

# ECONOMIC & POLICY UPDATE

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## Payroll Requirements for Farm Employers



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Farming operations come in all different shapes and sizes. This means their need for employees is also different. A small farm may not need to hire any employees, but a bigger farm may need to hire full-time and/or part-time employees. When a farmer decides to hire an employee, there are several steps they need to take to make sure all of the payroll requirements are met.

The farmer should first determine if they are hiring an employee or if they are hiring contract labor. The employer has full control over how and when the work is done for an employee, but they can only control the result of the work of contract labor. An employer withholds required taxes and

then pays the appropriate entity for an employee, but he does not withhold taxes on contract labor. This article discusses the different payroll requirements for farm employers and employees.

## Federal Payroll Requirements

A new employer must apply for an Employer Identification Number (EIN). This is the “account number” that will be used when making all Federal Payroll Liability Payments. Employees should complete an I-9 Form, which is the employee verification form. A W-4 form should also be completed by the employee to show the employer how much taxes should be withheld from each paycheck. These forms should be kept for 3 years after the end of employment.

Unlike the self-employed, employees are required to pay their federal, state, and local taxes as income is earned. Thus, employers are required to collect those taxes and then pay them to the appropriate entity. Federal payroll tax withholdings are broken up into three different categories.

- Federal withholding – The IRS tax tables and the employee’s W-4 are needed to determine how much to withhold from each paycheck.
- FICA paid by the employee (withheld from gross wages)
  - Social Security (6.2%), up to \$137,700 gross wages for 2020
  - Medicare (1.45%), no wage limit
- FICA paid by the employer (not withheld)
  - Social Security, employer share (6.2%), up to \$137,700 gross wages for 2020
  - Medicare, employer share (1.45%), no wage limit
  - The total FICA from the above two sections is equal to 15.3%, which is the same as self-employment tax.

The frequency of the employer’s payroll tax deposits depends on total wages. The greater the required payments, the more frequent the tax deposits must be made. Tax deposits may be made annually, monthly, bi-monthly or weekly. Annual payments may be made with Form 943. Weekly, monthly, and bi-monthly payments should be paid online ([www.eftps.gov](http://www.eftps.gov)). A farmer is required to file Form 943 annually to verify payments were correct. All non-farmers are required to file Form 941 quarterly.

## Kentucky Payroll Requirements

A new employer must apply for a KY Withholding Account number. The filing frequency will be assigned once the application is approved. While all Kentucky employees are subject to a flat 5% tax, each employee may still want to complete the Kentucky Withholding Form (K-4). An employee may use this form to document a request for an exemption from withholding. They may also use this form to request additional withholding in excess of the 5% flat rate.

The amount the employer withholds must be paid to the Kentucky State Treasurer. The frequency of the payments will vary by the amount of wages and may be monthly, quarterly, or annually. These payments can be made online monthly with a Form K-1E filed quarterly or they may be paid by check monthly, quarterly, or annually with a Form K-1.

Once an employer receives a KY Withholding Account number, the KY Revenue Cabinet will send a K-1. This Form must be completed and returned whether you have wages or not. If you do not have wages for the requested period, you should complete it with all zeros and return it. If this Form is not returned, the KY Revenue Cabinet will charge failure to file penalties.

## Local Payroll Requirements

Depending on your location, there may also be county and/or city payroll tax requirements. An employer should contact the County Occupational Office and the City Clerk to determine if they are required to make any local payroll tax payments. If you operate in more than one county, you may need to keep track of the percentage of time each employee works in each county. If only one of the counties you work in requires local tax payments, you may be able to exclude the wages earned outside of that county. If multiple counties require tax payments, you will need to know the percentage of time in each county to calculate the correct payment to each county. In addition, rates vary from county to county so you may have to pay 1% tax for wages earned in one county while you only have to pay 0.5% for wages earned in another county. Payments will be made along with the County Form either monthly, quarterly, or annually.

## Federal & State Unemployment Requirements

An Agricultural Employer is required to make unemployment payments if one of the following conditions are met:

- Paid at least \$20,000 in gross wages in a single calendar quarter. This is a requirement regardless of how much wages you pay the rest of the year, or
- Employed at least 10 workers during some part of the day during any 20 or more different weeks.

Once the threshold is met, the employer must make payments for the entire calendar year. For example, an employer will have to go back and make unemployment payments for each quarter if \$15,000 in wages were paid in each of the first three quarters and \$22,000 in gross wages were paid in the fourth quarter.

H-2A visa workers' wages are exempt from unemployment payment, but they are included in determining if the threshold was met. Using the example above, if all wages during the year were H-2A wages except for \$5,000 of the wages in the fourth quarter, the employer would still have to pay unemployment on that \$5,000.

The EIN used for the Federal Tax Payments will also be used for any Federal Unemployment Taxes (FUTA). For farm employees, FUTA is paid on the first \$7,000 of annual wages per employee and is at a rate of 0.6%. These payments will be made quarterly and Form 940 has to be filed annually. A spouse, children under 21 (if dependents) and parents' wages are exempt. FUTA is not withheld from an employee's paycheck; it is 100% funded by the employer.

If an employer is required to pay Federal Unemployment, then they will also be required to pay state unemployment. An employer must file for a Kentucky Unemployment Account number when they are required to pay Kentucky Unemployment (SUTA). For 2020, an employer must pay SUTA on the first \$10,800 of annual wages per employee. The state rate varies by employer and may change from year to year. The employer will receive a letter from Kentucky stating what their rate will be for the upcoming year. These payments will be made quarterly with Form UI-1. If you have 10 or more employees, this form must be completed online.

## Workers' Compensation Insurance

Farmers are not required to have workers' compensation insurance unless they have H-2A employees. If they have H-2A employees, the rate will be based on total wages (H-2A and non H-2A). An employer may want to consider workers' compensation insurance even if they are not required to have it.

## H-2A Workers

H-2A workers must complete Form I-9 and get a Social Security Number (SSN). If they have a SSN, no federal or state withholding is required. However, H-2A employees may have to pay income tax so they may request that federal and/or state taxes be withheld to reduce potential tax liability at the end of the year. H-2A employees are exempt from FICA taxes and they are exempt from unemployment taxes as mentioned above. However, they are not likely to be exempt from county taxes. A W-2 must be sent to each H-2A employee and they must file a federal and state income tax return.

## No Social Security Number

If an employee does not have a SSN, the employer must withhold 24% for Federal Taxes. This applies to H-2A and regular workers. If the employee does not pay the tax, the employer may be liable to pay it.

## W-2 Requirements

The employer must complete a W-2 for all employees and mail it to them by January 31 of the following year. All W-2s must also be submitted to the Social Security Administration and the Kentucky Revenue Cabinet by January 31. The employer should check with their local Occupational Office to determine if they are required to submit W-2s to them also.

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# Payroll Tax Resources

[IRS Pub 51: Agricultural Employer's Tax Guide](#)

[Kentucky Department of Revenue](#)