



SAUNDERS MERTENS SCHMITZ, P.A.

Certified Public Accountants

Date: May 2021

TO: Farm Labor Payroll Clients

SUBJECT: 2021 Payroll Records

Once again, farm labor season is here. We want to reiterate how important it is that you review this information to prevent penalties by the State and Federal government for noncompliance. Responsibility for complying with the requirements of the State and Federal are imposed on you, the employer.

The firm of Saunders Mertens Schmitz, P.A. has put this packet together for informational purposes. It includes information we feel pertinent to our clients.

New Item: COVID-19 Sick Pay and Family Leave Tax Credits - Contact our office if you have questions regarding this tax credit.

AT TIME OF HIRE:

Hiring an individual to work in a business is a contract wherein the employer agrees to provide the employee a safe place to work, and to pay for services rendered. The terms of this relationship, like any contract, should be discussed, understood, agreed upon, and **documented**.

The following forms are **REQUIRED BY LAW** and **MUST** be completed by or for **every employee** you hire or re-hire each year!! Make sure you have all the information on hand to prevent any penalties. These forms should be filled out at hiring or must be filled out within 3 days after employment begins. A civil fine up to \$10,000 can be imposed against an employer for hiring an alien who is unauthorized to work in the U.S. or fails to comply with I.N.S. requirements.

1. MN Department of Labor & Industry-Wage Theft Law-Employee Notice-Form enclosed

This law requires that all employers in Minnesota provide each employee with a written notice at the start of their employment and keep a signed copy of the notice on file.

The notice must contain required information about an employee's employment status and terms of employment. The notice must also include a statement, in multiple languages, that informs employees they may request the notice be provided to them in another language. I have attached the form that the Minnesota Department of Labor & Industry has provided.

The new law also requires the following additional information be included on the earnings statements (or paystubs) provided to the employees each pay period:

- Employee's rate or rates of pay and basis thereof, including whether the employee is paid by the hour, shift, day, week, salary, piece, commission or other method.

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- Allowances claimed for permitted meals and lodging.
- Employer's telephone contact
- Physical address of employer's main office or principal place of business and a mailing address, if different

2. Form I-9 Employment Eligibility Verification – Form enclosed

The Department of Homeland Security has revised the Form I-9, so be sure to use the new Form that expires on 10-31-22.

Employees fill out Section 1. This must be completed, signed, and dated by the employee when employment begins. Make sure they have completed the "I attest I am a _____" box portion and the signature area. The I.N.S. will verify that these areas are completed.

Employers fill out Section 2. This must be completed, signed, and dated. This also requires that each employee have proof of citizenship from either List A or one item from Both List B and C. These lists can be found on the back of the form. *You must verify your employees paperwork.*

Experience indicates photo copies of documents viewed is extremely valuable to prove employer compliance when I.N.S. comes to visit. Please note, laminated social security cards are not valid.

Employers fill out Section 3 in the case of a rehire in year 2.

You must have one I-9 Form for every person who works for you. The I-9 Forms must be kept on file for at least 3 years, or one year after employment ends, whichever is greater.

3. NEW Federal Form W-4 – Form enclosed

Steps 1 through 5 must be completed by the employee. **The remainder of the form the employer must complete for every employee.**

You must have one Form W-4 for every person who works for you. Any alteration of, or unauthorized addition to, a withholding certificate makes it invalid. If you have reason to believe that a withholding certificate has incorrect information, you should advise the District Director.

A Form W-4 remains in effect until the employee gives you a new one. **It is a good idea to have your employees fill out a new form W-4 every year!**

4. NEW Minnesota Form W4-MN – Form enclosed

This form also needs to be completed by the employee. If the 2021 Federal Form W-4 is completed, the employee must also complete the Minnesota Form W-4MN to determine the allowances for Minnesota income tax withholding. (Be sure that they have filled in lines 1 & 2 at the bottom, just above their signature.)

5. Child Support Disclosure Form

Employer is required, by Minnesota Law, to submit a copy of the W-4 Form to the Minnesota New Hire Reporting Center. The law requires employers to provide the employee's Form W-4 as well as their own name, address, and Federal employer

identification number. All employers will report to the Minnesota New Hire Reporting Center by mailing or faxing a copy of the new employee's Form W-4 or reporting online. By providing this information, it will enable child support staff to quickly locate missing parents and match employees with support obligations to begin collecting support for the children.

Send this information to:
Minnesota New-Hire Reporting Center
PO Box 64212
St. Paul MN 55164-0212
FAX: 800-692-4473

newhire-reporting.com/MN-Newhire

The state law provides, that if you do not comply with the law of the Department of Human Services and you should have been withholding revenue from the paycheck of your employee for child support of their children, you, the employer, are required to submit those payments calculated at a rate of 65% of the net check to the Department of Human Services. Obviously, 65% of an employee's check is a significant increase in your payroll costs.

WAGE RULES:

- Minimum wage for small employers is **\$8.21/hour** and for large employers **\$10.08/hour**.

* The definition of a "large-employer" is "any enterprise whose annual gross volume of sales made or business done is greater than \$500,000."

- In order to keep accurate information on each individual employee, **do not pay one family member for work done by another family member**. *Not only is this illegal to do without authorization, but it makes recordkeeping difficult.*
- Employees must be paid at least every 30 days. If the employee chooses not to be paid at the end of the pay period or the thirty day period, you should have a waiver of payment on file for legal purposes to document your compliance with the law.
- **IT IS GOOD PRACTICE TO SET UP A PAYDAY AND STICK WITH IT FOR YOUR EMPLOYEES!** Setting up a pay schedule and sticking to it will prevent employees from contacting you at odd hours and will minimize the chances of you missing a paycheck in your deposits and therefore being penalized.
- **Farm labor employers are required to maintain a record of the hours worked, per person, per week, even if the pay is per acre.** *Make sure if you pay per acre that you are still complying with the minimum wage law.* By keeping both records, you will have made every attempt to make sure you were paying minimum wage requirements.
- All hours worked over 48 hours per week is considered overtime. Overtime pay is calculated at 1 ½ times the regular rate of pay.

PAYROLL TAXES:

Farmers are required to withhold Social Security, Medicare, Federal, and Minnesota taxes on every employee consistent with their W-4 exemptions. If you are not doing so, you may need to apply for State or Federal identification numbers, and start withholding according to the tables and reporting recaps to the Federal and State.

Social Security & Medicare Taxes Withheld: Take the gross wages and multiply them by 7.65% (.0765) to determine the combined Social Security/Medicare tax amount to be withheld. Or, take the gross wages times 6.2% for Social Security and the gross wages times 1.45% for Medicare. EVERYONE is required to withhold these taxes!

Federal Income Tax: To know how much income tax to withhold from the employee's wages you should use the employee's Form W-4 on file for each employee. If an employee does not give you a completed Form W-4, withhold tax as if he or she is single. Follow the tables for agricultural/business, whichever applies, to see the amount needed to be withheld.

Minnesota Income Tax: Withholding is required by **all** employers! If an employee does not give you a completed Form W-4MN, withhold tax as if he or she is single, with **zero** withholding allowances. You should be using separate Minnesota Withholding tables to figure the withholding amount. If you need any of these tables, please contact our office.

Additional information you will need to know: The amount of wages earned, the pay period type (Weekly, Bi-Weekly, Semi-Monthly, Monthly, etc.), and hours worked.

Farmers must withhold all the previously mentioned taxes if either of the following conditions exist with their payroll:

1. You pay an individual \$150.00 or more OR
2. Your total payroll will be more than \$2,500.00 for the year.

Example: If you pay 16 people each less than \$150.00 and the total of all checks is more than \$2,500.00, you **do** need to take taxes out of every individual's checks.

TAX DEPOSITS:

All Federal Tax payments must be made through Electronic Federal Tax Payment System (EFTPS) unless you are sure that your tax liability for the year will be less than \$2,500 and you pay the liability in full with your Form 943, the tax can then be paid by check.

Payments are due on a semiweekly, monthly, or annual basis. Penalties are incurred for any late deposits. Your Federal deposit should include the total amount of gross wages multiplied by 7.65% (.0765), plus the total amount of Medicare and Social Security withheld from the employee, plus the Federal income tax withheld.

Your State deposit will be the total amount of State income tax withheld for that month.

We will not call to ask whether or not you have payroll each month for those of you who only have seasonal payroll, it will be your responsibility to log the payroll data on the Farm Labor Worksheet and bring/mail it to our office by the 10th of each month. It is extremely important to get your payroll in early so that we can calculate your deposit amounts.

PENALTIES: If you do not deposit Social Security and Federal Withholding taxes on time or through EFTPS you may have to pay a penalty. A **10% penalty is charged when taxes are not deposited on time**. If you do not withhold income tax and Social Security taxes from employees, you may be subject to a penalty of 100% of the tax under section 6672 of the Internal Revenue

Code (that is double the tax). If you are a person responsible for the collection and payment of withholding taxes, you can be subject to this penalty.

RECORD KEEPING:

- **For those employer's who do not give us updated forms each year, you need to let us know that the names from last year's records are still in fact those same people you are now paying in the new year. If there are two similar names, please list the Social Security Number so the wages are given to the correct individual.**

*EXAMPLE: Juan Rodriguez and Juan Rodriguez. - Please list Social Security numbers on these individuals because it can be confusing. Also don't use nicknames. You should always use the name that is printed on their Social Security card. Please indicate whether they are a Jr. or Sr. **KEEP US INFORMED!!!***

- Employers should insist that advances be considered payment of wages and treated like any other regular pay period, (this would include withholding of taxes). Then upon completion of the job, employers would deduct all previous payments from the total amount owed and pay the difference. You should keep adequate records to establish the total amount paid to the employees, minus advances.
- Federal Unemployment is required if in any calendar quarter the cash wages you paid for farm labor totaled \$20,000 or more, OR in each of 20 different calendar weeks there was at least one day in which you had 10 or more farm employees. The twenty weeks do not have to be consecutive nor does it have to be the same 10 employees each week. If you meet these requirements, please stop by our office so that we can get you set up for paying Federal Unemployment taxes.

The unemployment liability is retro-active to the beginning of the year, so the sooner we know you are over the limit, the less penalty that will be due. Talk to us in advance of exceeding the \$20,000 and we may be able to help you avoid unemployment with good business planning.

- We need to know the **number of Hours the employee has worked** when you bring their payroll information sheet into our office. This is crucial to Quarterly reports for those of you paying Minnesota Unemployment. This will allow your employees the correct benefits for unemployment and it makes sure that you aren't paying more for your unemployment liabilities. Some employees are exempt from Minnesota Unemployment. We need to know who those individuals are so we correctly assess their wages. If any of your employees fall under the following categories, please let us know:

- A. Services of family farm corporate officers.
- B. Agricultural services performed by persons 16 years of age and under.
- C. Services rendered by a shareholder of a family farm operation.

The rules for paying MN unemployment are also based on the \$20,000 or more in any calendar quarter or has four or more employees in agricultural employment during 20 different weeks in a calendar year.

OPTIONS FOR YOU:

1. You may choose to figure your own payroll and bring in your records, ***NO LATER THAN the 10th of each month***, for us to help you figure the deposit for Social Security, Federal withholding, and State withholding taxes. We will also record the wages at that time so we can prepare W-2's and the Form 943 at the end of the year. **(Again, the information must be in our office by the 10th of the following month upon paying payroll.)** We request that you bring the information in on one of the enclosed Farm Labor worksheets.
2. If you want to call us for deduction amounts, the information you need to have ready when you call is as follows:

Name of Employee
Regular Hours Worked/Wage Per Hour
Overtime Hours Worked/Wage Per Hour
How often you pay them (Pay Period)
Marital Status/Exemptions (W-4 Info)
Other Deductions

3. For those of you that we review your bank statements for payroll: **payroll that is paid at the end of the month may be missed because it doesn't clear the bank by the cutoff of that month's bank statement.** *Therefore, this is not a reliable way of doing your payroll.* We need another method to get this information for those checks so you don't receive a penalty. ***It would be best if you brought in a list of all payroll for the month.*** We need to be able to figure the deposit using all the payroll checks in order to avoid penalties. These penalties can be anywhere from 2% to 15% of your deposit.

We will keep track of when your deposits are due and notify you of the amounts and dates in which you must deposit. We will also keep a running total of each employee's gross wages, FICA, Federal withholding, State withholding, advances, etc. and prepare the W-2's and Form 943 at the end of the year.

For your convenience, payroll forms are enclosed. Additional forms are available at our office, free of charge to our clients, or feel free to make photocopies.

We are here to serve you and do everything we can to accommodate your needs, but because many employers of migrants tend to pay at the same time of the month or on rainy days, planning ahead will ensure timely completion of your payroll needs.

Our office will be closed Friday afternoons again this summer so please make note of this.

Sincerely,

Dawn Lingl

Dawn Lingl
Payroll Manager