

LEGAL CONSIDERATIONS FOR AGRICULTURAL EMPLOYERS¹

Indiana agricultural and horticultural employers need to be aware of the many rules and regulations that pertain to the employment process. Sometimes it is difficult to appreciate the need to comply with these rules and regulations. However, compliance is a necessary function of management and must be administered properly. A well-designed and functional human resource program will save a business time and money involving compliance issues.

THE EMPLOYER CHECKLIST

This Employer Checklist includes six sections that will assist employers in performing various tasks required by Indiana and Federal labor laws and regulations. The checklist is divided up into four phases of the employment process: (I) Before Hiring; (II) After Hiring; (III) During Employment; and (IV) Annually. Section V provides a list of references and Section VI provides additional labor laws, regulation compliance thresholds and contacts.

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I. Before Hiring, Employers Must:

Determine Whether Individual is an Independent Contractor or Employee

- This determination is a question of fact and must be determined for each person. If an individual is an employee, then any costs of workers' compensation, social security, and applicable unemployment insurance, as well as federal and Indiana income tax withholding are the responsibility of the employer. If an individual is an independent contractor, these costs and tax withholdings are the contractor's responsibility.
- See <http://www.irs.gov/businesses/small/article/0,,id=99921,00.html>;
<http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Independent-Contractor-Defined>;
- http://www.in.gov/business_guide.htm; <http://www.in.gov/wcb/2328.htm>;
- <http://www.dol.gov/whd/workers/misclassification>.

Apply for an Employer Identification Number (EIN)

- Fill out IRS Form SS-4 that assigns a nine digit EIN to the employer.
- See <http://www.irs.gov/pub/irs-pdf/iss4.pdf>

¹ This checklist was adapted from the Indiana Agricultural and Horticultural Employer Checklist (November 2008) created by the Mid American Ag and Hort Services, Inc. (MAAHS) and the United States Department of Agriculture's Risk Management Agency (RMA) and updated in December 2016 by the Indiana Agricultural Law Foundation, with input from Philip J. Ripani with the law firm of Bose McKinney & Evans, LLP, 111 Monument Circle, Suite 2700, Indianapolis, Indiana 46204; (317) 684-5280; pripani@boselaw.com. The information in this checklist should not be construed as legal advice.

- Complete a BT-1 (Application for Registration as an Indiana Withholding Agent)**
 - This form registers an employer to withhold State and County income tax from employees' wages.
 - The State will send an employer the WH-1 forms for making State tax deposits.
 - See <https://secure.in.gov/apps/dor/bt1/>

- Maintain W-4 and WH-4 Forms (Employee's Withholding Exemption Form)**
 - Employer is required to keep on file an employee's W-4, the Federal Withholding Allowance Certificate, and an employee's WH-4, the Indiana Withholding Exemption and County Status Certificate.
 - See <http://www.irs.gov/pub/irs-pdf/fw4.pdf>;
<http://www.bizfilings.com/toolkit/tools-forms/tax-info/state-tax-forms/indiana-form-wh4.aspx>

- Complete Indiana Minor Labor Forms for Employees under Age Eighteen**
 - Before employing a minor in a particular job, employers should review carefully the Prohibited and Hazardous Occupations for Minors website at <http://www.in.gov/dol/2741.htm#hazag>.
 - An employer must complete an Intention to Employ/A1, which is used by minors to obtain employment. See <http://www.in.gov/dol/files/896.pdf>
 - An employer must also complete a Work Permit online unless the minors engage in farm labor and other limited exceptions. See <http://www.in.gov/dol/2644.htm>
 - A written parental permission form is required for sixteen and seventeen year olds who will work beyond normal hour restrictions. See <http://www.in.gov/dol/files/48409.pdf>

- Obtain Workers' Compensation Insurance if Required or Elected**
 - Covers work related injuries and illnesses.
 - Coverage is optional on agricultural and/or farm employees.
 - Contact a private insurance carrier to obtain.

- Provide Worker Information, Terms and Conditions of Employment (Disclosure)**
 - For employers subject to the Migrant & Seasonal Agricultural Worker Protection Act (MSPA), see <http://www.dol.gov/whd/regs/compliance/whdfs49.htm>.

- Develop and Implement a Hiring and Employment Process That Does Not Illegally Discriminate Against Job Applicants**
 - This process is governed by laws enforced by the Equal Employment Opportunity Commission and the Indiana Civil Rights Commission.
 - See <http://www.eeoc.gov/> ; <http://www.in.gov/icrc/>.
 - Indiana employers may not discriminate based upon an expunged criminal record, I.C. § 35-38-9-10, but may ask on application "Have you ever been

arrested for or convicted of a crime that has not been expunged?”. I.C. § 35-38-9-10(c).

- In Indiana an employer may not require as a condition of employment an employee to refrain from tobacco use or discriminate against the employee based on tobacco use outside of employment, but may institute financial incentives to reduce tobacco use or related to health benefits. I.C. § 22-5-4-1.

Display Posters and Required Information in the Workplace

- Indiana and federal laws require certain posters and information be prominently displayed for employees.
- See <http://www.dol.gov/compliance/topics/posters.htm> for information regarding federal poster compliance.
- See <http://www.in.gov/dol/2366.htm> for information regarding Indiana poster compliance.
- If the employer uses E-Verify, the employer must post required notices in both English and Spanish. See <http://www.uscis.gov/everify>.

Employee Individual Attestation for Day Laborer

- In accordance with I.C. § 22-5-6-3, an employee who is at least eighteen years of age may not commence day labor employment in Indiana unless the individual has completed the federal individual attestation of employment authorization. See 8 U.S.C. § 1324a(b)(2).

II. After Hiring, Employers Must:

Complete an Indiana “New Hire” Report

- This report must be completed within twenty days of hiring or rehiring an employee. The report may be made electronically. See <http://newhire-reporting.com/IN-Newhire/instruct.aspx#hdr>

Complete Form I-9 (Employment Eligibility and Identity Verification)

- After hiring but within three days of employment, an employee must demonstrate eligibility to work in the United States by providing certain documents and completing a Form I-9.
- Use current version of Form I-9. See <https://www.uscis.gov/i-9>.
- The Form I-9 provides three sections and a list of acceptable documents that may be used by the employee in order to demonstrate eligibility to work in the United States.
- An employer is required to retain the Form I-9 for three years after the date the person begins work or one year after the person’s employment is terminated, whichever is later.
- An employer may also be required to re-verify the Form I-9 by examining new documents if the documents expire.
- Failure to properly complete or maintain I-9 documentation may result in civil penalties that range from \$216 to \$8,908 for each violation. Other fines for immigration violations can be up to \$21,563 per violation, and, additionally, it is

a felony to bring undocumented persons into the United States; to transport undocumented individuals to further their unlawful presence in the United States; to conceal, harbor, or shield undocumented persons from detection by authorities; to induce or encourage people to illegally enter the United States; and for knowingly hiring ten or more unauthorized individuals in a one year period. *See* 8 U.S.C. § 1324(a). *See also* I.C. § 35-44-5-4.

- If the Department of Homeland Security (DHS) asserts that an employer knowingly hired an unauthorized worker or that an employer had constructive knowledge that his or her employees were unauthorized to work in the U.S., an employer's "good faith" compliance with the I-9 procedures is a defense. *See* 8 U.S.C. §1324a(b)(6)(A). "Good faith" can be demonstrated by properly completing the I-9 forms and retaining them for the required period of time. However, a "good faith" defense may be lost if I-9 forms are incomplete; if steps are not taken after receiving information that the employee may have lost employment authorization; if an employer is reckless in accepting referrals of employees; and if the employer assigns the I-9 responsibilities to an incompetent person. *See* 8 C.F.R. § 274a.1(1)(1); *U.S. v. Carter*, 70 CAHO 931, #95 A00164 (May 9, 1997).
- *See* USCIS "I-9 Central" at the following website: <http://www.uscis.gov/i-9-central>

Verify Employees through E-Verify, if Applicable

- E-Verify is a no-cost, Internet-based system that provides a means for employers to perform a secondary verification of a newly-hired employee's work authorization.
- A state agency or political subdivision must enroll in E-Verify and verify the work eligibility status of all employees hired after June 30, 2011. *See* I.C. § 22-5-1.7-10.
- According to I.C. § 22-5-1.7-11 and I.C. § 22-5-1.7-15., employers must sign an affidavit to enroll in E-Verify if they wish to contract, subcontract, or renew their contract with a state agency or political subdivision after June 30, 2011.
- For employers who contract with the federal government, E-Verify is often mandatory limited to certain exceptions. The employer should examine the contract for a Federal Acquisition Regulation (FAR) E-Verify clause.
 - The federal contract may be exempt from E-Verify if: (1) the contract runs for fewer than 120 days; (2) the simplified acquisition threshold is valued at less than \$150,000; (3) all the work is performed outside the United States; or (4) it includes only commercially available off-the-shelf (COTS) items and related services. Certain subcontractors on federal contract may be required to use E-Verify. *See* <http://www.uscis.gov/e-verify/federal-contractors/who-affected-e-verify-federal-contractor-rule>.
- Private employers are not required to use E-Verify, but tax penalties encourage them to enroll. Under I.C. § 6-3-1-3.5 and I.C. § 6-3.1-13-5, if found to have knowingly employed an unauthorized worker, an employer must add back the amount of any deduction taken on a federal tax return for a business expense relating to employing an unauthorized worker, and an employer is prohibited from taking an economic development for a growing economy tax credit on any amount withheld for an individual if the individual is working unlawfully.

However, use of E-Verify acts as a safe harbor and these tax penalties do not apply. *See* I.C. § 6-3-1-3.5; I.C. § 6-3.1-13-5.

- A state government entity may not award a grant of more than \$1,000 unless the business signs an affidavit that it will enroll in E-Verify and does not knowingly employ unauthorized aliens. *See* I.C. § 22-5-1.7-11(b).
- To sign-up for E-Verify, an employer must register online and agree to terms of a Memorandum of Understanding with the DHS and SSA.
- The employer must post required notices in both English and Spanish that it uses E-Verify.
- Once registered and after the Form I-9 is completed, the employer will make an electronic inquiry through E-Verify. The employer will receive either a “confirmation” or a “tentative nonconfirmation” response. A “tentative nonconfirmation” response triggers the following obligations for the employer:
 1. Provide a copy of the response to the employee.
 2. Provide the employee with an opportunity to “contest” or explain the discrepancies.
 3. Input a referral for the employee so he/she can contact the appropriate agency to resolve the issue.
 4. Resubmit the query.
 5. If the employer receives a final nonconfirmation, it may terminate the employment. If the employee is not terminated the employer must notify the government of continued employment. Continued employment after final nonconfirmation is a violation that may result in penalties of \$550.00 to \$1,100.00 for each individual and for each violation in addition to other fines and penalties. *See* 28 C.F.R. § 68.52(C)(6).
- For more information about E-Verify and the enrollment process, see <http://www.uscis.gov/e-verify>.

Determine Compliance with Wage and Hour Law

- Pay at Least Minimum Wage (\$7.25/hour). Minimum wage subject to few exceptions. *See* I.C. § 22-2-2-4; 29 U.S.C. § 201 *et seq.*; <http://www.dol.gov/whd/regs/compliance/whdfs12.htm>.
- If engaged in agriculture, employees are exempt from overtime pay – not required to pay time and one-half for work in excess of 40 hours per week.
- Agriculture is defined as:

Agriculture includes farming in all its branches and . . . includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural or horticultural commodities. . . the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market. 29 U.S.C. § 203(f).

Many regulations and court decisions have refined this definition.

- Some agricultural employers are exempt from both minimum wage and overtime requirements:

- employers which did not use 500 man days of agricultural labor during any calendar quarter of preceding year
- agricultural employees who are immediate family members of employer
- certain local hand harvest laborers
- those principally engaged in range production of livestock

Extensive regulations/court cases address these exemptions and other exemptions in agriculture. See Fact Sheet #12: Agricultural Employers Under the Fair Labor Standards Act <https://www.dol.gov/whd/regs/compliance/whdfs12.htm>.

- If work is not within agricultural employment, then employees performing such work are entitled to minimum wage and overtime pay.
- Certain common exemptions to overtime pay requirements are available to non-agricultural employers/employees (See: <https://webapps.dol.gov/elaws/whd/flsa/screen75.asp>):

- o Executive Employees

- Paid on “salary basis” at least \$455 per week (\$23,660 per year)

NOTE: The “salary basis” requires the employee be paid a predetermined and fixed salary not subject to reduction because of variations in the quality or quantity of work performed. Under U.S. Department of Labor (“DOL”) final rule which was to take effect on December 1, 2016, the salary figure increased to \$913 per week or \$47,476 annually. This rule has been enjoined by federal court which stopped enforcement of the final rule. The court decision has been appealed.

- Primary duty consists of management of enterprise or of a department or subdivision
- Regularly directs the work of two or more full-time employees (or equivalent)
- Has authority to hire, fire, promote or make similar changes of status for others, or can recommend such changes and recommendations are given “particular weight”
- Examples include executives, department heads, managers, supervisors, etc.

- o Administrative Employees

- Paid on “salary basis” or fee basis at least \$455 per week
- Primary duty consists of office or non-manual work directly related to management or general business operations of employer or its customers
- Primary duty includes exercise of discretion and independent judgment regarding matters of significance
- Examples include decision-makers in functional areas such as accounting, human resources, employee benefits, safety and health, IT, etc.

- o Professional Employees

- Paid on “salary basis” or fee basis at least \$455 per week
- Learned professionals

- Primary duty consists of performance of work requiring advance knowledge in field of science or learning customarily acquired by prolonged course of specialized intellectual instruction
- Examples include doctors, lawyers, engineers, architects, CPAs, registered nurses, etc.
- Creative professionals
 - Primary duty consists of performance of work requiring invention, imagination, originality or talent in a field of artistic or creative endeavor such as music, writing, acting and graphic arts
 - Unlike learned professionals exemption, there is no specific educational requirement related to creative professionals exemption
 - Examples include actors, musicians, graphic artists, journalists, etc.
- Computer Exemption
 - \$455 pr/wk on a “salary basis” or \$27.63 an hour; and
 - Primary duty: application of systems analysis techniques and procedures, including consulting with users to determine hardware, software, or system functional specifications; design, development, documentation, analysis, creation, testing or modification of computer systems or programs; design, documentation, testing, creation or modification of computer programs related to machine operating systems; or a combination of duties the performance of which requires the same level of skills
- Outside Sales
 - Primary duty consists of making sales or obtaining orders of contacts for services or for the use of facilities for which consideration will be paid by the client or customer; and
 - Is customarily and regularly engaged away from the employer's place of business in performing primary duties
 - Can include duties incidental to or in conjunction with employee's own outside sales or work to further outside sales (sales reports, updating sales or display catalog, planning and attending sales conferences)
- Highly Compensated Employees (HCEs)
 - Employees with annual compensation of at least \$100,000 (including commissions, nondiscretionary bonuses, and other nondiscretionary compensation) paid at least \$455 pr/wk on either a “salary basis” or fee basis

NOTE: Under DOL final rule which has been enjoined (See Note regarding “salary basis”), annual compensation increased to \$134,004.

- Customarily and regularly performs any one or more of the exempt duties or responsibilities of an executive, administrative, or professional employee
- Withhold Social Security/OASDI, and Medicare Tax from Each Employee's Gross Paycheck**
 - The current withholding rate for Social Security/OASDI is 6.2%.
 - The current withholding rate for Medicare is 1.45%.
 - This withholding is subject to certain exceptions.
 - See <http://www.irs.gov/pub/irs-pdf/p51.pdf>
- Deposit Employee's Share of Social Security and Medicare Withheld Plus Matching Employer's Contribution**
 - The employee's share of federal income tax withheld should also be included in the deposit amount.
 - The employer must use the Electronic Federal Tax Payment System (EFTPS) to make all federal deposits. See <https://www.eftps.gov/eftps/>.
 - An employer should receive a mailing containing the employer's EFTPS personal identification number (PIN) and instructions for activating the PIN.
 - See <http://www.irs.gov/pub/irs-pdf/p15.pdf>
- Withhold Federal Income Tax (FITW)**
 - Use tax table in IRS Publication 15.
 - See <http://www.irs.gov/pub/irs-pdf/p15.pdf>
- Withhold Indiana State and Applicable County Income Tax from Employee's Wages**
 - See <http://www.in.gov/dor/files/wh-13.pdf>
- Deposit Indiana State and County Income Taxes Withheld from Employee's Wages**
 - This tax should be filed online through the INtax Program.
 - See <https://www.intax.in.gov/>.
- Make Workers' Compensation Premium Payments to Private Insurance Carrier if Coverage is Required or Elected**
- Report Work-Related Fatalities and Catastrophes**
 - Contact Occupational Health & Safety Administration (OHSA) at 1-800-321-6742 or the Indiana Occupational Health & Safety Administration (IOHSA) at 317-232-2693 within eight hours if any workplace incident results in a fatality or in-patient hospitalization.
 - A catastrophe is an incident that results in three or more employees being hospitalized overnight.
 - See <http://www.in.gov/dol/2747.htm> ; <http://www.osha.gov/>

Pay Indiana and Federal Unemployment if Liable

- Agricultural employers are liable if gross payroll in the business exceeds \$20,000 in a calendar quarter, or if ten or more workers are employed during any twenty weeks in a calendar year.
- For-profit non-agricultural employers are liable if they pay \$1,500 in gross wages in a single calendar quarter, or if they have at least one worker performing services in some part of a day in each of the twenty weeks in a calendar year.
- For federal unemployment, deposit quarterly using the Electronic Federal Tax Payment System (EFTPS) if you have more than \$500 in FUTA Tax.
- For Indiana unemployment, the employer must complete a Report to Determine Status (Form-2837) and/or a Status Report Agricultural Employment (Form-46798) and submit a Quarterly Contribution Report (Form UC-1) and Quarterly Payroll Report (Form UC-5A) with deposits.
- See <http://www.in.gov/dwd/2614.htm>; <http://www.in.gov/dwd/2406.htm>; <http://www.irs.gov/pub/irs-pdf/i940.pdf>; <https://www.eftps.gov/eftps/>; <http://www.irs.gov/pub/irs-pdf/p966.pdf>.

III. During Employment, Employers Must Provide to Employees:

A Detailed Statement of Earnings, Which Must Include:

- Employee's name; address; Social Security Number; 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 Employment Identification Number (EIN).
- Employers subject to the Migrant & Seasonal Agricultural Worker Protection Act (MSPA) must also include employee's permanent address; see <http://www.dol.gov/whd/regs/compliance/whdfs49.htm>.

An Agreement for Any Deductions

- In Indiana the reasons for and amounts of deductions from wages are limited by statute. I.C. § 22-2-6 *et seq.* Employee must sign the agreement if the employee wishes to deduct appropriate amounts other than what is required by tax or court mandates.

Copies of the Annual Indiana WH-3, Combined with W-2 Wage Statements by January 31 of the Following Year

- See <http://www.in.gov/dor/4100.htm>; <http://www.irs.gov/pub/irs-pdf/fw2.pdf>.

Copies of B and C of the Indiana WH-18 (for nonresidents) by January 31 of the Following Year

- See <http://www.in.gov/dor/4100.htm>

IV. Annually, Employers Must Complete:

IRS Form W-3

- W-3 along with W-2 forms are due for 2014 by March 2, 2015 (or March 31, 2015 if filed electronically).
- See <http://www.irs.gov/pub/irs-pdf/iw2w3.pdf>

IRS Form 940

- The Employer's Annual Federal Unemployment Tax Return is due by January 31 of the following year.
- See <http://www.irs.gov/pub/irs-pdf/i940.pdf>

IRS Form 943

- Form that summarizes all agricultural wages and Federal/Social Security Deposits is due by January 31 of the following year.
- See <http://www.irs.gov/pub/irs-pdf/i943.pdf>

Indiana WH-3/WH-18 for Nonresidents

- Annual State Income Tax Withholding Form (WH 3) is due to be filed by the last day of February of the following year. WH-13 is due to be filed for 2014 by March 2, 2015, or March 15, 2015 if filed electronically.
- See <http://www.in.gov/dor/3882.htm>

OSHA Form 300A

- Summary of Work Related Injuries and Illnesses for employers of eleven or more must be posted in a conspicuous place February to April for the prior calendar year's injuries and illnesses.
- See https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=NEWS_RELEASES&p_id=23637.

Social Security "No Match" Letters

- A "No Match" letter is a letter sent by the Social Security Administration (SSA) notifying an employer that the combination of an employee's name and social security number (SSN) do not match SSA's records.
- If you receive a "No-Match" letter, the U.S. Department of Justice, Civil Rights Division, Office of Special Counsel for Immigration-Related Unfair Employment Practices offered the following suggestions:

- DO:**
1. Recognize that name/SSN no-matches can result because of simple administrative errors.
 2. Check the reported no-match information against your personnel records.

3. Inform the employee of the no-match notice.
4. Ask the employee to confirm his/her name/SSN reflected in your personnel records.
5. Advise the employee to contact the SSA to correct and/or update his or her SSA records.
6. Give the employee a reasonable period of time to address the reported no-match with the local SSA office.
7. Follow the same procedures for all employees regardless of citizenship status or national origin.
8. Periodically meet with or otherwise contact the employee to learn and document the status of the employee's efforts to address and resolve the no-match.
9. Review any document the employee chooses to offer showing resolution of the no-match.
10. Submit any employer or employee corrections to the SSA.

- DO NOT:**
1. Assume the no-match conveys information regarding the employee's immigration status or actual work authority.
 2. Use the receipt of a no-match notice alone as a basis to terminate, suspend or take other adverse action against the employee.
 3. Attempt to immediately reverify the employee's employment eligibility by requesting the completion of a new Form I-9 based solely on the no-match notice.
 4. Follow different procedures for different classes of employees based on national origin or citizenship status.
 5. Require the employee to produce specific I-9 documents to address the no-match.
 6. Require the employee to provide a written report of SSA verification (as it may not always be obtainable).

For more information, please contact the Office of Special Counsel at 1-800-255-8155 or 1-800-237-2525, www.justice.gov/crt/about/osc.

V. References

- Independent Contractor or Employee?**
 - IRS: <http://www.irs.gov/businesses/small/article/0,,id=99921,00.html>; <http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Independent-Contractor-Defined>.
 - Workers' Compensation Board of IN: <http://www.in.gov/wcb/2328.htm>.
 - <https://www.dol.gov/whd/workers/misclassification/>.

- Indiana Department of Workforce Development**
 - Benefit Call Center: 1-800-891-6499
 - Tax Call Center: 1-800-437-9136
 - Website: <http://www.in.gov/dwd/2406.htm>
 - Form 2837 – Report to Determine Status
 - Form 46798 – Status Report Agricultural Employment

- Form UC-5 – Quarterly Payroll Report

Internal Revenue Service

- IRS Office: 1-800-829-4933
- Indianapolis IRS Office: 317-685-7500
- Website: <http://www.irs.gov/formspubs/index.html>
 - IRS Publication 15 – Circular E, Employer’s Tax Guide
 - IRS Publication 51 – Circular A, Agricultural Employer’s Tax Guide
 - IRS Publication 225 – Farmer’s Tax Guide
 - W-2 – Wage and Tax Statement
 - W-3 – Transmittal of all W-2 forms
 - W-4 – Employee’s Withholding Allowance Certificate
 - SS-4 – Application for Employer Identification Number
 - Form 940 – Employer’s Annual Federal Unemployment Tax Return
 - Form 941 – Employer’s Quarterly Federal Tax Return
 - Form 943 – Employer’s Annual Federal Tax Return for Agricultural Employees

Indiana Department of Revenue

- Withholding Tax Department: 317-233-4016
- Corporate Tax Department: 317-232-0129
- Website: <http://www.in.gov/dor/3489.htm>
 - BT-1 – Registration as an Indiana Withholding Agent (Business Tax Application)
 - WH-1 – Indiana Employer Withholding Tax Voucher
 - WH-3 – Annual Withholding Form
 - WH-4 – Indiana Employee Withholding Exemption and County Income Taxes
 - WH-13 – Withholding Instructions for State and County Income Taxes
 - WH-18 – Miscellaneous Withholding Tax Statement for Nonresidents

Indiana New Hire Reporting Center

- Phone: 866-879-0198
- Website: <http://newhire-reporting.com/IN-Newhire/default.aspx>
 - Indiana New Hire Reporting Form

U.S. Citizenship and Immigration Services

- E-Verify and Form I-9 Help Center: 888-464-4218
- Website: www.uscis.gov; www.uscis.gov/i-9central; www.uscis.gov/e-verify
 - Form I-9 – Employment Eligibility Verification
 - E-Verify Registration

Workers’ Compensation Board of Indiana

- Phone: 317-232-3808 (Indianapolis)
- Website: <http://www.in.gov/wcb/>

Indiana Bureau of Child Labor

- Phone: 317-232-2655
- Website: <http://www.in.gov/dol/childlabor.htm>

- Intent to Employ/A1
- Work Permit (available only to schools/issuing officers)
- Written Parental Permission Form

U.S. Department of Labor

- Wage and Hour Division Phone: 1-866-487-9243
- Website: <http://webapps.dol.gov/library/forms/FormsByNum.asp>
 - Optional Form WH-516 (English) or WH-516 (Spanish)

Indiana Occupational Safety and Health Division (IOSHA)

- Phone: 317-232-2655
- Website: <http://www.in.gov/dol/iosha.htm>
 - OSHA Form 300
 - OSHA Form 300A Log

Equal Employment Opportunity Commission

- Phone: 1-800-669-4000
- Website: <http://www.eeoc.gov/>

Indiana Civil Rights Commission

- Phone: 800-628-2909
- Website: <http://www.in.gov/icrc/>

U.S. Department of Justice, Civil Rights Division, Office of Special Counsel for Immigration-Related Unfair Employment Practices

- Phone: 1-800-255-8155 (TDD: 1-800-237-2525)
- Website: <http://www.justice.gov/crt/about/osc>

VI. Labor Laws, Regulations Compliance Thresholds, and Contacts

The following table provides an overview of how many employees an employer must have to be subject to many Indiana and federal laws and regulations. Coverage for some laws and regulations may depend on requirements other than the number of employees. Contacting the actual departments or offices will provide more information. This list is organized alphabetically by law/regulation.

Number of Employees	State or Federal	Law, Regulation, and Contacts
20	Federal	Age Discrimination in Employment Act of 1967 (ADEA) http://www.eeoc.gov/laws/statutes/adea.cfm 800-669-4000
1	Indiana	Age Discrimination Law http://www.in.gov/icrc/ 800-628-2909
15	Federal	Americans With Disability Act of 1990 (ADA) http://www.eeoc.gov/laws/statutes/ada.cfm 800-669-4000
1 Minor	Indiana	Child Labor Law http://www.in.gov/dol/childlabor.htm 317-232-2655

Number of Employees	State or Federal	Law, Regulation, and Contacts
1 Minor	Federal	<p align="center">Child Labor Law http://www.dol.gov/dol/topic/youthlabor/Agriculturalemployment.htm 1-866-4-USA-DOL (1-866-487-2365)</p>
15	Federal	<p align="center">Civil Rights Act of 1964 – Title VII – Equal Employment Opportunities http://www.eeoc.gov/laws/statutes/titlevii.cfm 800-669-4000</p>
15	Federal	<p align="center">Civil Rights Act of 1991 http://www.eeoc.gov/eeoc/history/35th/thelaw/cra_1991.html 800-669-4000</p>
20	Federal	<p align="center">Consolidation Omnibus Budget Reconciliation Act (COBRA) http://www.dol.gov/ebsa/newsroom/fscobra.html 866.444.3272</p>
1	Federal	<p align="center">Consumer Credit Protection Act (Wage Garnishment) https://www.shrm.org/resourcesandtools/.../consumercreditprotectionactof1968.aspx https://www.dol.gov/whd/regs/statutes/garn01.pdf 866-487-9243</p>
15	Indiana	<p align="center">Disability Discrimination Law http://www.in.gov/icrc 800-628-2909</p>
1	Federal	<p align="center">Drug-Free Workplace Act of 1988 http://www.dol.gov/elaws/asp/drugfree/screen4.htm 202-693-5919</p>
1	Federal	<p align="center">Electronic Communications Privacy Act of 1986 (ECPA) http://it.ojp.gov/default.aspx?area=privacy&page=1285#contentTop</p>
1	Federal	<p align="center">Employee Polygraph Protection Act of 1988 http://www.dol.gov/compliance/laws/comp-eppa.htm 866-487-9243</p>
1	Federal	<p align="center">Employee Retirement Income Security Act (ERISA) https://www.dol.gov/general/topic/retirement/erisa 866-444-3272</p>
1	Federal	<p align="center">Employee Right-to-Know Laws (Hazardous Chemicals in Workplace) http://www.osha.gov/dsg/hazcom/index.html 800-321-6742</p>
1	Federal	<p align="center">Equal Pay Act (EPA) http://www.eeoc.gov/laws/statutes/epa.cfm 800-669-4000</p>
2	Indiana	<p align="center">Equal Pay Law http://www.in.gov/dol/2345.htm 317-232-2655</p>
1	Federal	<p align="center">Executive Order 11246 (Affirmative Action) http://www.dol.gov/dol/topic/hiring/affirmativeact.htm 866-487-2365</p>
1	Federal	<p align="center">Fair Credit Reporting Act (FCRA) http://www.ftc.gov/os/statutes/fcrajump.shtm 202-326-2222</p>

Number of Employees	State or Federal	Law, Regulation, and Contacts
6	Indiana	<p align="center">Fair Employment Practice Law (Indiana Civil Rights Law) http://www.in.gov/icrc 800-628-2909</p>
1	Federal	<p align="center">Fair Labor Standards Act of 1938 (FLSA) Covers minimum wage, overtime pay, record keeping, child labor standards https://www.dol.gov/whd/flsa/ 866-487-9243</p>
50	Federal	<p align="center">Family and Medical Leave Act of 1993 (FMLA) http://www.dol.gov/whd/fmla/ 866-487-9243</p>
1	Federal	<p align="center">Federal Income Tax Withholding http://www.irs.gov/pub/irs-pdf/fw4.pdf 800-829-4933</p>
1	Federal	<p align="center">Federal Insurance Contribution Act (FICA) http://www.ssa.gov/pgm/business.htm 800-772-1213</p>
1	Federal	<p align="center">Federal Unemployment Tax Act (FUTA) http://www.irs.gov/pub/irs-pdf/i940.pdf 800-829-4933</p>
1	Federal	<p align="center">Health Insurance Portability and Accountability Act of 1996 (HIPAA) http://www.dol.gov/dol/topic/health-plans/portability.htm 866-444-3272</p>
1	Federal	<p align="center">Immigration and Nationality Act http://www.uscis.gov 800-375-5283</p>
1	Federal	<p align="center">Immigration Reform and Control Act of 1986 (IRCA) http://www.uscis.gov 800-375-5283</p>
5 in housing	Indiana	<p align="center">Indiana Agricultural Labor Camp Law (Temporarily Housing Migrant, Agricultural, or Related Food Processing Workers) http://www.in.gov/isdh/23276.htm 317-233-1325</p>
1	Indiana	<p align="center">Job Reference Liability Law IC 22-5-3 http://www.in.gov/legislative/ic/code/title22/ar5/ch3.html</p>
1	Indiana	<p align="center">Jury Duty Leave Law IC 35-44-3-10 http://www.in.gov/legislative/ic/2004/title35/ar44/ch3.html</p>
2	Federal	<p align="center">Mental Health Parity Act of 1996 (MPHA) http://www.dol.gov/ebsa/mentalhealthparity/ 866-487-2365</p>
6-8 (500 man-day test)	Federal	<p align="center">Migrant and Seasonal Agricultural Worker Protection Act (MSPA) http://www.dol.gov/compliance/laws/comp-msawpa.htm 866-487-2365</p> <p align="center">* A “man-day” is defined as any day during which an employee performs agricultural work for at least one hour. Five hundred in a calendar quarter meets the test for coverage.</p>

Number of Employees	State or Federal	Law, Regulation, and Contacts
1	Indiana	<p align="center">Military Leave Law IC 10-17-4 http://www.in.gov/legislative/ic/code/title10/ar17/ch4.html</p>
2*	Indiana	<p align="center">Minimum Wage Law IC 22-2-2 http://www.in.gov/legislative/ic/code/title22/ar2/ch2.html http://www.in.gov/dol/wagehour.htm * Farm work exemption</p>
1	Federal	<p align="center">National Labor Relations Act & Labor-Management Relations Act of 1947 http://www.nlr.gov/ 866-667-6572</p>
2	Federal	<p align="center">Newborns' and Mothers' Health Protection Act of 1996 (NMHPA) http://www.dol.gov/dol/topic/health-plans/newborns.htm 866-487-2365</p>
1*	Federal & Indiana	<p align="center">Occupational Safety and Health Act of 1970 (IN operates a state program) http://www.in.gov/dol/iosha.htm http://www.osha.gov 317-232-2655</p>
1	Federal & Indiana	<p align="center">Occupational Safety and Health Administration Compliance Assistance Authorization Act of 1998 http://www.osha.gov 800-321-6742</p>
20	Federal	<p align="center">Older Workers Benefit Protection Act (OWBPA) http://www.eeoc.gov/eeoc/history/35th/thelaw/owbpa.html 800-669-4000</p>
1*	Indiana	<p align="center">Overtime Pay Law IC 22-2-2 http://www.in.gov/legislative/ic/code/title22/ar2/ch2.html * farm work exception</p>
1	Federal & Indiana	<p align="center">Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and Indiana New Hire Reporting Law http://newhire-reporting.com/IN-Newhire/default.aspx 866-879-0198; 317-612-3028</p>
2	Federal	<p align="center">Pregnancy Discrimination Act (PDA) http://www.eeoc.gov/laws/statutes/pregnancy.cfm 800-669-4000</p>
1	Indiana	<p align="center">Pregnancy/Maternity Leave Law http://www.in.gov/icrc/ 800-628-2909</p>
1	Indiana	<p align="center">Senate Enrolled Act 590 (SEA-590) http://www.in.gov/legislative/bills/2011/PDF/SE/SE0590.1.pdf IN Code Sections: I.C. 6-3-1-3.5; I.C. 6-3.1-13-5 (tax penalties) I.C. 22-5-1.7 <i>et seq.</i> (gov. contracts, businesses, unauthorized aliens) I.C. 22-5-6-3 (federal attestation) I.C. 35-44-5 <i>et seq.</i> (offenses relating to illegal aliens)</p>

Number of Employees	State or Federal	Law, Regulation, and Contacts
1	Indiana	<p align="center">Service Letter Law IC 22-6-3 http://www.in.gov/legislative/ic/code/title22/ar6/ch3.html</p>
1	Indiana	<p align="center">Smoking Discrimination Law http://www.in.gov/icrc/ 800-628-2909</p>
1	Federal	<p align="center">Social Security “No-Match” Letters Information U.S. Department of Justice, Civil Rights Division Office of Special Counsel for Immigration-Related Unfair Employment Practices http://www.justice.gov/crt/about/osc 1-800-255-8155 (TDD: 1-800-237-2525)</p>
1*	Indiana	<p align="center">Unemployment Insurance Law http://www.in.gov/dwd/files/Employer_Handbook.pdf * Also payroll threshold</p>
1	Federal	<p align="center">Uniformed Services Employment and Re-Employment Rights Act of 1994 (USERRA) (also referred to as Military Leave) http://www.dol.gov/elaws/vets/userra/userra.asp 866-487-2365</p>
1	Federal	<p align="center">Vietnam Era Veterans’ Readjustment Assistance Act (VEVRAA) http://www.dol.gov/compliance/laws/comp-vevraa.htm 866-487-2365</p>
1	Indiana	<p align="center">Wage Payment Law IC 22-2-5 http://www.in.gov/legislative/ic/code/title22/ar2/ch5.html</p>
1	Indiana	<p align="center">Whistleblower Protection Laws IC 4-15-10 http://www.in.gov/legislative/ic/code/title4/ar15/ch10.html IC 20-12-1 http://www.in.gov/legislative/ic/2004/title20/ar12/ch1.html IC 22-9-2 http://www.in.gov/legislative/ic/code/title22/ar9/ch2.html IC 36-1-8 http://www.in.gov/legislative/ic/code/title36/ar1/ch8.html</p>
100	Federal	<p align="center">Worker Adjustment and Retraining Notification Act of 1989 (WARN) http://www.dol.gov/compliance/laws/comp-warn.htm 877-889-5627</p>
1	Federal & Indiana	<p align="center">Worker Protection Standard (WPS) http://www.epa.gov/pesticides/health/worker.htm 312-886-3572 (EPA for Farms & Agriculture) http://www.isco.purdue.edu/pesticide/index_pest1.html 765-494-1492 (Office of Indiana State Chemist)</p>
1	Indiana	<p align="center">Workers’ Compensation Law http://www.in.gov/wcb/ 317-232-3808</p>

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