoma

Employment Security Commission
Will Rogers Memorial Office Building
Oklahoma City, OK 73105
(405) 557–7135

Oregon

Employment Department
875 Union Street, NE
Salem, OR 97311
(503) 378–3257

Pennsylvania

Department of Labor and Industry
Labor and Industry Building
7th and Forster Street
Harrisburg, PA 17121
(717) 787–2097

Rhode Island

Department of Employment and Training
101 Friendship Street
Providence, RI 02903
(401) 277–3688

South Carolina

Employment Security Commission
PO Box 995
Columbia, SC 29202
(803) 737–3070

South Dakota

Department of Employment Security
PO Box 4730
Aberdeen, SD 57401
(605) 626–2312

Tennessee

Department of Employment Security
500 James Robertson Parkway
8th Floor, Volunteer Plaza Building
Nashville, TN 37245–3500
(615) 741–2346

Texas

Employment Commission
Tax Section
TEC Building
Austin, TX 78778
(512) 463–2712

Utah

Department of Employment Security
140 East 300 South
PO Box 45288
Salt Lake City, UT 84145
(801) 536–7755

Vermont

Department of Employment Security
PO Box 488
Montpelier, VT 05602
(802) 828–4242

Virginia

Employment Commission
PO Box 1358
Richmond, VA 23211
(804) 786–1256

Washington

Employment Security Department
PO Box 9046
Olympia, WA 98507–9046
(206) 753–3822

West Virginia

Department of Employment Security
State Office Building
112 California Avenue
Charleston, WV 25305–0112
(304) 558–1324

Wisconsin

Department of Industry, Labor, and Human Relations
PO Box 7942 — GEF 1
Madison, WI 53702
(608) 266–3177

Wyoming

Employment Resources Division
PO Box 2760
Casper, WY 82602
(307) 235–3201

EMPLOYEE SOCIAL SECURITY (6.2%) AND MEDICARE (1.45%) TAX WITHHOLDING TABLE

(See Circular E for income tax withholding tables.)

Note: ***Use this table to figure the amount of social security and Medicare taxes to withhold from each wage payment. For example, on a wage payment of $180, the employee social security tax is $11.16 ($6.20 tax on $100 plus $4.96 on $80 wages). The employee Medicare tax is $2.61 ($1.45 tax on $100 plus $1.16 on $80 wages).***

If wage payment is:	The social security tax to be withheld is:	The Medicare tax to be withheld is:	If wage payment is:	The social security tax to be withheld is:	The Medicare tax to be withheld is:	If wage payment is:	The social security tax to be withheld is:	The Medicare tax to be withheld is:
$ 1.00	$ .06	$ .01	$36.00	$2.23	$ .52	$71.00	$4.40	$1.03
2.00	.12	.03	37.00	2.29	.54	72.00	4.46	1.04
3.00	.19	.04	38.00	2.36	.55	73.00	4.53	1.06
4.00	.25	.06	39.00	2.42	.57	74.00	4.59	1.07
5.00	.31	.07	40.00	2.48	.58	75.00	4.65	1.09
6.00	.37	.09	41.00	2.54	.59	76.00	4.71	1.10
7.00	.43	.10	42.00	2.60	.61	77.00	4.77	1.12
8.00	.50	.12	43.00	2.67	.62	78.00	4.84	1.13
9.00	.56	.13	44.00	2.73	.64	79.00	4.90	1.15
10.00	.62	.15	45.00	2.79	.65	80.00	4.96	1.16
11.00	.68	.16	46.00	2.85	.67	81.00	5.02	1.17
12.00	.74	.17	47.00	2.91	.68	82.00	5.08	1.19
13.00	.81	.19	48.00	2.98	.70	83.00	5.15	1.20
14.00	.87	.20	49.00	3.04	.71	84.00	5.21	1.22
15.00	.93	.22	50.00	3.10	.73	85.00	5.27	1.23
16.00	.99	.23	51.00	3.16	.74	86.00	5.33	1.25
17.00	1.05	.25	52.00	3.22	.75	87.00	5.39	1.26
18.00	1.12	.26	53.00	3.29	.77	88.00	5.46	1.28
19.00	1.18	.28	54.00	3.35	.78	89.00	5.52	1.29
20.00	1.24	.29	55.00	3.41	.80	90.00	5.58	1.31
21.00	1.30	.30	56.00	3.47	.81	91.00	5.64	1.32
22.00	1.36	.32	57.00	3.53	.83	92.00	5.70	1.33
23.00	1.43	.33	58.00	3.60	.84	93.00	5.77	1.35
24.00	1.49	.35	59.00	3.66	.86	94.00	5.83	1.36
25.00	1.55	.36	60.00	3.72	.87	95.00	5.89	1.38
26.00	1.61	.38	61.00	3.78	.88	96.00	5.95	1.39
27.00	1.67	.39	62.00	3.84	.90	97.00	6.01	1.41
28.00	1.74	.41	63.00	3.91	.91	98.00	6.08	1.42
29.00	1.80	.42	64.00	3.97	.93	99.00	6.14	1.44
30.00	1.86	.44	65.00	4.03	.94	100.00	6.20	1.45
31.00	1.92	.45	66.00	4.09	.96			
32.00	1.98	.46	67.00	4.15	.97			
33.00	2.05	.48	68.00	4.22	.99			
34.00	2.11	.49	69.00	4.28	1.00			
35.00	2.17	.51	70.00	4.34	1.02			

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SIDLEY & AUSTIN

CHICAGO
One First National Plaza
Chicago, Illinois 60603
(312) 853-7000

LOS ANGELES
555 West Fifth Street
Los Angeles, California 90013
(213) 896-6000

NEW YORK
875 Third Avenue
New York, New York 10022
(212) 906-2000

WASHINGTON
1722 Eye Street, N.W.
Washington, D.C. 20006
(202) 736-8000

TOKYO
9-1, Yurakucho 1-chome
Chiyoda-ku, Tokyo 100 Japan
81-3-3218-5900

LONDON
Royal Exchange
London EC3V 3LE
44-71-360-3600

SINGAPORE
36 Robinson Road, #18-01
Singapore 0106
65-224-5000

THE NEW "NANNY TAX"

The failure of two of President Clinton's appointees to win confirmation because of their non-compliance with laws governing the employment of domestic workers was first page news. The Nation became more aware of the broad scope of these laws and the complexity of complying with them. In turn, Congress studied these laws and eventually acted to simplify and streamline the requirements for complying with them. In general, Congress did not lessen the scope of application of these laws, but instead, made it more difficult to ignore the obligation to comply with them.

On October 22, 1994, the Social Security Domestic Employment Reform Act of 1994 ("SSDRA"), otherwise known as the "Nanny Tax," was signed into law by President Clinton.[1] The new law governs the paying and filing of taxes regarding household employees and is in part retroactive to January 1, 1994. This memorandum summarizes the SSDRA and the new reporting requirements that it imposes.

Summary of the New Nanny Tax

The SSDRA regulates the payment of various employment taxes with respect to domestic employees, including the employer's share of Social Security, Medicare, federal and state unemployment taxes, and income tax withholding, as well as the employee's share of Social Security, Medicare, and income tax withholding. It applies to all employers of household employees, which include housekeepers, babysitters, maids, nannies, yardworkers, cooks, nurses, gardeners, etc. Note that the categories of babysitters and nannies are not limited to caretakers of children; thus, companions and nurses hired for elderly or disabled persons would be included in the regulated categories.

An individual who pays $1,000 or more within one year to a household employee will incur tax liability under the SSDRA. Under the former law, the threshold was much lower: $50 within three months. The new law also streamlines the filing requirements; instead of the six to 18 forms (federal and state) needed to comply under the old law, the new law provides for a new section added to Form 1040 (individual income tax return), thus potentially reducing paperwork to a single form filed annually.

[illegible] an individual taxpayer is required to pay domestic employment taxes, then he [illegible] will need to report the applicable Social Security, Medicare, and federal unemployment tax obligations on his or her own individual federal income tax return, and make the appropriate annual tax payments. The taxpayer must list the amount of compensation paid to each household employee. (The employee [illegible]

Quarterly On 942	Annually On 1040		Wages Reported
Quarterly On 942	[illegible]		Payment Of FICA & Medicare
[illegible]	[illegible]		Payment Of Federal Income Tax Withholding
Quarterly On UC-3/40 In Illinois	Annually On 1040 (Probably)		Payment Of State Unemployment Tax
Optional: If Reported Then Quarterly In Illinois	No Change		Payment Of State [illegible]

legal obligation to report this wage income on annual income tax returns, but the employer/taxpayer is not responsible for an employee's failure to file a tax return or failure to pay taxes.) The employer/taxpayer may qualify for the credits allowed for child and dependent care expenses as reported on Form 2441 (to be attached to the employer/taxpayer's individual income tax return). Beginning in 1998, the federal government also will require estimated payments or additional withholding for SSDRA taxes.

The rules that generally apply to employees regarding withholding for income tax purposes do not apply to domestic employees. For withholding purposes, household services are excepted from wages, and therefore employer/taxpayers are not required to withhold estimated income tax for wages paid to household employees.[7] Nevertheless, withholding and payment of employees' income taxes is permitted if both the employer and employee voluntarily agree. Beginning in 1995, if such an agreement is reached, federal income tax withholding also should be reported and paid on Form 1040, rather than on Form 942.[8] If the employer and employee choose to withhold for federal income tax purposes, state income taxes generally must also be withheld.

However, because the SSDRA does not address state income tax withholding, such withholding will continue to be paid as in the past, according to the respective state's regulations. For example, in Illinois, if state income tax is to be withheld, the employer must register with the Illinois Department of Revenue by filling out Form NUC-1; the amount withheld is paid quarterly initially, and annually thereafter if sufficiently small.

Federal unemployment taxes will now be paid annually with the employer/taxpayer's federal income tax return (Form 1040), instead of separately on Form 940.[9] The SSDRA contemplates that state unemployment taxes also may be paid annually on Form 1040, but procedures for doing so have not yet been developed. Therefore, it may be necessary to comply separately with the employer/taxpayer's respective state laws. For example, Illinois residents should continue to file Illinois Form UI-3/40 quarterly at least through 1995.

A summary of the changed application and filing requirements imposed by the SSDRA is found in the chart below.

Summary Chart of Domestic Employer Taxes

	PRIOR LAW	SSDRA
Filing Threshold	$50 Per Quarter	$1000 Per Year
Wages Reported	Quarterly On 942	Annually On 1040
Payment Of FICA & Medicare	Quarterly On 942	Annually On 1040
Reporting & Payment Of Federal Unemployment Tax	Annually On 940	Annually On 1040
Reporting & Payment Of Federal Income Tax Withholding	Optional; If Reported, Then Annually On 942	Optional; If Reported, Then Annually On 1040
Payment Of State Unemployment Tax	Quarterly On UI 3/40 In Illinois	Annually On 1040 (Probably)
Reporting & Payment Of State Income Tax Withholding	Optional; If Reported, Then Quarterly In Illinois	No Change

The Enforcement Mechanism

The linchpin of the new Nanny Tax legislation is that it creates a mechanism that will enforce these laws that have been widely ignored in the past. An employer/taxpayer must pay domestic employment taxes on his or her personal return if he or she employs someone to work in his or her private home and pays that person at least $1,000 annually. The employer/taxpayer must report such employment on his or her income tax return in much the same way as one would report his or her annual earnings. Failure to report such employment constitutes filing of a false federal income tax return, raising the prospect of liability for penalties. Hence, enforcement now is thrust upon the individual taxpayer.

This enforcement mechanism has been further enhanced by imposing penalties on tax return preparers. Because the SSDRA provides that domestic employment taxes will be reported on personal income tax returns beginning in 1995 (due April 15, 1996), the SSDRA will have an effect on preparers of those returns. The spectre of potential liabilities creates additional responsibilities for income tax preparers.

Section 6694 of the Internal Revenue Code imposes penalties on income tax return preparers for certain understatements of liability on a return or a claim for a refund. Subsection (a) of Section 6694 imposes a penalty for an understatement of liability due to a position taken by the preparer for which there was no realistic possibility of its being sustained on its merits.[5] Subsection (b) of Section 6694 imposes a penalty for an understatement of liability due to a willful attempt to understate tax liability or a reckless or intentional disregard of rules and regulations.[6] Both of these subsections may be applicable in the context of the SSDRA.

Subsection (a) may be involved where the classification of a domestic worker as an independent contractor or employee is a close one. Under Treasury Regulation §1.6694-2(b), a position is considered to have a realistic possibility of being sustained on its merits if a reasonable and well-informed analysis by a person knowledgeable in the tax law would lead such a person to conclude that the position has a one in three, or greater, likelihood of being sustained on its merits (realistic possibility standard).[7] Thus, in order to avoid liability, a preparer must be able to conclude that its classification as an independent contractor would be sustained at least one-third of the time. The penalty for taking an unrealistic position is $250, unless it is shown that there is reasonable cause for the understatement and such person acted in good faith.

Subsection (b) would apply, for example, where a preparer knew that the taxpayer employed domestic workers and paid them at least $1,000 annually, yet deliberately omitted reporting this on the taxpayer's return in order to lower the taxes due. Under Treasury Regulation §1.6694.3(b), "A preparer is considered to have willfully attempted to understate liability if the preparer disregards, in an attempt wrongfully to reduce the tax liability of the taxpayer, information furnished by the taxpayer or other persons."[8] Therefore, if a preparer becomes aware of potential Nanny Tax liabilities, he or she must include them on the income tax return. The penalty for willfully understating tax liability is $1,000.

What Constitutes Domestic Employment for Tax Purposes

The key issue in determining whether a taxpayer must comply with the SSDRA is determining whether the taxpayer has hired an employee for SSDRA purposes. The SSDRA excludes from its filing requirements employees who (i) will earn less than $1,000 annually or (ii) are under the age of 18 and whose "principal occupation" is not domestic service. Thus, paying $600 to babysitters during one year whereas paying one babysitter $1,000 Nanny Tax. Similarly, hiring babysit part-time triggers no tax. However, neither of these exceptions will be applicable in many situations, because the $1,000 threshold and 18-year age limit for many individuals. Persons who require constant nursing help or other professional services will not be able to avail themselves of these explicit exemptions.

There is a remaining option, while not expressly a part of the SSDRA, that may offer some relief: hire an independent contractor. An independent contractor is not an "employee," and if the domestic worker is not an "employee," one doesn't owe any tax on that person. Independent contractors are responsible for their own tax reporting and payment obligations. In general, a person is an independent contractor if he or she is self-employed, makes his or her own hours, uses his or her own equipment, and seeks work from many sources — not solely or even principally from one person. By contrast, an employee works principally for one person, uses that person's materials, and follows that person's rules concerning how and when to work.

This option may be particularly attractive for individuals who do not require personal assistance. For example, hiring a cleaning service to do housekeeping would likely fall into the category of independent contractor, whereas hiring a live-in maid would fall into the category of employee, with little difference in the services actually furnished to the individual.

The difficulty, however, lies in classifying domestic help as employees or independent contractors. The example above was fairly clear; most situations will not be so definite. The key problem area for most individuals likely will involve domestic help that is regular but only works one day per week or less (for example, a Saturday night babysitter or a weekly maid). There are many factors [illegible] in deciding whether a worker is an independent contractor or an employee and each case needs to be studied [illegible] Revenue Ruling [illegible], the Internal Revenue Service identified [illegible] factors to be used as guidelines in determining whether an individual is an employee." Moreover, the Internal Revenue Service may reclassify independent contractors employ[illegible]. Careful scrutiny of each situation is therefore warranted as potentially large penalties, as well as liabilities for accrued interest on unpaid employment taxes, may be levied if reclassification should occur.

<u>Essential Steps for Compliance</u>

If an individual decides that he or she is an employer of domestic help, he or she will need to comply with the state and federal regulations associated with employers of domestic services. These basic requirements are summarized below, in the general order in which they need to be completed.

- Obtain a Federal Employer's Identification Number ("FEIN"). This number is assigned by the Internal Revenue Service and can be obtained by completing Form SS-4 and returning it to the Internal Revenue Service.

- Obtain a State Employer's Identification Number. This number is assigned by each state, and can be obtained by contacting the respective state's Department of Revenue.

- Complete the Immigration and Naturalization Service's Form I-9, "Employment Eligibility Verification" at the time an employee is hired. Moreover, Form I-9 must be completed even if the employer pays less than $1,000 per year to an employee. This form is designed to ensure that the employee legally may accept work in the United States, and it is the [illegible] responsibility to complete this report.

- Complete Form W-4, "Employee's Withholding Allowance Certificate." Form W-4 must be filled out whether or not the employer and employee have agreed to have the employer withhold for income [illegible]

- Design a payroll register and keep a record of each employee's gross earnings and the amount of Social Security, Medicare, and with[illegible]ing taxes collected. Such records must be kept currently and maintained for at least four years.

- Calculate Social Security and Medicare withholding and withhold the proper amounts for each payroll period.

- Calculate Federal and State withholding, if both the employer and employee have agreed to withholding for income taxes, and withhold the proper amounts for each payroll period. In Illinois, if state income tax is to be withheld, the employer must register with the Illinois Department of Revenue by filling out Form NUC-1.

- Until an agreement is reached by the respective state to allow the reporting and payment of state unemployment taxes on the employer/taxpayer's individual income tax return (Form 1040), continue to file state unemployment forms as required by each state; for example, in Illinois, Form UI-3/40 must be filed quarterly.

- Report and pay Social Security, Medicare, federal unemployment and federal withholding annually on Form 1040.

- Report and pay any state income tax withholding according to the respective state's regulations; in Illinois, state income tax withholding is reported and paid quarterly initially, and then annually thereafter if the amount is sufficiently small.

- Complete Form W-2, "Wage and Tax Statement," annually; the employee will need to include Form W-2 with his or her income tax return.

- File Form W-3, "Transmittal of Income and Tax Statements," with the Social Security Administration.

Calculation of Domestic Employment Taxes

Employers may withhold 6.2% of each employee's wages as Social Security tax and 1.45% of each employee's wages as Medicare tax (7.65%); employers must pay a 6.2% share and 1.45% share themselves (7.65%). If employers do not withhold Social Security and Medicare taxes from each employee, the employer must pay the full tax (15.3% in all) on an annual basis. Any part of the employee's share of Social Security and Medicare that the employer pays is then considered additional income to the employee for tax purposes. The employer alone must pay an additional 6.2% of each employee's wages in federal unemployment taxes through 1998. State unemployment tax varies; in Illinois, for example, first-time employers must pay 3.7% of each employee's wages in 1995. However, state unemployment taxes up to a maximum of 5.4% of wages may be taken as a credit against federal unemployment taxes. The employer may also withhold income tax from an employee's wages if they both agree. The Internal Revenue Service has produced tables to aid in these calculations based upon the number of dependents declared by an employee as well as the payroll period.[30]

An example may be helpful. Let's assume that an Illinois resident hires a domestic employee who earns $100 per week, or a total of $5,200 annually. Assuming that no income tax withholding is involved, the employer/taxpayer will need to pay a total of $1,118 in taxes in 1995. This amount is comprised of:

Social Security	
Employer's Share	$ 322.40
Employee's Share	322.40
Medicare	
Employer's Share	75.40
Employee's Share	75.40
Federal Unemployment	130.00
State Unemployment	192.40
TOTAL	$ 1,118.00

Final Notes

Because of the new law, future compliance is expected to increase dramatically. However, for those for whom 1995 will be the first year that domestic employment is reported, the question arises whether compliance in 1995 raises issues with respect to prior years' compliance, or lack thereof. There is no clear answer, as reporting for 1995 will be done through a revised Form 1040, which has not yet been published. While there is no indication that the Internal Revenue Service will investigate past years' compliance with respect to domestic employment, there is no guarantee that past non-compliance will be ignored. Furthermore, Congress pointedly decided not to grant amnesty for prior years' failure to observe domestic employment laws. Despite this uncertainty, the SSDRA nonetheless imposes obligations that cannot be ignored easily. Therefore, compliance is appropriate even if an employer/taxpayer faces the risk of exposure of prior years' non-compliance. For someone who will be reporting in Illinois for the first time in 1995, the first tax-related return and payment (the Illinois unemployment tax) is due on April 30, 1995.

A second issue also may arise for first-time domestic employment taxpayers: if an employer/taxpayer did not pay taxes previously because he or she believed that his or her domestic help was an independent contractor, but now believes that such help is an employee, what is the best way to present this reclassification? This issue may be very common, given the public's heightened awareness of domestic employment as well as the greater scrutiny expected from the Internal Revenue Service. Armed with new knowledge about their responsibilities as employers, many employer/taxpayers may want to consider establishing a new arrangement with their employees. A written record explaining the new employment relationship and the reasons for the change should be documented. The written record may ameliorate penalties that would be later assessed for the prior years' incorrect classification.

Many individuals have complied fully with the domestic employment laws, but those individuals who have not complied in the past or who have questions about the SSDRA may wish to consult with their own tax advisor or a Sidley & Austin attorney about the best approach to their particular situation. In some cases, related issues may also be important, such as an employee's own legal and tax status. More detailed materials concerning the SSDRA and the classification of independent contractor status are also available from the Sidley & Austin estate planning group.

Kathe A. Pate

1. 108 Stat. 4071 (1994).

2. *I.R.C. § 3401(a) (1994).*

3. *Under the prior law, an employer/taxpayer needed to file Form 942 quarterly for domestic help. The 1994 Form 942 states that Form 942 will not be published in 1995.*

4. *Unlike Form 942, Form 940 will continue to be published after 1994, as it is not limited solely to household employees. Despite this continued publication, Form 940 should not be used after 1994 to report unemployment taxes for domestic help.*

5. *I.R.C. § 6694(a) (1994).*

6. *I.R.C. § 6654(a) (1994).*

7. *Treas. Reg. § 1.6694-2(b) (1994).*

8. *Treas. Reg. § 1.6694-3(a) (1994).*

9. *Rev. Rul. 87-41, 1987-1 C.B. 296.*

10. *See Internal Revenue Service, Circular E, Employer's Tax Guide, IRS Publication No. 15 (Jan. 1994); Internal Revenue Service, Alternative Tax Withholding Methods and Tables, IRS Publication No. 493 (Dec. 1994); Internal Revenue Service, Employment Taxes for Household Employees, IRS Publication No. 926 (Dec. 1994).*

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SIDLEY & AUSTIN April 1995

PERSONAL AND ESTATE PLANNING SERVICES GROUP

Sidley & Austin has 18 lawyers whose practice focuses on the legal needs of individual clients and their estate planning matters. Sidley & Austin's personal and estate planning lawyers offer a wide range of expertise in federal and state laws relating to estate planning, trusts, gifts, charitable organizations, foundations, estate and tax litigation, powers of attorney, guardianship, retirement plans, marital agreements, life insurance planning and estate and gift tax.

For further information, please call one of our lawyers in any of our offices:

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Los Angeles, California 90013
Telephone: (213) 896-6000

October 2, 1996

MEMORANDUM TO STACY REYNOLDS

FROM: CATHERINE WHITING

SUBJECT: Responsibilities of Hosts of Au Pairs for Payment of Taxes and Verification of Employment Eligibility

You have asked whether host families of au pairs are responsible either for employment taxes, or for verifying employment eligibility. If the au pair is in the United States under a J-1 visa as authorized by the Exchange Visitor Program (22 C.F.R. § 514), then the host family has no tax liability for the au pair. The host family is also not required to verify employment eligibility, as that is the statutory responsibility of the sponsor agency.

Under 26 C.F.R. § 31.3121(b)(19)-1, services provided by an au pair are not subject to FICA or FUTA tax "if the services are performed to carry out a purpose for which the individual was admitted." Id. Thus, as long as the au pair provides the services described in 22 C.F.R. § 514.31, FICA and FUTA taxes are not applicable. Those services consist of "providing limited child care services." 22 C.F.R. § 514.31(a)

With regard to income tax, the host family is not liable for withholding taxes for two alternative reasons. First, au pairs are not required to pay income tax. 26 C.F.R § 1.6851-2 (Certificates of compliance with income tax laws by departing aliens) specifies that holders of J-1 visas are not required to show compliance with income tax laws on income such as educational expenses, the value of room and board, or income such as a stipend. 26 C.F.R. § 1.6851-2(ii)(A). Since a J-1 au pair is not required to pay income tax, it is unlikely that a host family would be subject to withholding taxes for the au pair.

Alternatively, even if an au pair were subject to federal income tax, the host family is not subject to mandatory withholding requirements. The stipend paid to the au pair is not considered "wages" under 26 U.S.C.S. § 3401. Under 26 C.F.R. § §31.3402(p)-1 and 26 U.S.C.S. 3402(p), remuneration not considered "wages" is subject to voluntary, rather than mandatory withholding. Without a voluntary withholding agreement between the au pair and the host family, the host family would have no withholding obligations.

The host family also has no obligation to verify employment eligibility. The host family's responsibilities include providing private accommodations, facilitating the educational component of the program, payment of a cash stipend, and providing reasonable time off on a weekly, monthly and yearly basis. There are no requirements to ensure that the au pair is in the United States legally.

Verification of employment eligibility is the responsibility of the sponsor agency. Under 22 C.F.R. § 514.9 - 12, the sponsor agency must verify the eligibility of the individual to be in the exchange visitor program. The sponsor agency is also responsible for reporting violations, such as extending the stay or withdrawal from the program. 22 C.F.R. § 514.13(c).

considered "wages" under 26 U.S.C. § 3401. Under 26 C.F.R. § 31.3402(p)-1 and 26 U.S.C. 3402(p), remuneration not considered "wages" is subject to voluntary, rather than mandatory withholding. Without a voluntary withholding agreement between the au pair and the host family, the host family would have no withholding obligations

The host family also has no obligation to verify employment eligibility. The host family's responsibilities include

MEMORANDUM

To: Marvin Krislov
From: Nick Turner
Re: IRCA's employer sanctions and to who they do not apply.
Date: June 19, 1995

Employer Sanctions

The employer sanction provisions of the Immigration Reform and Control Act of 1986 make it illegal to:

1 • knowingly hire, recruit, or refer for a fee, for employment an alien that is unauthorized for employment;
2 • hire an individual for employment in the United States without completing an **I-9** form (to verify that they are authorized to work); and
3 • continue to employ an alien knowing that s/he is or has become unauthorized alien with respect to such employment.

Penalties

Violation of the employer sanction provisions may result in penalties against employers. The INS may impose civil cease and desist orders and monetary fines, and in the case of "pattern and practice" violations, criminal penalties - including not more than six months of imprisonment - may be imposed. IRCA does not impose penalties against aliens that accept employment illegally.

Who is Grandfathered or Excepted?

IRCA's employee sanction coverage is comprehensive, with the following exceptions. Grandfathered employees. The sanctions do not apply to the hiring, recruiting and referring of individuals that occurred prior to November 7, 1986. Regarding continuing employment violations (Number 3), if an employee began work before November 7, 1986 and is still continuing in his or her employment, the employer cannot be sanctioned. Additionally, there are a number of circumstances in which an individual's employment continuity has been disrupted, but the sanctions still do not apply to the employer as long as the individual has a reasonable expectation of resuming employment. Those circumstances include when the individual:

- takes approved leave, paid or unpaid;
- is temporarily laid off for lack of work; and
- is on strike or in a labor dispute.

Other circumstances are listed in 8 CFR § 274a.2(b)(1)(viii)(A).

Non-covered employees. Casual employment is not covered by IRCA. This means that sporadic, irregular or intermittent domestic employment in a private home is not subject to employer sanctions.

Other circumstan
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to employer sanc

INSTRUCTIONS

PLEASE READ ALL INSTRUCTIONS CAREFULLY BEFORE COMPLETING THIS FORM.

Anti-Discrimination Notice. It is illegal to discriminate against any individual (other than an alien not authorized to work in the U.S.) in hiring, discharging, or recruiting or referring for a fee because of that individual's national origin or citizenship status. It is illegal to discriminate against work eligible individuals. Employers **CANNOT** specify which document(s) they will accept from an employee. The refusal to hire an individual because of a future expiration date may also constitute illegal discrimination.

Section 1 - Employee. All employees, citizens and noncitizens, hired after November 6, 1986, must complete Section 1 of this form at the time of hire, which is the actual beginning of employment. **The employer is responsible for ensuring that Section 1 is timely and properly completed.**

Preparer/Translator Certification. The Preparer/Translator Certification must be completed if Section 1 is prepared by a person other than the employee. A preparer/translator may be used only when the employee is unable to complete Section 1 on his/her own. However, the employee must still sign Section 1 personally.

Section 2 - Employer. For the purpose of completing this form, the term "employer" includes those recruiters and referrers for a fee who are agricultural associations, agricultural employers, or farm labor contractors.

Employers must complete Section 2 by examining evidence of identity and employment eligibility within three (3) business days of the date employment begins. If employees are authorized to work, but are unable to present the required document(s) within three business days, they must present a receipt for the application of the document(s) within three business days and the actual document(s) within ninety (90) days. However, if employers hire individuals for a duration of less than three business days, Section 2 must be completed at the time employment begins. **Employers must record**: **1)** document title; **2)** issuing authority; **3)** document number, **4)** expiration date, if any; and **5)** the date employment begins. Employers must sign and date the certification. Employees must present original documents. Employers may, but are not required to, photocopy the document(s) presented. These photocopies may only be used for the verification process and must be retained with the I-9. **However, employers are still responsible for completing the I-9.**

Section 3 - Updating and Reverification. Employers must complete Section 3 when updating and/or reverifying the I-9. Employers must reverify employment eligibility of their employees on or before the expiration date recorded in Section 1. Employers **CANNOT** specify which document(s) they will accept from an employee.

- If an employee's name has changed at the time this form is being updated/reverified, complete Block A.
- If an employee is rehired within three (3) years of the date this form was originally completed and the employee is still eligible to be employed on the same basis as previously indicated on this form (updating), complete Block B and the signature block.
- If an employee is rehired within three (3) years of the date this form was originally completed and the employee's work authorization has expired **or** if a current employee's work authorization is about to expire (reverification), complete Block B and:
  - examine any document that reflects that the employee is authorized to work in the U.S. (see List A **or** C),
  - record the document title, document number and expiration date (if any) in Block C, and
  - complete the signature block.

Photocopying and Retaining Form I-9. A blank I-9 may be reproduced provided both sides are copied. The Instructions must be available to all employees completing this form. Employers must retain completed I-9s for three (3) years after the date of hire **or** one (1) year after the date employment ends, whichever is later.

For more detailed information, you may refer to the INS Handbook for Employers, (Form M-274). You may obtain the handbook at your local INS office.

Privacy Act Notice. The authority for collecting this information is the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 U.S.C. 1324a).

This information is for employers to verify the eligibility of individuals for employment to preclude the unlawful hiring, or recruiting or referring for a fee, of aliens who are not authorized to work in the United States.

This information will be used by employers as a record of their basis for determining eligibility of an employee to work in the United States. The form will be kept by the employer and made available for inspection by officials of the U.S. Immigration and Naturalization Service, the Department of Labor, and the Office of Special Counsel for Immigration Related Unfair Employment Practices.

Submission of the information required in this form is voluntary. However, an individual may not begin employment unless this form is completed since employers are subject to civil or criminal penalties if they do not comply with the Immigration Reform and Control Act of 1986.

Reporting Burden. We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. Accordingly, the reporting burden for this collection of information is computed as follows: 1) learning about this form, 5 minutes; 2) completing the form, 5 minutes; and 3) assembling and filing (recordkeeping) the form, 5 minutes, for an average of 15 minutes per response. If you have comments regarding the accuracy of this burden estimate, or suggestions for making this form simpler, you can write to both the Immigration and Naturalization Service, 425 I Street, N.W., Room 5304, Washington, D.C. 20536; and the Office of Management and Budget, Paperwork Reduction Project, OMB No. 1115-0136, Washington, D.C. 20503.

EMPLOYERS MUST RETAIN COMPLETED I-9

PLEASE DO NOT MAIL COMPLETED I-9 TO INS

U.S. Department of Justice
Immigration and Naturalization Service

OMB No. 1115-0136
Employment Eligibility Verification

Please read instructions carefully before completing this form. The instructions must be available during completion of this form. ANTI-DISCRIMINATION NOTICE. It is illegal to discriminate against work eligible individuals. Employers CANNOT specify which document(s) they will accept from an employee. The refusal to hire an individual because of a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Verification.
To be completed and signed by employee at the time employment begins

Print Name: Last	First	Middle Initial	Maiden Name
Address (*Street Name and Number*)		Apt. #	Date of Birth (*month/day/year*)
City	State	Zip Code	Social Security #

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

I attest, under penalty of perjury, that I am (check one of the following):
- ☐ A citizen or national of the United States
- ☐ A Lawful Permanent Resident (Alien # A ______________
- ☐ An alien authorized to work until ____/____/____
  (Alien # or Admission # ______________

Employee's Signature	Date (*month/day/year*)

Preparer and/or Translator Certification. *(To be completed and signed if Section 1 is prepared by a person other than the employee.) I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.*

Preparer's/Translator's Signature	Print Name
Address (*Street Name and Number, City, State, Zip Code*)	Date (*month/day/year*)

Section 2. Employer Review and Verification.
To be completed and signed by employer. **Examine one document from List A OR examine one document from List B and one from List C as listed on the reverse of this form and record the title, number and expiration date, if any, of the document(s)**

	List A	OR	List B	AND	List C
Document title:	______________		______________		______________
Issuing authority:	______________		______________		______________
Document #:	______________		______________		______________
Expiration Date (*if any*):	___/___/___		___/___/___		___/___/___
Document #:	______________				
Expiration Date (*if any*):	___/___/___				

CERTIFICATION - I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on *(month/day/year)* ____/____/____ **and that to the best of my knowledge the employee is eligible to work in the United States. (State employment agencies may omit the date the employee began employment).**

Signature of Employer or Authorized Representative	Print Name	Title
Business or Organization Name	Address (*Street Name and Number, City, State, Zip Code*)	Date (*month/day/year*)

Section 3. Updating and Reverification.
To be completed and signed by employer

A. New Name (*if applicable*)	B. Date of rehire (*month/day/year*) (*if applicable*)

C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment eligibility.

Document Title: ______________ Document #: ______________ Expiration Date (if any): ___/___/___

I attest, under penalty of perjury, that to the best of my knowledge, this employee is eligible to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

Signature of Employer or Authorized Representative	Date (*month/day/year*)

LISTS OF ACCEPTABLE DOCUMENTS

LIST A

Documents that Establish Both Identity and Employment Eligibility

1. U.S. Passport (unexpired or expired)
2. Certificate of U.S. Citizenship *(INS Form N-560 or N-561)*
3. Certificate of Naturalization *(INS Form N-550 or N-570)*
4. Unexpired foreign passport, with *I-551 stamp* or attached *INS Form I-94* indicating unexpired employment authorization
5. Alien Registration Receipt Card with photograph *(INS Form I-151 or I-551)*
6. Unexpired Temporary Resident Card *(INS Form I-688)*
7. Unexpired Employment Authorization Card *(INS Form I-688A)*
8. Unexpired Reentry Permit *(INS Form I-327)*
9. Unexpired Refugee Travel Document *(INS Form I-571)*
10. Unexpired Employment Authorization Document issued by the INS which contains a photograph *(INS Form I-688B)*

OR

LIST B

Documents that Establish Identity

1. Driver's license or ID card issued by a state or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, sex, height, eye color, and address
2. ID card issued by federal, state, or local government agencies or entities provided it contains a photograph or information such as name, date of birth, sex, height, eye color, and address
3. School ID card with a photograph
4. Voter's registration card
5. U.S. Military card or draft record
6. Military dependent's ID card
7. U.S. Coast Guard Merchant Mariner Card
8. Native American tribal document
9. Driver's license issued by a Canadian government authority

For persons under age 18 who are unable to present a document listed above:

10. School record or report card
11. Clinic, doctor, or hospital record
12. Day-care or nursery school record

AND

LIST C

Documents that Establish Employment Eligibility

1. U.S. social security card issued by the Social Security Administration *(other than a card stating it is not valid for employment)*
2. Certification of Birth Abroad issued by the Department of State *(Form FS-545 or Form DS-1350)*
3. Original or certified copy of a birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal
4. Native American tribal document
5. U.S. Citizen ID Card *(INS Form I-197)*
6. ID Card for use of Resident Citizen in the United States *(INS Form I-179)*
7. Unexpired employment authorization document issued by the INS *(other than those listed under List A)*

Illustrations of many of these documents appear in Part 8 of the Handbook for Employers (M-274).

MEMORANDUM

TO: Doug Sheorn, Deputy Director of Information Systems, Presidential Personnel, Rm 133/OEOB, (202) 456-2966

FROM: ______________________________ (Name, title)

______________________________ (Department or Agency)

______________________________ (Phone number)

DATE: ____________

RE: ____

____

This NC-SES appointee has cleared our Counsel review process and is ready to proceed:

NAME OF APPOINTEE ____

TITLE/AREA ____

DEPARTMENT/AGENCY ____

DATE PUBLIC RECORD RESEARCH COMPLETED: ______________

PERSONAL DATA STATEMENT: _______________ **(DATE SENT TO CANDIDATE)**

FROM

_______________ **(DATE RECEIVED FROM CANDIDATE)**

DATE CANDIDATE WAS INTERVIEWED: _______________

DATE CANDID

(WHITE HOUSE COUNSEL NOTIFIED, IF APPLICABLE: _______________)

(WHITE HOUSE COUNS

OPP Form SESVETT 4/19/94