

How to Handle Requests for Your Tax ID

A Complimentary Resource from
Breedlove & Associates

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Many families ask for their agency's "Tax ID" (they may refer to it as an "Employer Identification Number" or "EIN"). Until this year, the answer was always a simple "no" because families were not allowed to apply agency fees toward their childcare tax breaks.

Now the answer is not quite so simple. New tax laws allow families to include placement agency fees as a qualified childcare expense. This is good news since it will save money for some families, reducing the overall cost of childcare. However, despite this new law, the vast majority of families should use their own EIN to get their childcare tax breaks. Here's a quick refresher on the subject and some advice on how to safely handle these requests.

Why is an EIN required when taking a tax break?

There are two situations in which an EIN is needed:

1. Families are allowed to take the childcare tax credit on their federal tax returns, or to utilize dependent care accounts (also known as a "flexible spending account") administered by their companies. When taking these tax breaks, the **employer's** EIN must be provided. In permanent and temporary placements, the caregiver does not work for the agency that placed her – she works for the family that employs her. Therefore, all wages should be applied to the **family's** – not the agency's – EIN.
2. In late 2007 the IRS ruled that families can count agency placement fees as a childcare expense. However, in most cases, itemizing a placement fee is of no benefit because the nanny's wages already exceed the childcare expense limit.

The exception: For some temp placements (and permanent placements made very late in the tax year, i.e. November or December), the wages will fall below the expense limit. In those cases, the agency's placement fee MAY create a tax benefit for the family.

The following types of expenses can be applied to the childcare tax breaks:

- A nanny's gross salary (not net)
- All employer taxes (over and above the gross salary)
- Fees paid to a daycare, preschool or day camp (overnight camps do not qualify)
- Fees paid to a placement agency

Should placement agencies provide their EIN to clients?

Our advice is NOT to give out your EIN unless you are absolutely sure it is only being used to itemize your placement fee. If your EIN is erroneously applied to a nanny's wages, your agency will be viewed as the employer and you will have a paperwork mess and considerable liability.

For maximum protection, we advise a three-step approach:

1. Ask the employer if they filed state and federal employment tax returns on the nanny. If they did, they should have a Household Employer EIN (and, therefore, do not need yours). If they did not file state and federal employment tax returns, they are not in compliance with employment law and, therefore, cannot itemize employment-related expenses.
2. For those who have paid legally and still want your EIN, we advise you to try to analyze their employment situation. If they've exceeded the expense limit in wages (\$3,000 for one child; \$6,000 for two or more children) itemizing your placement fee will have no tax benefit. If they had a temp(s) or hired late in the year, they may be below the expense limit and able to deduct your placement fee.
3. For those who have paid legally AND fall below the expense limit, it's probably safe to provide your tax ID. However, to avoid misapplication of your EIN, we recommend requesting a copy of your client's completed Form 2441 (the form upon which your Tax ID will be applied). Make sure only agency fees are tied to your Tax ID. Do not under any circumstances let them tie your EIN to the nanny's wages!

It takes a little effort to fend off clients – and even CPAs – who are prone to misapply your Tax ID. But it's worth your trouble. Protecting your EIN will save you lots of time and money down the road. The old adage "an ounce of prevention is worth a pound of cure" definitely applies here.

**If you have any questions, please don't hesitate to call us
at 1-888-BREEDLOVE (273-3356). We're here to help.**



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