

UNITED STATES PERMANENT MISSION TO THE
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DEPARTMENT OF STATE
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The United States Mission to the Organization for American States presents its compliments to the Permanent Missions to the Organization for American States and has the honor to provide all missions with background on U.S. laws applicable to certain domestic workers employed by mission members, and to their employers with respect to income tax, employment taxes, including social security and Medicare, and health insurance. Forms and publications referred to in this note are available on the website of the Internal Revenue Service, www.irs.gov.

Domestic workers

Tax residency. Like other “G” visa holders, domestic workers holding a “G-5” visa are non-residents for federal income tax purposes

Income tax. Foreign domestic workers on “G-5” visas who are employed by mission members with diplomatic privileges and immunities under the bilateral agreement between the United States and the OAS on privileges and immunities are not required to pay income taxes. However, absent a bilateral agreement providing for a tax exemption, domestic workers on G-5 visas employed by other OAS mission personnel must pay U.S. income tax on their salary (and all other U.S. source income). As non-residents for



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federal income tax purposes, they must file a U.S. income tax return using Form 1040-NR or Form 1040NR-EZ. Employers are not required to withhold federal income tax from wages, so domestic workers should consider making quarterly estimated tax payments using Form 1040-ES(NR).

Domestic workers may also be subject to income tax in the state in which they reside.

Social Security/Medicare. Foreign domestic workers on “G-5” visas are generally covered by the U.S. Social Security system unless:

1. They are in the sole employ of a OAS mission member who enjoys diplomatic privileges and immunities, *and* they are covered by the social security provisions which are in force in the sending State or a third State; OR
2. A U.S. totalization/social security agreement in force provides that they are not required to participate in the U.S. social security system.

A list of bilateral social security agreements is available at:

www.ssa.gov/international.

If a domestic worker is covered by the U.S. Social Security system, they must apply for a Social Security Number and get a Social Security card from the Social Security Administration. More information about applying for a number and card is available at: www.ssa.gov/ssnumber/. Their employer is required to withhold and pay Social Security and Medicare taxes, and give the worker Form W-2 before a certain date. More information on these requirements is available in IRS Publication 926, Household Employer’s Tax Guide.

Health insurance. If their employer does not provide adequate and affordable health insurance coverage, foreign domestic workers on “G-5” visas may sign up through the online marketplace/exchange during open enrollment season or contact an insurance broker. More information is available at www.healthcare.gov.

Employers

Income tax. Employers are not required to withhold federal income tax from wages paid to the domestic worker. However, employers of such domestic workers should be mindful of the possibility that the state in which the worker resides may impose requirements relating to the withholding of state income tax.

Federal Unemployment Tax (FUTA). Employers who do not enjoy diplomatic privileges and immunities and accordingly are not exempt from taxes are required to apply for an Employer Identification Number (EIN), pay federal unemployment tax (FUTA), and file Schedule H with the IRS. More information on these requirements is available in IRS Publication 926, Household Employer’s Tax Guide. Employers should also contact the state unemployment tax agency to determine whether they need to pay state unemployment tax for their worker.

Social Security/Medicare. If the domestic worker is covered by the U.S. Social Security system (which, as explained above, is possible), employers are required to apply for an EIN, withhold and pay Social Security and Medicare taxes, complete and provide the worker with a Form W-2 before a certain date, and file Schedule H with the IRS. More information on these requirements is available in IRS Publication 926, Household Employer’s Tax Guide, and www.ssa.gov/employer.

Although employers are not permitted to withhold any amount from a domestic worker's wages for expenses such as meals, housing, the provision of medical care, medical insurance, or travel, employers are required to withhold Social Security and Medicare taxes when applicable and in accordance with U.S. law. Employers are not permitted to withhold any amount from a domestic worker's wages to cover the FUTA or the employer's contribution to Social Security and Medicare taxes.

Foreign missions are encouraged to assist domestic workers employed by their personnel to understand the obligations as set out in this note. Foreign missions and their personnel are welcome to direct their questions to OFMTaxCustoms@state.gov.

The United States Mission to the Organization for American States avails itself of this opportunity to renew to the Permanent Missions to the Organization for American States the assurances of its highest consideration.