

A Checklist for Agricultural Employers in Kansas

Department of Agricultural Economics — www.agmanager.info



Kansas State University Agricultural Experiment Station and Cooperative Extension Service

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Using This Employer Checklist

This checklist is intended to make agricultural employers in Kansas aware of some of the regulations and requirements that apply to them. It should **not** be considered to be an inclusive list of everything an employer must do to comply with state and federal laws. It will become outdated. Employers should consult qualified professionals and officials in the various state and federal offices to which these and other requirements apply before making decisions and/or taking action.

Section I – Before Hiring, Employers Must

Decide if the worker is an Independent Contractor or Employee

- Many laws and requirements, with which an employer must comply, will vary significantly if the worker in question is an employee or an independent contractor hired to perform a specified job. This distinction is a question of fact and will vary case-by-case. Some areas that generally apply to employees, as opposed to contract laborers, are workers' compensation, social security, and applicable unemployment insurance, as well as federal income tax withholding and state income tax. Employers will be responsible for these items for their employees but not independent contractors.
- See IRS Publication - www.irs.gov/businesses/small/article/0,,id=99921,00.html for more assistance.

Get FEIN (Federal Employer Identification Number)

- Contact the IRS (www.irs.gov) and obtain IRS Form SS-4
- Complete this form according to its instructions in order to obtain a nine-digit FEIN
- Once this form is processed by the IRS you will receive preprinted deposit slips that will allow you to begin making Social Security and Federal Tax Withholding deposits through your local bank.

Complete the Kansas “New Hire” Report

- The Kansas Department of Labor has kept the Kansas new hire database since 1997.
- Within 20 days of hiring or rehiring an employee, you must mail the new employee's W-4 form to
NEW HIRE DIRECTORY
PO Box 3510
Topeka, KS 66601-35010

Fax (888) 219-7798

For more information, call (888) 219-7801

Register with the Kansas Department of Revenue to withhold Kansas income tax from wages

- Obtain Publication KS-1216, “Kansas Business Tax Application” by calling (785) 296-4937 or by visiting the Kansas Department of Revenue Web site (www.ksrevenue.org).
- Complete Form CR-16.
- Apply at least 4 weeks before you begin making payments subject to Kansas withholding tax.

Complete W-4, Federal Employee's Withholding Exemption Form

- Federal IRS form W-4 must be completed by each employee and kept on file by the employer. This will determine the appropriate level of federal income tax to be withheld from earnings. Kansas does not have a separate withholding form, so the W-4 should also be used for state withholding purposes.
- For more information, contact the Kansas Department of Revenue, (877) 526-7738

- If you are hiring children** under the age of 18, contact the Kansas Employment Standards office, (785) 296-4062, for information regarding the Kansas Child Labor and other laws governing the employment of minors in Kansas to learn what forms and procedures are required of your circumstance.

- ❑ **Workers' Compensation Insurance** is optional for Kansas employers involved in agricultural pursuits. Please note that "agricultural pursuits" is not clearly defined and employers should contact the Kansas Department of Labor to discuss their particular operations. In addition, there are many benefits to carrying workers' compensation insurance even though it is not required for agricultural producers within Kansas. Contact the Division of Workers Compensation within the Kansas Department of Labor at www.dol.ks.gov or (800) 332-0353 (ask for the ombudsman section) to learn about these benefits or get more information.
- ❑ **Provide worker information**, Terms and Conditions of Employment (disclosure):
 - For employers subject to Migrant and Seasonal Agricultural Worker Protection Act
- ❑ **Develop and implement a hiring process** that does not illegally discriminate against job applicants
 - All recruitment and selection processes should revolve around an applicant's ability to perform the tasks associated with the position.
 - Interview questions, position advertisements, and other recruitment and selection tools that refer to a person's race, color, religion, national origin, sex, age, or disability should not be permitted.
- ❑ **Display posters and required information**
 - Federal and Kansas state law require that certain posters be displayed in the work place.
 - You may order these posters by writing to or calling the Department of Labor at: Kansas Department of Labor, Employment Standards, 401 SW Topeka Blvd., Topeka, KS 66603-3182

(785) 296-4062.
 - Visit www.dol.ks.gov for more information or to download and print posters at no cost.
- ❑ **Abide by the minimum wage law** (the FLSA), which applies to employees of enterprises that do at least \$500,000 in business a year. It also applies to employees of smaller firms if the employees are engaged in interstate commerce or in the production of goods for commerce. It also applies to employees of federal, state or local government agencies; hospitals; schools; and it generally applies to domestic workers. Some exemptions do apply.
 - **Call 1-866-4-USWAGE** (1-866-487-9243) for a printed copy of the *Handy Reference Guide to the Fair Labor Standards Act* that explains how the law applies. This guide is also available at www.osha.gov/pls/epub/owa_pub.pub_form. You may also receive more information at www.wagehour.dol.gov.
- ❑ **Follow state and federal withholding guidelines** for Social Security/OASDI, Medicare, and State and Federal Income tax.
 - Many factors such as frequency and due dates of Kansas withholding tax will depend on the size of your payroll.
 - To obtain a copy of the Kansas Withholding Tax Guide, call (785) 368-8222 or visit www.ksrevenue.org
- ❑ **Deposit employer and employee's share of state and federal withholdings** using forms provided by IRS and Kansas Department of Revenue. Forms are available at www.irs.gov.
- ❑ **Withhold Federal Income Tax (FITW)**, using the tax table in Circular E, Publication 15, available at www.irs.gov/pub/irs-pdf/p15.pdf
- ❑ **Maintain withholding records for at least 3 years** after the date the withholding tax was due, or the date paid, whichever is later. The following must be included: name, current address, and Social Security number of each employee or payee, including:
 - Period(s) of employment
 - All compensation amounts paid by pay period
 - Date(s) and amount(s) of all tax withheld
 - Copies of returns filed with the Department of Revenue (KS-5, KW-3, W-2, K-19, KW-7S, KW-7 and KW-7A, 1096, and 1099)
 - Federal Form W-4 (W-4P, W-4S, W-4, etc.) for each employee/payee and any written requests for additional withholding
 - Consult IRS Publication 15 for federal record keeping requirements.

Section II – After Hiring, Employers Must:

- ❑ **Complete I-9 Form** (Employment Eligibility and Identify Verification) after hiring and by third day of work. Employer is required to keep this document on file 3 years after the date of hire or for 1 year after employment is terminated, whichever is later.

- Make Workers' Compensation payments** if you are opting to carry Workers' Compensation Insurance.
- Report work-related fatalities and catastrophes** (when three or more are hospitalized) to the Wichita office of Occupational Safety and Health Administration ((800) 362-2896) or the national office (800) 321-OSHA (6742).
- Know what Occupational Safety and Health standards apply** and abide by those standards.
 - visit www.osha.gov for more information
 - OSHA offers a free and confidential consultation service, which will help employers to navigate this very tricky area of human resource management. Call (800) 362-2896 for more information.
- Pay Kansas and Federal Unemployment**, if liable.
 - Agricultural employers are liable for Kansas and Federal unemployment if gross payroll in the business exceeds \$20,000 in a calendar quarter, or if they employ 10 or more workers during any 20 weeks in a calendar year.
 - Federal: Contact your tax professional or refer to IRS Pub. 51 (Circular A), the Agricultural Employer's Tax Guide
 - Kansas: Call 785-296-5027 to be referred to your local Unemployment Tax Office. Throughout the year, you will be required to complete a number of forms. Please contact an unemployment tax professional for assistance. Status report #K-CNS-010 may be found online at www.dol.ks.gov.

Section III – During Employment, Employers Must Provide to Employees

- 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.

Section IV – Annually, Employers Must Complete

- IRS Form W-3** – Transmittal of all W-2 forms, due by February 28.
- IRS Form 940** – Employer's Annual Federal Unemployment Tax Return, due by January 31.
- IRS Form 943** – Summarizing all agricultural wages and Federal/SS deposits, due by January 31.

- KW-3** – Kansas Annual Report, due February 28 of following year with a copy of W-2s issued, even if no withholdings.
- OSHA Form 300A** – if you employ 11 or more employees, you must file this Summary of Work Related Injuries and Illnesses. It must be posted in a conspicuous place February to April for the prior calendar year's injuries and illnesses.

Section V – References

Forms and Publications - Web sites and phone numbers are subject to change.

- Internal Revenue Service**, (800) 829-3676 or www.irs.gov/formspubs/
 - **IRS Publication 51** – Circular A, Agricultural Employer's Tax Guide
 - **IRS Publication 15** – Circular E, 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 Federal 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
 - **Form 8109B** – Federal Tax Deposit Coupon (for informational use only)
- Kansas Department of Revenue**, www.ksrevenue.org, or (877) 526-7738
- Kansas New Hire Reporting Center**, (888) 219-7801
- U.S. Citizenship and Immigration Services**, (800) 375-5283 or www.uscis.gov
 - **Form I-9** – Employment Eligibility Verification
- Kansas Bureau of Workers' Compensation**, (800) 332-0353
- Kansas Office of Unemployment**, (800) 292-6333
- Kansas Employment Standards office**, (785) 296-4062

- ❑ **U.S. Department of Labor**, (866) 4-USWAGE or www.dol.gov/
 - Optional form WH-516 (English) or WH-516 (Spanish) - You may also create your own disclosure notice.
- ❑ Occupational Safety and Health Administration, (800) 321-OSHA or www.osha.gov/
- ❑ Equal Employment Opportunity Commission, (800) 669-4000 or www.eeoc.gov/
- ❑ **Ohio Agricultural and Horticultural Employer Checklist** www.midamservices.org (click on “Quick Ref” & “Checklists”) Compiled August 2004 by John Wargowsky, Executive Director of Mid American Ag and Hort Services, Inc. Funding was provided by the Ohio State University Extension Ag and Hort Labor Education Program.
- ❑ **Kansas Department of Labor Unemployment Insurance Handbook**, 2004-2005 State of Kansas, Division of Employment Security
Department of Labor
410 S.W. Topeka Blvd
Topeka, KS 66603-3182

www.dol.ks.gov/
- ❑ **Kansas Withholding Tax Guide**, form number KW-100
Kansas Department of Revenue
www.ksrevenue.org
Kansas Taxpayer Assistance Center
Docking State Office Building
915 SW Harrison Street, First Floor
Topeka, KS 66612-1585
(785) 368-8222

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