



# Payroll and Worker Documentation Guide to Farming in New York State

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## Employee or Independent Contractor

Hiring labor in the State of New York imposes high liabilities and paperwork burdens on the employer. Because of this, employers may be tempted to classify their workers as independent contractors, but a person is only an independent contractor when they are legitimately an individual in business for themselves and for hire to the general public. If there is any ambiguity on the status of the individual, courts generally interpret the individual as being a worker.

If you would like a decision on if the individual is a worker or an independent contractor, file IRS form SS-8 *Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding*. [www.irs.gov/pub/irs-pdf/fss8.pdf](http://www.irs.gov/pub/irs-pdf/fss8.pdf)

## Hiring Forms

I-9 ([www.uscis.gov/portal/site/uscis](http://www.uscis.gov/portal/site/uscis) - click on “Immigration Forms” at the top and scroll way down to find the I-9) – Employers must keep an I-9 form from the US Citizenship and Immigration Service on file for all employees. The I-9 requires copies of documentation (a drivers license and social security card for most), however, the employer is not required to verify if these documents are valid.

## Payroll Service

Given the complexities and liabilities of properly administering payroll, it is recommended that small employers hire a payroll service from a local accounting firm. Though expensive, this frees the employer from the liabilities of missing a form deadline, improperly handling a payroll withholding account, and avoids the need to stay current with the various labor forms and regulations at both the state and federal level.

## Reference Publications

IRS Publication 51, Agricultural Employers Tax Guide ([www.irs.gov/pub/irs-pdf/p51.pdf](http://www.irs.gov/pub/irs-pdf/p51.pdf)) – Reference publication explaining federal regulations and contains a calendar of when forms need to be filed throughout the year.

NYS Publication 50, Employers Guide to Unemployment Insurance, Wage Reporting, and Withholding Tax ([www.tax.state.ny.us/pdf/2006/wt/nys50\\_506.pdf](http://www.tax.state.ny.us/pdf/2006/wt/nys50_506.pdf)) – State Reference Publication.

## Which Forms to File

Which specific forms your farm is required to file depends upon the farm size and the specifics of your operation. It is recommended that you seek the advice of a payroll specialist and read the two reference publications listed above to determine which forms are required for your operation.

If you decide to do payroll on your own, a list of forms you should become familiar with follows. This is by no means a comprehensive list of the forms your operation needs to be compliant.

(over)



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## Payroll Forms

- *Form SS-4 Application for Employer Identification Number (EIN)* ([www.irs.gov/pub/irs-pdf/fss4.pdf](http://www.irs.gov/pub/irs-pdf/fss4.pdf)) – Your business must obtain an EIN if you have employees or will file for other taxes such as excise taxes.
- *Form NYS-100 New York State Employer Registration for Unemployment Insurance, Withholding, and Wage Reporting* ([www.tax.state.ny.us/pdf/2002/wt/nys100\\_1002.pdf](http://www.tax.state.ny.us/pdf/2002/wt/nys100_1002.pdf)) – To be filed when you become an employer. You will be assigned an Employer Registration Number, which is separate from your federal EIN.
- *W-2* ([www.irs.gov/pub/irs-pdf/fw2.pdf](http://www.irs.gov/pub/irs-pdf/fw2.pdf)) – Form stating wages and withholdings made for an employee throughout the year. A copy is sent to the employee, the Social Security Administration, the IRS, the NYS Department of Taxation, and to county/local governments that have an income tax such as New York City.
- *W-3* ([www.irs.gov/pub/irs-pdf/fw3.pdf](http://www.irs.gov/pub/irs-pdf/fw3.pdf)) – Similar to the W-2, filed with the Social Security Administration
- *W-4* ([www.irs.gov/pub/irs-pdf/fw4.pdf](http://www.irs.gov/pub/irs-pdf/fw4.pdf)) – Form filled out when an employee starts so that their employer knows to withhold the correct amount of taxes.
- *W-5* ([www.irs.gov/pub/irs-pdf/fw5.pdf](http://www.irs.gov/pub/irs-pdf/fw5.pdf)) – Employees eligible for the Earned Income Credit may file this form to get an advance on their credit.
- *Form NYS-45 Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return* ([www.tax.state.ny.us/nyshome/efile\\_addnys45.htm](http://www.tax.state.ny.us/nyshome/efile_addnys45.htm)) – State form to be filed quarterly.
- *Form 940 Employer's Annual Federal Unemployment (FUTA) Tax Return* ([www.irs.gov/pub/irs-pdf/f940.pdf](http://www.irs.gov/pub/irs-pdf/f940.pdf)) - Required if you had cash wages greater than \$20,000 or employed 10 or more workers throughout the day for 20 or more weeks in the year.
- *Form 941 Employers Quarterly Federal Tax Return* ([www.irs.gov/pub/irs-pdf/f941.pdf](http://www.irs.gov/pub/irs-pdf/f941.pdf)) – Required to report wages paid, tips received, federal taxes withheld, Social Security and Medicare withholding, and advance EIC payments for non-farm workers.
- *Form 943 Employers Annual Federal Tax Return for Agricultural Employees* ([www.irs.gov/pub/irs-pdf/f943.pdf](http://www.irs.gov/pub/irs-pdf/f943.pdf)) – Form 941 for farms.
- *Form 1099* (instructions [www.irs.gov/pub/irs-pdf/i1099msc.pdf](http://www.irs.gov/pub/irs-pdf/i1099msc.pdf)) – Must be furnished to people who received \$600 or more in non-employee compensation throughout the year.
- *Form 945 Annual Return of Federal Income Tax Withheld* ([www.irs.gov/pub/irs-pdf/f945.pdf](http://www.irs.gov/pub/irs-pdf/f945.pdf)) – Used to report income tax withheld for non-payroll wages.
- *Form 4029 Application for Exemption From Social Security and Medicare Taxes and Waiver of Benefit* ([www.irs.gov/pub/irs-pdf/f4029.pdf](http://www.irs.gov/pub/irs-pdf/f4029.pdf)) – Certain members of religious organizations (generally Amish or Mennonite in agriculture) may file this form to exempt themselves (and their employer) from Social Security and Medicare taxes.

