



TAX BULLETIN 08-12

Virginia Department of Taxation

December 2, 2008

IMPORTANT INFORMATION REGARDING **VIRGINIA HOUSEHOLD EMPLOYER ANNUAL** **WITHHOLDING**

Legislation enacted during the 2007 General Assembly session created the opportunity for employers of household employees to file payroll and tax reports and pay the unemployment tax required by § 60.2-511 on an annual basis with the Virginia Employment Commission ("VEC"), effective for wages paid on or after January 1, 2009.

In order to qualify for the annual filing, an employer must have a total payroll in each calendar quarter that does not exceed \$5,000, regardless of the number of persons providing the household service. In addition, the employment must consist exclusively of household service in the private home of the employer, as defined in the Federal Employment Tax Regulations.

In order to create uniformity between the requirements imposed on household employers by the VEC and the Virginia Department of Taxation ("TAX"), TAX will allow household employers to elect to file their withholding tax returns on an annual basis. This change will be effective for wages paid on or after January 1, 2009, and the first annual withholding tax return will be due on February 28, 2010.

Household employers who wish to utilize the annual filing must have a federal employment identification number ("FEIN"). An FEIN is a nine digit number issued by the Internal Revenue Service ("IRS"); and is not the same as a social security number. A taxpayer ordinarily will have a FEIN if he has previously paid taxes for employees, either as a household employer or as a sole proprietor of a business that he owns. If a taxpayer already has an FEIN, he should use that number. If the taxpayer does not have an FEIN, he should complete the federal Form SS-4, Application for Employer Identification Number.

HOUSEHOLD EMPLOYERS WHO ELECT TO WITHHOLD INCOME TAXES ANNUALLY

If a Virginia household employer wishes to file and pay the Virginia income tax withheld from their employees' salaries on an annual basis, he must register with TAX. In order to register for annual withholding, the employer must complete and file the Form R-1H, Household Employer Annual Withholding Registration Form, with TAX. This registration may be completed at any time during the year. If the employer changes his address or permanently discontinues using household employees, he must send either a completed Form R-3, Registration Change Request, or a letter to TAX.

Annually, the employer will be required to file a Form VA-6H, the Household Employer's Annual or Final Summary of Virginia Income Tax Withheld Return. This form will also be used to report the payroll amounts for each quarter. If the employer has already filed withholding tax returns related to the applicable time period, any prior payments that were made with those returns will be applied to the new annual filing account, and will be reconciled on the Form VA-6H.

When filing Form VA-6H, it must be accompanied by a Wage and Tax Statement (Form W-2, State copy) for each employee, including those for which no taxes were withheld, that the employer employed during the year. These forms must be filed by February 28th of the year following the calendar year in which taxes were withheld from employees. Therefore, because this change is effective for wages paid on and after January 1, 2009, the first annual payment under this new filing status will be due on February 28, 2010.

The employer must continue to file the annual return until he wishes to permanently close the account (i.e. because the employer moves out of state or the employer has permanently ceased to hire household employees). If the employer wishes to close the account, he must provide notification to TAX. After this notification has been received and TAX also receives the final return by the following February 28th, the account will be closed.

In the event TAX determines that any taxpayer has exceeded the \$5,000 per quarter rule, the taxpayer will be notified by TAX that they no longer qualify for the annual filing and must begin filing according to the applicable filing frequency. The taxpayer will then be required to send a letter to TAX requesting permission to resume annual filing, if he believes that he will qualify in the future.

If an employer fails to file a Household Employer's Annual or Final Summary of Virginia Income Tax Withheld Return by the due date of February 28, penalties and interest will apply in the same manner as for other withholding tax returns.

If you have additional questions, please visit our website at <http://www.tax.virginia.gov> or contact us at (804) 367-8031.