



# Federal Income Tax and FICA Withholding for Foreign Agricultural Workers with an H-2A Visa



## Did You Know ...

- Employers may be exempt from withholding of federal taxes, but not exempt from reporting of wages paid to foreign agricultural employees on H-2A visas.
- H-2A workers must have a U.S. Social Security Number (SSN).



## Additional Resources

- IRS Publication 515, [\*Withholding of Tax on Non-resident Aliens and Foreign Entities\*](#)
- Publication 519, [\*U.S. Tax Guide for Aliens\*](#) (Information on determining resident or non-resident alien status)
- IRS Publication 901, [\*Tax Treaties\*](#)
- Form W-4, [\*Employees Withholding Allowance Certificate\*](#)
- Foreign Agricultural information on [IRS.gov](http://www.irs.gov)
- English:** <http://www.irs.gov/Individuals/International-Taxpayers/Foreign-Agricultural-Workers>
- Spanish:** <http://www.irs.gov/Spanish/Trabajadores-agricolas-extranjeros>

## H-2A Foreign Agricultural Workers

### *Q1. Do H-2A workers need a U.S. Social Security Number?*

A1. Yes. You will need an SSN to report your wages. Give your employer a copy of your SSN when you start work. If you do not have your SSN when you start work, give a copy of your SSN to your employer as soon as you get it.

### *Q2. How do I get a U.S. SSN?*

A2. You will need to contact the [Social Security Administration](#) (SSA) to get an SSN.

You must visit an SSA office and bring your U.S. Immigration documents with you.

### *Q3. Are the wages I earn as an H-2A worker subject to U.S. federal income tax?*

A3. Yes. Wages you earn as an H-2A worker are subject to U.S. federal income tax.

**TIP:** You should receive a Form W-2, *Wage and Tax Statement*, from your employer for each year you work. You will need the W-2 to file with your U.S. federal income tax return.

### *Q4. Are the wages I earn as an H-2A worker subject to U.S. Social Security and Medicare taxes?*

A4. No. Wages you earn as an H-2A worker are not subject to U.S. social security and Medicare taxes.

### *Q5. Am I required to file a U.S. federal income tax return?*

A5. Yes. You are required to file a U.S. federal income tax return if you meet the filing requirements as follows: Nonresident aliens should refer to the Instructions for [Form 1040NR, U.S. Nonresident Alien Income Tax Return](#) or [Form 1040NR-EZ, U.S. Income Tax Return for Certain Non-resident Aliens With No Dependents](#) for information regarding filing requirements and special conditions. Resident aliens should refer to the instructions for [Form 1040, U.S. Individual Income Tax Return](#), or [Form 1040A, U.S. Individual Income Tax Return](#), or [Form 1040-EZ, Income Tax Return for Single and Joint Filers With No Dependents](#), for more information regarding filing requirements and special conditions.

To determine if you are a resident alien or a nonresident alien, see Chapter 1 of [Publication 519, U.S. Tax Guide for Aliens](#).

### *Q6. How do I pay any U.S. federal income tax I owe?*

A6. You may: Have U.S. federal income tax voluntarily withheld from your wages, but **ONLY** if both you and your employer agree to withhold.

Make estimated payments to the U.S. Internal Revenue Service on Form [1040-ES](#) (if a resident alien), or on [Form 1040-ES \(NR\)](#) (if a nonresident alien).

Pay any remaining tax due by the due date of the tax return.



# Employers of H2-A Foreign Agricultural Workers



## Additional Help

- Call 1-800-TAX-FORM (1-800-829-3676) to order current-year forms, instructions and publications.
- Call 1-800-829-4933 to get help from the IRS Business and Specialty Tax Line.
- Visit [IRS.gov/localcontacts](http://IRS.gov/localcontacts) to locate your local Taxpayer Assistance Center.
- Call 1-800-829-4059 if you are calling using TDD/TTY equipment. Or [GSA.gov/federal-relay](http://GSA.gov/federal-relay) for the Federal Relay Service.
- Call 1-800-829-4477 to listen to pre-recorded messages covering various tax topics.
- Visit <http://www.ssa.gov/> for Social Security Administration information.
- Make a payment: <http://www.irs.gov/Payments/Make-a-Payment>
- Call 267-941-1000 if you have international questions.
- Visit <http://www.irs.gov/uac/Help-With-Tax-Questions---International-Tax-payers> to email an international questions.
- Call 1-877-777-4778 (TTY/TTD: 1-800-829-4059) for the Taxpayer Advocate Service.
- Email [partner@irs.gov](mailto:partner@irs.gov) for more information on Volunteer Income Tax Assistance's Free File and self-preparation.

*Q1. Are Foreign Agricultural workers exempt from withholding of U.S. federal income tax and FICA taxes?*

A1. Yes. Foreign agricultural workers admitted into the United States on [H-2A visas](#) are exempt from federal income tax withholding, AND U.S. Social Security and Medicare taxes (FICA) on wages paid to them for services performed in connection with their H-2A visa.

*Q2. Even though employers do not have to withhold federal taxes on wages paid to H-2A workers, do I still have to report the wages to the IRS?*

A2. Yes

*Q3. As an employer, what forms do I use to report wages paid to an H-2A worker?*

A3. If the H-2A worker has provided you with his U.S. Social Security Number (SSN), report wages of \$600 or more paid to him on [Form W-2, Wage and Tax Statement](#), (NOT on Form 1099-MISC, *Miscellaneous Income*, as required in previous years). Also, report the wages on [Form 943, Employer's Annual Federal Tax Return for Agricultural Employees](#).

Form W-2: Report the wages in Box 1 (Wages, tips and other compensation). Do NOT report the amount in Box 3 (Social Security wages) or Box 5 (Medicare wages). Do NOT check Box 13 "Statutory Employee." H-2A agricultural workers are not "Statutory Employees."

Form 943: Report wages on Line 1. Do NOT report the wages on Line 2 (Wages subject to Social Security tax) and Line 4 (Wages subject to Medicare tax).

*Q4. Are H-2A workers subject to backup withholding?*

A4. Yes. As an employer, you must withhold 28 percent backup withholding tax from your worker's wages if: The H-2A worker has not furnished a U.S. Social Security Number or an IRS issued Individual Taxpayer Identification Number (ITIN) to their employer, AND the total annual wages paid to the H-2A worker is at least \$600.

**TIP:** Employers are liable for the amount of tax that should have been withheld but was not.

*Q5. How do I report Backup Withholding?*

A5. As an employer, you must report the wages subject to Backup Withholding and the tax withheld on: [Form 1099-MISC](#), AND [Form 945, Annual Return of Withheld Federal Income Tax](#)

**TIP:** Do NOT report backup withholding on Form W-2 and Form 943.

*Q6. Can the H-2A worker request voluntary federal income tax withholding?*

A6. Yes. As an employer, you can withhold voluntary federal income tax, but ONLY if the H-2A agricultural worker and you both agree to withhold. If the H-2A worker is a nonresident alien, then follow the withholding procedures in Chapter 9 of [Publication 15 \(Circular E\) Employer's Tax Guide](#). If the H-2A worker is a resident alien, then follow the withholding procedures in [Publication 51 \(Circular A\), Agricultural Employer's Tax Guide](#).