

# AM I REALLY A HOUSEHOLD EMPLOYER?

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# WHO IS A HOUSEHOLD EMPLOYER AND WHAT IS CONSIDERED A HOUSEHOLD?

A household employer is someone who has paid \$750 or more in cash wages to one or more household workers in a calendar quarter, pursuant to section 684 of the California Unemployment Insurance Code (CUIC).

Household employment may occur in a variety of settings, such as a:

- Private home
- Apartment
- Boat or mobile home
- Summer or winter home
- Condominium
- Local college club
- Local chapter of a college fraternity or sorority
- Hotel room (when the worker is employed by you, not the hotel)





# WHO IS A HOUSEHOLD EMPLOYEE?

- Au Pairs
- Baby-Sitters\*
- Butlers
- Caretakers
- Chauffeurs
- Cooks\*
- Crews of private yachts
- Gardeners\*
- Governesses/Governors
- Home health care workers
- Housekeepers
- Janitors
- Laundry workers
- Maids
- Pilots of private airplanes for family use
- Pool maintenance persons\*
- Valets
- Waiters/Waitresses

A worker who performs childcare services for you in their home is generally not your employee  
Cooks- unless employed by a catering service  
Unless employed by a gardening service  
Unless employed by a pool maintenance service.



# WHO IS NOT A HOUSEHOLD EMPLOYEE?

- Carpenters
- Electricians
- Private Librarians
- Private Musicians
- Nurses leased from a nursing registry
- Painters
- Plumbers
- Private secretaries
- Private Tutors
- Workers leased from an employee leasing service
- Workers provided by independent businesses (e.g., a janitorial service, catering service, gardening service, or pool maintenance service)

## ● WHAT IS THE THRESHOLD FOR REPORTING AN EMPLOYEE TO THE EDD?

If you are a household employer you must report when you employ one or more people and pay cash wages of \$750 or more in a calendar quarter. Cash wages include both checks and cash. Do not include noncash wages, such as meals and lodging, when calculating if you have reached \$750 in cash wages.

- You must register with the EDD within 15 days after paying \$750 in total cash wages.



# HOUSEHOLD EMPLOYER TYPES



## Annual

- Reports wages quarterly and pays taxes annually.
- Pays household wages of \$20,000 or less annually and chooses to be an annual household employer.

## Quarterly

- Reports wages quarterly and pays taxes quarterly.
- Pays household wages that exceed \$20,000 annually or pays household wages of \$20,000 or less annually and does not choose to be an annual household employer.

# PAYROLL TAXES FOR HOUSEHOLD EMPLOYERS

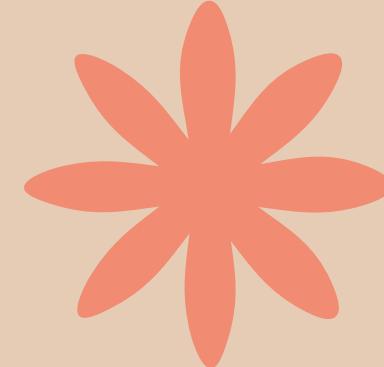
The amount of wages you pay in a calendar quarter will determine the payroll taxes you are required to withhold and pay.

If You Pay (in a Quarter)	Then
\$750 to \$999.99*	<b>Withhold State Disability Insurance (SDI).</b>
\$1,000 or more**	<b>Withhold SDI. In addition, pay Unemployment Insurance (UI) and Employment Training Tax (ETT).</b>

\*If wages are below \$750 in a following quarter, you must continue to withhold SDI from your employees' wages through the rest of the current year and through the following calendar year.

\*\*If wages are below \$1,000 in a following quarter, you must continue to withhold SDI from your employees' wages and pay UI and ETT through the rest of the current year and through the following calendar year.

Household employers are not required to withhold Personal Income Tax (PIT); however, they are required to report PIT wages for each household employee. If a household employee wishes to have PIT withheld from his or her wages and you agree to withhold it, you need to report and send the PIT withheld to the EDD.



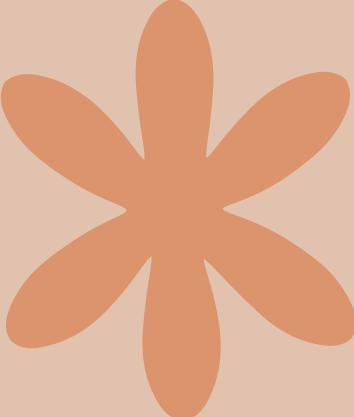
# WHAT ARE THE REQUIRED FILINGS?

All employers are required to electronically submit employment tax returns, wage reports, and payroll tax deposits to the EDD.

For quarterly reporters, they must file a Quarterly Contribution Return and Report of Wages (DE 9) and Quarterly Contribution Return and Report of Wages (Continuation) (DE 9C) each quarter and submit payroll tax deposits electronically.

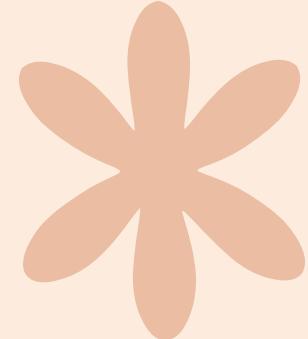
Annual household employers are required to file an Employer of Household Worker(s) Quarterly Report of Wages and Withholding (DE 3BHW) each quarter and an Employer of Household Worker(s) Annual Payroll Tax Return (DE 3HW) annually.





# BUT MY WORKER DOESN'T WANT TO BE REPORTED

## HOW CAN I GET CAUGHT?



1

If you fire your worker and they file a claim for unemployment with the EDD, you can be audited for not having reported them as an employee

2

If they get hurt on the job and file for SDI, you can be audited

3

If you have a dispute about wages, the worker can file a claim with the Labor Commissioner or in civil court

4

For undocumented workers, the Department of Immigration and Customs Enforcement can do a spot check

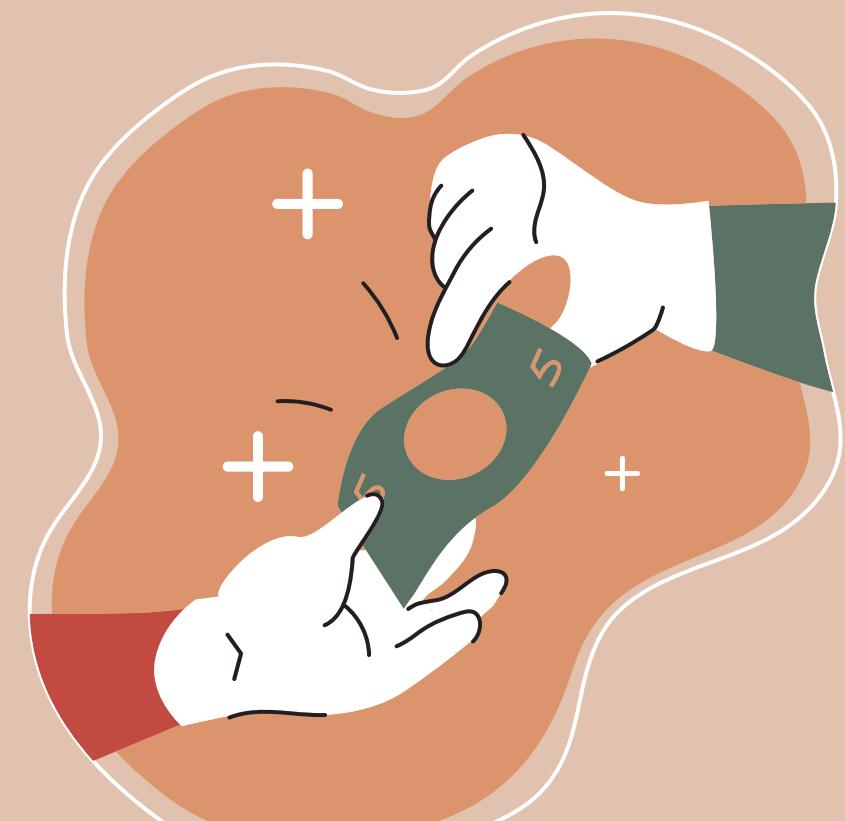


# WHAT ARE WAGES?

**Wages are all compensation for an employee's personal services, whether paid by check, cash, electronic debit, zelle, venmo, paypal or the reasonable cash value of noncash payments such as meals and lodging. The method of payment, whether by private agreement, consent, or mandate, does not change your obligation to pay taxes.**

**Payments are considered wages even if the employee is a casual worker, a day or contract laborer, part-time or temporary worker, or paid by the day, hour, or any other method or measurement. In addition, how employees are paid does not change the employer's responsibility for payroll taxes.**

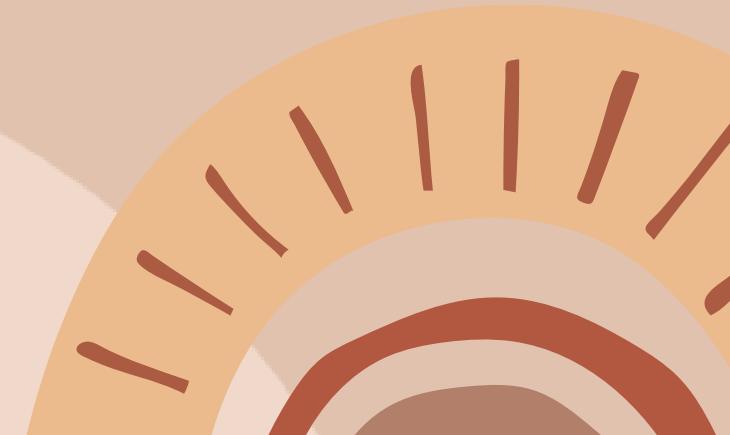
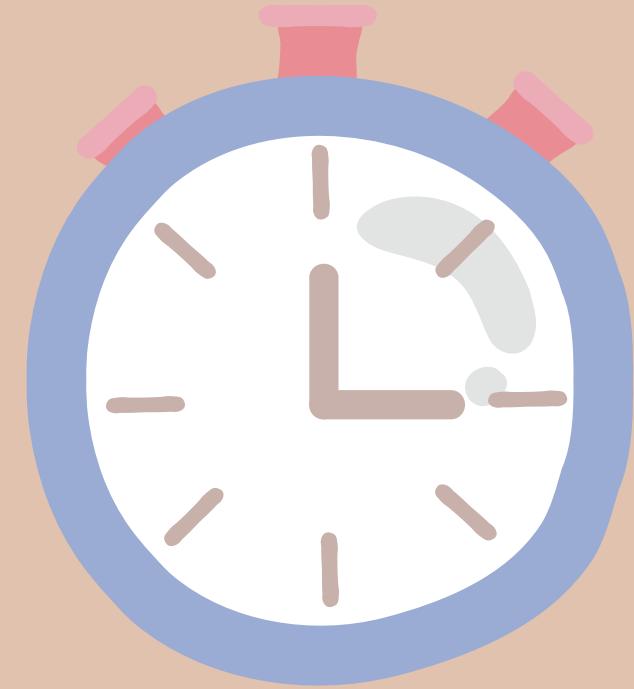
**Bonuses, overtime pay, commissions, and vacation pay count too!**



# WHAT PAYROLL RECORDS MUST BE KEPT?

Household employers must keep payroll records for four years. This is because the statute of limitations for wage and hour laws can go back four years!

- Full name (first name, middle initial, and last name)
- Social Security number
- Date hired, rehired, or returned to work after a temporary layoff
- Last date services were performed
- Place of work
- Money paid:
  - Dates and amounts of payment.
  - Pay period covered.
  - Cash or cash value of in-kind wages (such as meals, lodging, bonuses, and gifts).
- The amounts withheld from employee wages
- Disbursement records showing payments to workers
- Other information necessary to determine payments to workers



# I'M AN EMPLOYER NOW WHAT?

- Proper Onboarding
- Recording Time
- Reporting to EDD
- Knowing Which Wage and Hour Regulations Apply to You
- Have worker's compensation insurance!



# ONBOARDING

**Offer Letter**

**2810.5**

**Pamphlets from EDD**

**Sexual Harassment Policy**

**Separate Lodging  
Agreement for Live-In**

# DOMESTIC WORKER VS. PERSONAL ATTENDANT

**Who is a domestic worker under the Domestic Worker Bill of Rights?**

**You are a domestic worker if you provide services related to the care of people in the home or maintain private households or their premises. Domestic workers include nannies, childcare providers, caregivers and personal attendants, housekeepers, cooks, and other household workers.**



# WHO IS A PERSONAL ATTENDANT UNDER THIS LAW?

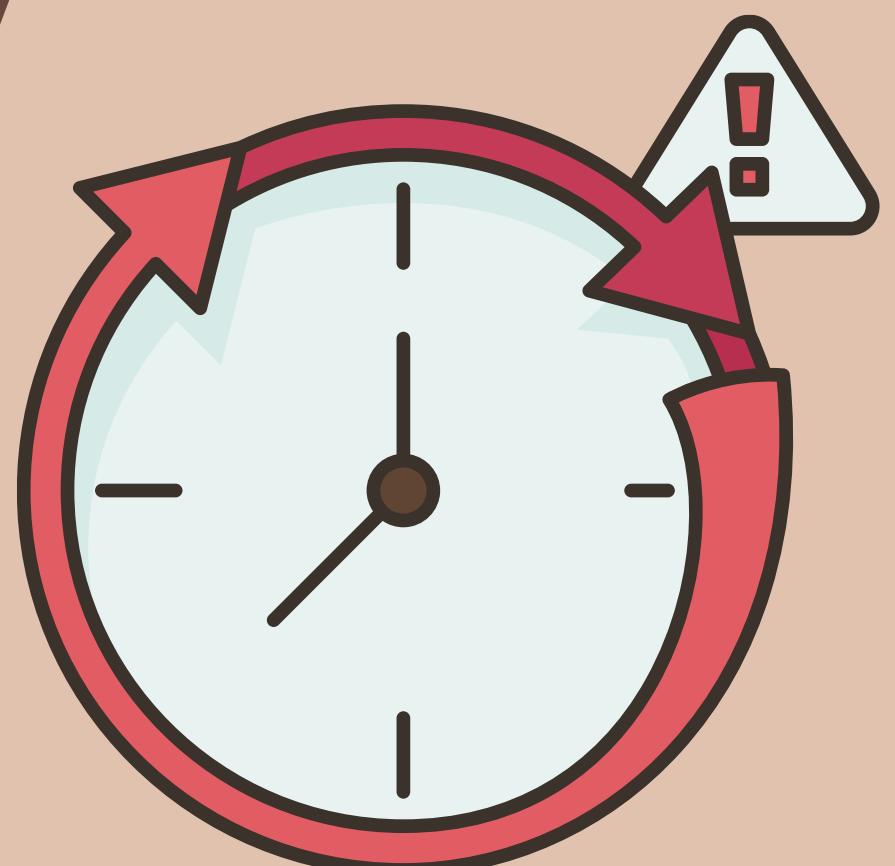


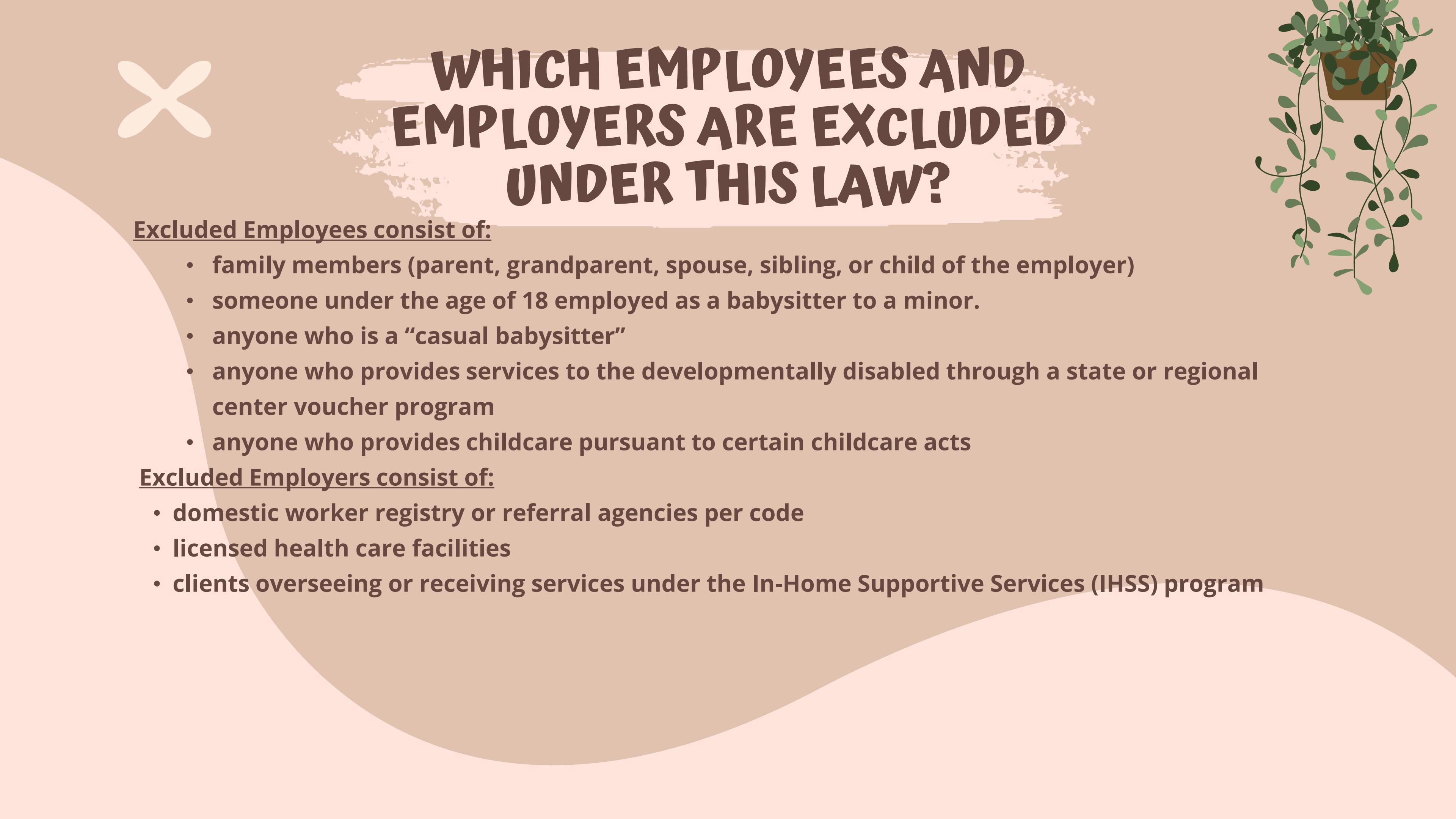
A personal attendant is someone employed by a private householder or any third party employer recognized in the health care industry to work in a private household. Duties of a personal attendant include supervising, feeding, and dressing a child or person who needs assistance due to advanced age, physical disability, or mental deficiency.

If a domestic worker spends more than 20 percent of his or her time performing work other than supervising, feeding, and dressing a child or person who needs supervision, he or she is not considered a personal attendant.

# IF YOU HIRE A PERSONAL ATTENDANT, WHAT ARE THE OVERTIME RULES?

Personal attendants are entitled to overtime (1.5 x regular rate of pay) for any hours worked over nine (9) hours per day or over 45 hours per week, unless they are excluded employees or the employer is excluded under the Domestic Worker Bill of Rights.





# WHICH EMPLOYEES AND EMPLOYERS ARE EXCLUDED UNDER THIS LAW?

## Excluded Employees consist of:

- family members (parent, grandparent, spouse, sibling, or child of the employer)
- someone under the age of 18 employed as a babysitter to a minor.
- anyone who is a “casual babysitter”
- anyone who provides services to the developmentally disabled through a state or regional center voucher program
- anyone who provides childcare pursuant to certain childcare acts

## Excluded Employers consist of:

- domestic worker registry or referral agencies per code
- licensed health care facilities
- clients overseeing or receiving services under the In-Home Supportive Services (IHSS) program

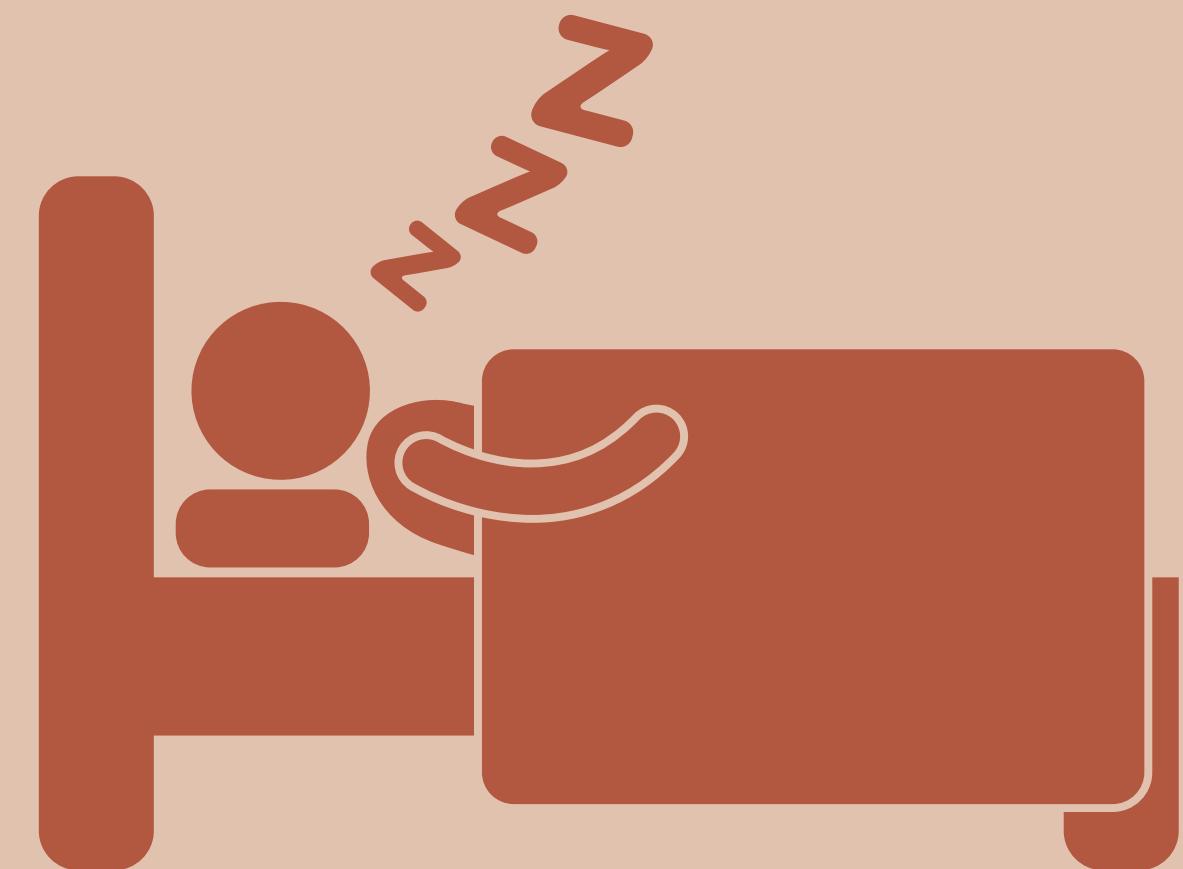
# DO I HAVE TO COMPLY WITH MINIMUM WAGE FOR DOMESTIC WORKER'S WAGES?

Yes. Domestic workers are entitled to the minimum wage, with the exception of babysitters under the age of 18 and the employer's parent, spouse, or child.



# CAN MEAL AND LODGING CREDITS OFFSET A DOMESTIC WORKER'S WAGES?

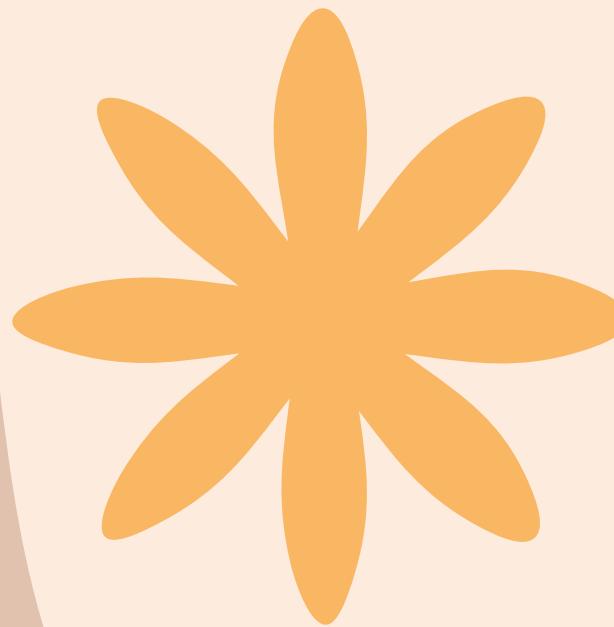
**Yes. Meal and lodging credits can be applied. However, an employer must abide by the limits specified in Wage Order 15. That is, meals or lodging may only be credited against the minimum wage if the employer and the employee enter into a voluntary written agreement before the work is performed. (This requirement applies to all types of domestic workers.)**



# **DO I HAVE TO PROVIDE MEAL AND REST PERIODS TO ALL OF MY WORKERS?**

**If the employee qualifies as a personal attendant, then no, you do not have to provide meal and rest periods, though you can choose to do so.**

**All other domestic workers must be provided with rest breaks and meal periods, per California law.**



# BEST PRACTICES FOR PROTECTING YOUR FAMILY

- Conduct post-employment offer background checks
- Get adequate worker's compensation insurance; umbrella policy or EPLI; vehicle insurance
- Confidentiality Agreements
- Compliant Wage Statements



# ● THANK YOU FOR WATCHING! ●

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