

# The Legal Review

Sharing Case Law that Affects the Household Employment Industry

A Complimentary Resource from  
**Breedlove & Associates**

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*In an effort to help you strengthen your business practices and steer clear of legal trouble, The Legal Review will share findings from relevant legal cases. We've found that the easiest way to gain a practical understanding of complex tax and labor law is by reviewing real-life situations. These stories will illuminate potential legal landmines for your agency and/or your clients, and more importantly, show you how to avoid them.*

## **Many families wrongly assume that all accountants are experts in household employment tax law.**

*While personal tax accountants provide invaluable guidance in many areas of tax law, most are not experts in the highly-specialized world of household employment tax law – they simply don't handle enough cases to learn all the requirements, exemptions and unique nuances.*

### **The Mistake**

A family utilized the income tax services of Ernst & Young (E&Y). Upon becoming household employers, the family turned to their trusted tax professional to take care of their household employment tax responsibilities. Even though they had little experience in this area of the tax law, E&Y wanted to be a comprehensive solution for their client and, therefore, agreed to handle it for an additional fee.

The following mistakes were made:

- E&Y established a federal household employment tax account for the family, but failed to establish a state tax account.
- E&Y did not offer assistance in calculating tax withholdings each pay period. The family was not familiar with this process and withheld the incorrect amount of taxes from their nanny's pay throughout the year.
- E&Y did not prepare, file and remit payment of state household employment taxes. They were unaware of this requirement.
- E&Y prepared, filed and ensured the family remitted the federal household employment taxes. However, federal unemployment taxes assessed on the employer were calculated incorrectly.

### **The Law**

The household employment tax compliance process is as follows:

- Obtain federal and state household employment tax accounts
- Complete and file New Hire Report
- Calculate the correct amount of federal and state taxes to withhold each pay period
- Manage payroll each pay period, tracking gross pay, net pay, federal taxes withheld and state taxes withheld
- Budget for and track taxes assessed on the employer
- Prepare state tax returns quarterly and remit both employer and employee taxes

- Prepare federal tax filings four times per year and remit estimated employer and employee taxes
- Prepare year-end tax documents (Form W-2, Form W-3, Schedule H, and State Annual Reconciliation)
- Respond to IRS and state notices/requests/inquiries
- Monitor ever-changing household employment tax and labor law

### **The Mess**

Approximately a year after the federal household employment tax filing, the family began to receive notification of error from the IRS. In addition, they began receiving penalty and interest notifications from their state for failure to file and pay state household employment tax returns and payments. The consequences of these mistakes totaled several thousand dollars. E&Y was not sure how to fix the problem, nor did they assume responsibility for the associated penalties.

### **The Outcome**

- At the recommendation of their placement agency, the family contacted Breedlove & Associates to seek resolution to their tax compliance nightmare.
- We resolved the nightmare, but the family ended up paying about \$2,500 more than they would have if they had hired an expert service like ours at the outset.
- Although E&Y did a great job in all other areas of the family's tax world, the family fired E&Y over the mishandling of their household employment taxes.

### **How the Whole Thing Could Have Been Avoided**

Many families are learning that this area of tax law is too specialized for their general tax professional to handle expertly. Like a general practitioner in the medical world, accountants cannot be expected to effectively prevent, diagnose, treat – and generally manage – all aspects of financial health. Household employment is a specialized field and is usually best served by a specialist. If your clients are looking to their personal tax accountant for assistance, they should ask a lot of questions and proceed with caution. (In addition, families need to be aware that accountants do not typically help with payroll and labor law issues). For all these reasons, most families are better served finding a household employment expert who can handle all the paperwork accurately and efficiently – while also helping them steer clear of all the potentially-expensive HR landmines.

*To help your clients understand the tax compliance process, we have developed a simple educational flyer entitled "Tax Law 101." The flyer can be downloaded from <http://www.breedlove-online.com/partners/library-of-educational-literature-helpful-tools> along with our other helpful resources. Or feel free to invite your clients to call us for a complimentary, no-obligation phone consultation. In about 10 minutes, we can assess their situation, provide expert guidance and answer all their questions -- so they can make an informed decision.*

*If you would like hard copies of our "Tax Law 101" flyer, just send an email to [info@breedlove-online.com](mailto:info@breedlove-online.com).*

**If you have additional questions, please call 888-BREEDLOVE (273-3356) or visit [www.breedlove-online.com](http://www.breedlove-online.com). We're here to help our agency partners provide their candidates and clients with information, tools and resources that improve the employment relationship, eliminate legal risk for all parties, and increase the professionalism of the industry.**

