

Agricultural Employer Checklist

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*An electronic version of this checklist, with active links, is available at
https://www.canr.msu.edu/farm_management/farm-labor-human-resources

Section I – EMPLOYERS PREPARE TO HIRE AGRICULTURAL EMPLOYEES

Acquire Federal and State Publications related to hiring agricultural employees.

Publication 51 (Circular A), Agricultural Employer's Tax Guide

Publication 15 (Circular E), Employer's Tax Guide

Visit www.irs.gov and go to the Forms and Publications section. Find the publications and save on your computer for future reference. Hard copies can be ordered from the IRS.

Publication 446-I Michigan Income Tax Withholding Guide

Publication 446-T Michigan Income Tax Withholding Tables

Publication 78 Sales, Use, and Withholding Tax Forms and Instructions

Visit <http://www.michigan.gov/taxes/> then **Business Taxes** Then use search tool on the left.

Get EIN (Federal Employer Identification Number)

- Fill out form SS-4; this form assigns a 9 digit EIN to the employer
- Call IRS, 1-800-829-4933 or <http://www.irs.gov/>

Enroll with the IRS EFTPS (Electronic Federal Tax Payment System)

- Payroll tax deposits must be made electronically (internet or phone).
- Visit www.eftps.gov/eftps for more details.

Registration for Michigan Business Taxes

- This registers you to withhold State income tax from employees' wages and the State will send you the forms for making State tax deposits (Electronic Funds Transfer is also available).
- 1-517-636-6925 or <http://www.michigan.gov/taxes>
Click New Business Registration under Business Taxes

Workers Compensation Insurance

- Covers work related injuries and illness; purchase coverage from a private insurer
- Agricultural employers must carry Workers Compensation Insurance if they employ 3 or more employees 35 hours or more per week for 13 or more consecutive weeks.
- Michigan Bureau of Workers' and Unemployment Compensation
<http://www.michigan.gov/wca/> or 1-888-396-5041

Display Posters

- Required posters must be prominently displayed in employees' language(s)
- Order poster package from Michigan Farm Bureau <http://www.michfb.com/MI/ALSS/> (under Labor & Safety Products), or 1-800-292-2680

To contact an expert in your area, visit people.msue.msu.edu, or call 888-MSUE4MI (888-678-3364).

Section II - AFTER HIRING AGRICULTURAL EMPLOYEES, EMPLOYERS MUST

- I-9 Form** (Employment Eligibility and Identity Verification): *Employer is required to keep on file*
 - Requires proof of identity and eligibility for work in the U.S. of each hired employee.
 - Get form and instructions from U.S. Citizenship and Immigration Services <http://www.uscis.gov/i-9-central>, or 1-800-375-5283 (National Call Center). Section one may be filled out before the employee begins work but no earlier than when an offer of hire is accepted by the worker. Section two must be completed within three business days from when employment begins. *If someone is being hired for three days or fewer than both sections must be completed on the first day of employment. Please read the I-9 Instructions and the Handbook for Employers (M-274) for specific details and instructions.

- W-4 and MI-W4, both Federal and Michigan** (Employee's Withholding Exemption Form): *Employer is required to keep on file*
 - Establishes employee's name, address, SS#, marital status and number of dependent exemptions
 - IRS, 1-800-829-4933 assistance for businesses
 - Federal W-4: <http://www.irs.gov/>; State MI-W4: <http://www.michigan.gov/taxes/> then select "[Business Taxes](#)" and then "[Business Forms and Instructions](#)"

- Michigan "New Hire" Report**
 - Complete and send within 20 days of hiring or rehiring an employee
 - Get forms, 1-800-524-9846 or <http://mi-newhire.com/MI-Newhire/>

- Pay at least Michigan Minimum Wage**
 - \$9.65/hour; subject to change to \$9.87/hour on Jan. 1, 2021. Few exceptions.

- Withhold**
 - Social Security and Medicare taxes from each employee's gross paycheck. (See exceptions in Circular A, Publication 51 and Circular E, Publication 15). Note: Total withholding is 7.65%, which includes 6.2% for Social Security tax and 1.45% for Medicare.
 - Federal Income Tax (FITW) using tax table in Circular E, Publication 15
 - State Income Tax from employee's wages according to tax guide P.A. 281 (see references)
 - There are exceptions for H-2A workers, work with a trusted attorney or tax professional for further detailed information.

- Deposit**
 - Employee's share of Social Security and Medicare withheld plus employer's contribution; deposits are made electronically (EFTPS) after obtaining a PIN number from the IRS
 - State taxes withheld from employees' wages to the State of Michigan.
 - There may be exceptions for H-2A workers, work with a trusted attorney or tax professional that specializes in this area for further detailed information.

Section III - EMPLOYER MUST PROVIDE TO EMPLOYEE

- Detailed **statement of earnings** with paycheck which must include: Employee's name, address, hours worked, pay basis, pay period dates, current and cumulative earnings and withholdings, deductions and purpose, piece rate units and hours, employer's name, address and EIN
- Employee must sign **agreement for any deductions** other than required by tax or court mandates
- Employee's copies of annual **W-2** wage statement by January 31 of the following year
- There may be additional requirements for H-2A workers. Please work with a trusted attorney or tax professional that specializes in this area for further information.

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Section IV - EMPLOYER MUST COMPLETE ANNUALLY

- W-3** – Summation of all W-2 forms with Copy A of W-2 forms to SSA by 2/28 (paper filing), 4/1 (e-file).
- IRS Form 943** – Summarizing all agricultural wages and Federal/SS deposits, normally due by 1/31
- Annual State (Sales, Use, & Withholding) Form** due with State's copy of W2s by 2/28

Section V – OTHER POTENTIAL LABOR REGULATIONS

- State and Federal Unemployment:** Required if gross payroll in agricultural business exceeds \$20,000 in a calendar quarter, or if 10 or more workers during any 20 weeks in a calendar year
 - Must Register for Michigan Business Taxes to get unemployment authorization number
 - Submit Forms UIC 1017 and UIC 1020 quarterly (mail or electronic)
 - 1-800-638-3994 or <http://michigan.gov/uia/> (Click on "I am an Employer" and then "E-Register For Michigan Taxes")
- Migrant and Seasonal Agricultural Worker Protection Act (MSPA)**
 - Anyone who resides away from permanent residence and those working seasonally in agriculture
 - Exemptions: (1) Family farm exemption if owner and/or immediate family perform all regulated functions or (2) Small business exemption if used no more than five hundred man-days of agricultural labor during any calendar quarter during the preceding calendar year
 - Also regulates crew leaders and farm labor contractors
 - Subject to additional regulations (see link below)
 - <http://www.dol.gov/whd/mspa>
- Labor and Economic Growth, State and Federal laws and regulations**
 - OSHA/MIOSHA safety requirements and inspections
 - Medical, disability and termination restrictions
<http://michigan.gov/lara> With links to Workers' Compensation Agency
 - Youth employment restrictions <https://www.michigan.gov/leo/>
(Click on "Job Seekers" and then "Youth Employment" at the bottom of the page)
- Michigan Department of Agriculture & Rural Development**
 - Pesticides and Plant Pest Management Division: Worker Protection Standards, certification
 - <http://michigan.gov/mdard>
- Affordable Care Act (ACA)**
 - Clemson Cooperative Extension Affordable Care Act Website:
<https://www.clemson.edu/extension/agribusiness/affordablecareact.html>
 - Are you an Applicable Large Employer (ALE) & What is the Status of your Employee(s)? Pay attention to the 4-month rule for seasonal workers in determining Employer Status.
 - Worksheet for Determining Employer Status,
https://www.clemson.edu/extension/agribusiness/policy/files/2018/Worksheet_for_Determination_of_Employers_Number_of_Employees_under_ACA.pdf
 - Spreadsheet Calculator for Determining Employer Status,
<https://www.clemson.edu/extension/agribusiness/policy/files/2018/FIRM+14-08+FTE+Calc.xlsx>
 - ACA Q&A for Employers,
https://www.clemson.edu/extension/agribusiness/policy/files/2018/Health_Care_QA_Employers_Final_Release_Rev._14-6-27-5.pdf

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- Does your employee work 6-months or less? If “Yes”, then they are considered “Seasonal”. If “No” the employee may be considered full-time/permanent and may be eligible for employer provided health care coverage if the employer is considered an ALE’s.
- All employers may need to report on specific tax forms about FTE’s and employer status.
 - 1094-C Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Returns
<http://www.irs.gov/pub/irs-pdf/f1094c.pdf>
 - 1095-C Employer-Provided Health Insurance Offer and Coverage
<http://www.irs.gov/pub/irs-pdf/f1095c.pdf>
 - Instructions for Forms 1094-C & 1095-C
<http://www.irs.gov/pub/irs-pdf/i109495c.pdf>
- Do the benefits you offer meet ACA guidelines, if not you may be susceptible to an Excise Tax even if you are not a Large Employer.

□ Special Note on Retirement Benefits

- If you offer certain retirement benefits to full-time permanent employees, you may be required to also make an offer to your seasonal and H-2A workers as well. Please work with your trusted benefits professional and an attorney that specializes in employee benefits.

Section VI - REFERENCES

Every farm operation with employees should have access to the following publications

Available through IRS, 1-800-829-3676 or <http://www.irs.gov/>

- IRS Publication 51 – Circular A, Agricultural Employer’s Tax Guide
- IRS Publication 15 – Circular E, Federal Tax Withholding Contribution Rate Schedule
- IRS Publication 225 – Farmer’s Tax Guide
- 446 Michigan Income Tax Withholding Guide <http://www.michigan.gov/taxes/> then select "[Business Taxes](#)" and then "[Business Forms and Instructions](#)"

Other References and Contacts

- Extension Bulletin E2966 – Labor Laws and Michigan Agriculture at https://www.canr.msu.edu/farm_management/farm-labor-human-resources
- Michigan Farm Bureau – Agricultural Labor & Safety Services (ALSS) Craig Anderson, 1-800-292-2680 Extension 2311 or <http://www.michfb.com/MI/ALSS/>
- Michigan Migrant and Seasonal Farm Worker Program, <https://www.mitalent.org/agricultural-employer-services>
- Social Security Administration, 1-800-772-1213 or <http://www.ssa.gov/employer>
- U.S. Dept. of Labor, Employment Standards Administration, Wage and Hour Division, 1-866-4-USA-DOL or <http://www.dol.gov/whd> or 1-866-487-9243 in Michigan

Disclaimer: This publication contains information on the laws and regulations of concern for Michigan agricultural employers. It is not an all-inclusive listing. It does not constitute a legal document and the publishers assume no liability for actions taken based on the information provided. It is a reference for general educational use. Information is taken from reliable sources as of April 2020. It is the employer’s responsibility to keep abreast of current laws and changes.

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