

# IRS Provides Tips for Proper Employment Tax Treatment of Part-Time or Seasonal Workers

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For many businesses, summer traditionally brings an influx of part time or seasonal workers into the work force. Employers must ensure they are treating these workers properly for employment tax purposes.

Generally, workers are either employees or independent contractors, based upon the facts and circumstances of the relationship between the business and the worker.

**For federal income tax withholding, Social Security, Medicare, and federal unemployment tax purposes, neither the number of hours worked nor amount earned alone determines the status of an individual as independent contractor or employee. For example, an individual can be an employee even though the individual works one hour a week or one day a year.**

Furthermore, businesses must remember that part-time or seasonal workers who are employees are subject to the same tax withholding rules that apply to other employees.

Businesses often need to hire workers on a seasonal or part-time basis. For example, some businesses may need seasonal help for sporting events, holidays, and commercial fishing or harvest seasons. Whether you are getting paid or paying someone else, questions often arise over the tax treatment of payments for part-time and seasonal help.

Part-time and seasonal employees are subject to the same tax withholding rules that apply to other employees. For additional information on your tax responsibility as an employer, refer to our section on businesses with employees. These rules are also explained in IRS Publication 15, Circular E, Employer's Tax Guide

If you employ farm workers, follow the rules in IRS Publication 51, Circular A, Agricultural Employer's Tax Guide.

## **Seasonal Employer Tips for Filing Form 941:**

Seasonal employers do not have to file a Form 941 for quarters in which they have no tax liability because they have paid no wages. To tell the IRS that you will not file a return for one or more quarters during the year, check the box on line 19 every quarter you file Form 941.

The preprinted label for your Form 941 will not include the date the quarter ended. You must enter that yourself when you file the return. Generally, the IRS will not inquire about unfiled returns if at least one taxable return is filed each year. However, you must check the "Seasonal Employer" box on every Form 941 you file.

## **CELL PHONE RULES UPDATE**

Statement of IRS Commissioner Doug Shulman -- IRS -- June 16, 2009

This month, the Internal Revenue Service asked for comments on ways to simplify compliance with rules related to employer-provided cellular telephones. The current law, which has been on the books for many years, is burdensome, poorly understood by taxpayers, and difficult for the IRS to administer consistently. Some have incorrectly implied that the IRS is "cracking down" on employee use of employer-provided cell phones. To the contrary, the IRS is attempting to simplify the rules and eliminate uncertainty for businesses and individuals.

Although some of the proposed changes would add clarity, the current law will inevitably leave widespread confusion among employees and businesses. Therefore, Secretary Geithner and I ask that Congress act to make clear that there will be no tax consequence to employers or employees for personal use of work-related devices such as cell phones provided by employers. The passage of time, advances in technology, and the nature of communication in the modern workplace have rendered this law obsolete.