

The Legal Review

Bringing the Law to Life for the Household Employment Industry

A Complimentary Resource from
Breedlove & Associates

© 2007-2009 Breedlove & Associates, LLC.

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.

Structuring Employment Agreements: How to Optimize Savings for Families and Employees

Every business owner desires to create a loyal clientele who loves the service so much they tell all their friends. Successful businesses do that by continually finding ways to give clients more value than they can get anywhere else. Of course, "value" is in the eye of the beholder and can be delivered in a variety of forms, such as above-and-beyond services, time-saving conveniences, money-saving advice, extraordinary hustle and personal attention.

In this edition of **The Legal Review**, we'll highlight how an agency created tremendous value – and referrals – by using a little hustle and knowledge to help save a family about \$3,250 a year and their nanny about \$1,400 a year.

The Situation

The Stewarts decided to hire a full-time nanny to take care of their 2 children. Prepared to pay \$650 per week in gross wages, the Stewarts posted an ad on a local online job site.

After finding a suitable candidate, the family and nanny agreed to a "straight" salary of \$650 gross per week. Unfortunately, for a variety of reasons, the relationship terminated within a few months and the family was back in search mode. This time, however, they retained the services of a professional placement agency.

Based on the same \$650 per week budget, the agency found a candidate who was a perfect fit for their family. The family was thrilled with the nanny – and with the prospect of once again having a stable, loving environment for their kids.

Then the agency went the extra mile. The counselor asked some insightful questions and found out that the nanny would take the subway to and from work and continue to take classes in the evenings in pursuit of a degree in early childhood development. Finally, in a conversation about health care, she learned that the nanny had recently purchased a health insurance policy.

Based on this information, the counselor showed the family and the nanny how both parties could save money if the employment agreement was structured strategically.

The Law

Household employers can offer the following five benefits as non-taxable compensation – meaning neither the family nor the nanny would be required to pay any taxes on that portion of the compensation package.

- **Health Care** – Employers can pay for part or all of the employee's health insurance premium through a state-licensed insurance provider.

The Law (Cont.)

- **Education** – Employers can pay up to \$5,250 per year toward tuition and textbooks if the employee attends an accredited college/university.
- **Mass Transit** – Employers can pay up to \$115 per month for mass transit (bus, rail or ferry).
- **Mileage Reimbursements** – Miles driven “on the job” (commuter miles to and from work are not included) can be paid to the employee at the IRS mileage reimbursement rate, which is currently 55¢ per mile. This rate covers the cost of gas as well as wear and tear on the employee’s automobile. (Note: if the employer reimburses at a rate greater than the IRS rate, the excess is considered taxable compensation).
- **Parking** – Employers can pay part or all of any parking fees required to perform the job (including parking fees at a location from which your employee commutes using mass transit).

The Outcome

Instead of a “straight” salary of \$650 per week, the counselor called Breedlove & Associates for assistance in structuring the agreement. The payroll was established as follows:

Total Compensation	\$650/wk
Health Insurance Reimbursement	\$48/wk (Non-Taxable)
Educational Expense Reimbursement	\$82/wk (Non-Taxable)
Mass Transportation Reimbursement	\$20/wk (Non-Taxable)
Taxable Wages	\$500/wk

As a result of this strategic payroll structuring, the taxable wages were reduced by \$7,800 per year – saving the family about \$750 per year in employer taxes and the employee about \$1,400 per year in FICA taxes (social security & medicare) and income taxes.

The counselor then showed the Stewarts how to take advantage of additional tax breaks on childcare expenses. Since they had access to a Flexible Spending Account and 2 dependents, this guidance saved the family an additional \$2,500 per year.

The Stewarts were ecstatic at the approximately \$3,250 in tax savings generated by their financially-savvy counselor. Recognizing that the first-year savings alone almost completely covered the agency’s placement fee, the Stewarts feel like they got the deal of the century and wonder why they ever tried to hire on their own. The family claims to “tell everyone who’ll listen” about the extraordinary efforts of the agency.

It’s a textbook case of adding value without adding costs. A few minutes of complimentary tax education and a few minutes of hustle created extraordinary value in the eyes of the Stewarts and their nanny.

We can help your agency be a money-saving hero to your families and candidates simply by structuring your employment agreements using tax minimization strategies. For more information about our complimentary consultation services – and how you can use them to your competitive advantage – call 888-BREEDLOVE (273-3356). We’re here to help.



Tax & Payroll Services for Household Employers