



2024
Self-Direction
Conference

The *FUN*damentals of F/EA Forms! and Perpetual Perplexities

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The *FUN*damentals of F/EA Forms! and Perpetual Perplexities*

- Notable Nomenclature
- Establishing Employers
- Delegating Duties
- Forms for F/EAs
- Common Confusions

*commonly asked questions

Notable Nomenclature



Notable Nomenclature (1 of 2)

- **IRS Revenue Procedure 2013-39**
 - Source of federal tax requirements for Fiscal/Employer Agent
- **Section 3504 Agent**
 - IRS term for Fiscal/Employer Agent
- **Section 3504 of the Internal Revenue Code**
 - The section of the tax code under which Fiscal/Employer Agents operate
- **Form 2678, Employer/Payer Appointment of Agent**
 - The form that authorizes an agent to handle payroll on behalf of an employer and share the employer's tax liability under Section 3504

Notable Nomenclature (2 of 2)

- **Home Care Service Recipient**

- ❑ IRS term for household employer paying workers with public funds and using an F/EA to manage payroll

- **Reporting Agent**

- ❑ So-called “regular” payroll provider. An F/EA is not a reporting agent
- ❑ Some F/EAs use reporting agents to handle payroll. Not all states allow this

- **IRM: Internal Revenue Manuals**

- ❑ Citations from the IRS’ Manual can be helpful in translating F/EA work when speaking to the IRS. ASD has a [member resource](#) available of IRM citations that are relevant to F/EA work.

Establishing Employers: Thinking Ahead



Dear ASD,

Can I send the employers Schedule Hs since they are household employers? Then they can file the Schedule H with their 1040s.

Signed,

Optimistic in Omaha



Schedule H for Household Employment Taxes: Not Applicable!

- An individual who uses federal funds to hire workers for in home care is considered a Home Care Service Recipient, guided by Revenue Procedure 2013-39
- The employment taxes of a HCSR are separate from individual taxes and do not impact the employer's 1040
- **The Schedule H is never required, and if it is, there is a problem** – contact the IRS to update the filing status

**Always Follow
IRS Revenue Procedure 2013-39**

Establishing Employers: Thinking Ahead

- Prepopulating Forms
 - ❑ Assists in streamlining the enrollment process
 - ❑ Identifies outstanding questions
- Mailing address:
 - ❑ F/EA Address
- Physical address:
 - ❑ Employer's address
- Determine who is managing the employer duties
 - ❑ Participant or Representative



Dear ASD,

**Who can be the employer for tax purposes?
Should it always be the participant, even if the participant
is a minor?**

**Signed,
*Confused in Columbus***



Who can be the employer?

- **It depends... it is based on the participant's preferences**
 - In many cases, the participant is the employer
 - Sometimes, the participant might ask for the support of a representative to assist in all or some of the employer duties
- **Who is listed on the tax forms?**
 - The participant or the representative, depending on the role of the representative
 - If someone has a business, it is often easier to list someone else
- **But the participant is a minor...**
 - The minor can still be listed as the employer, but the parent signs their own name, writes a title of "Parent of Minor", [name of individual listed as employer] and includes the parent SSN and parent printed name
- **The participant has a guardian...**
 - Participants can be listed as the employer on tax forms, but the court appointed guardian should sign, date and attach a copy of the court appointed guardianship paperwork with court seal visible.

Establishing Employers: Tax Paperwork



IRS Form SS-4: Application for Employer Identification Number

- Required due to IRS Revenue Procedure 2013-39
- Add “HCSR” to the primary name line after the employer name
 - ❑ i.e. John Doe, HCSR
- Lines 9a Type of Entity, 10 Reason for Applying, 16 Reason for applying– Select Other: HCSR
- Line 17, Service Provided: HCSR
- Third Party Designee – who will submit and process?

SS-4 Form (Rev. December 2023) Department of the Treasury Internal Revenue Service		Application for Employer Identification Number (For use by employers, corporations, partnerships, trusts, estates, churches, government agencies, Indian tribal entities, certain individuals, and others.) See separate instructions for each line. Keep a copy for your records. Go to www.irs.gov/FormSS4 for instructions and the latest information.		OMB No. 1545-0003
1 Legal name of entity (or individual) for whom the EIN is being requested		EIN		
2 Trade name of business (if different from name on line 1)		3 Executor, administrator, trustee, "care of" name		
4a Mailing address (room, apt., suite no. and street, or P.O. box)		5a Street address (if different) (Don't enter a P.O. box.)		
4b City, state, and ZIP code (if foreign, see instructions)		5b City, state, and ZIP code (if foreign, see instructions)		
6 County and state where principal business is located		Participant or Representative City, State, ZIP		
7a Name of responsible party		7b SSN, TIN, or EIN		
8a Is this application for a limited liability company (LLC) (or a foreign equivalent)?		8b If 8a is "Yes," enter the number of LLC members		
9a Type of entity (check only one box). Caution: If 8a is "Yes," see the instructions for the correct box to check.		Group Exemption Number (GEN) if any		
10 Reason for applying (check only one box)		11 Date business started or acquired (month, day, year). See instructions.		
12 Closing month of accounting year		13 Highest number of employees expected in the next 12 months (enter -0- if none).		
14 If you expect your employment tax liability to be \$1,000 or less in a full calendar year and want to file Form 944 annually instead of Forms 941 quarterly, check here. (Your employment tax liability will generally be \$1,000 or less if you expect to pay \$5,000 or less, \$6,598 or less if you're in a U.S. territory, in total wages.) If you don't check this box, you must file Form 941 for every quarter.		15 First date wages or annuities were paid (month, day, year). Note: If applicant is a withholding agent, enter date income will first be paid to nonresident alien (month, day, year).		
16 Check one box that best describes the principal activity of your business.		17 Indicate principal line of merchandise sold, specific construction work done, products produced, or services provided.		
18 Has the applicant entity shown on line 1 ever applied for and received an EIN?		Third Party Designee		
Signature		Date		

Online: Application for Employer Identification Number

- Apply for a participant's EIN online: instant EIN!
 - ❑ <https://www.irs.gov/businesses/small-businesses-self-employed/apply-for-an-employer-identification-number-ein-online>
 - ❑ Still can apply via phone, fax, mail
- Typically, one EIN per person per lifetime
 - ❑ If the online process cannot be completed due to existing EIN, contact the IRS
 - ❑ [IRM citation for HCSR 21.7.13.5.15](#)
- EIN is required for submitting other tax forms, quarterly and annual filings and listed on Schedule R

IRS Form 2678: Employer/Payer Appointment of Agent (1 of 2)

The Most Important Form

- Always required for Vendor F/EAs
- Not required for Government F/EAs, but a good idea
- Makes F/EA jointly liable for federal employment taxes
- Creates an 18 digit identifier with the IRS



IRS Form 2678: Employer/Payer Appointment of Agent (2 of 2)

The Most Important Form

■ Agent for 940, 941

Forms for which you want to appoint an agent or revoke the agent's appointment to file. (Check all that apply.)

Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return* (all 940 series)

Form 941, Employer's QUARTERLY Federal Tax Return (all 941 series)

For ALL employees/ payees/payments	For SOME employees/ payees/payments
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

☐ Most cases ALL

☐ If the employer has another business, SOME

■ “Home Care Service Recipient” check boxes:

☒ Check here if you are a home care service recipient, and you want to appoint the agent to report, deposit, and pay FUTA tax for you. See the instructions.

☒ Check here if the employer is a home care service recipient receiving home care services through a program administered by a federal, state, or local government agency.

■ Both participant/employer and F/EA sign

■ Same form for revocation, but no need for a participant/employer signature

IRS Form 8821: Tax Information Authorization

- Optional
 - ❑ Unless your contract mandates it
- Allows an exchange of information with the IRS
 - ❑ Can not sign/update status
- Can be very helpful for obtaining EIN or resolving problems
 - ❑ Even the best programs have problems!
- Up to three appointees (two can be listed on the form, attach an extra sheet if needed)
- Includes three tax years



IRS Form 2848: Power of Attorney

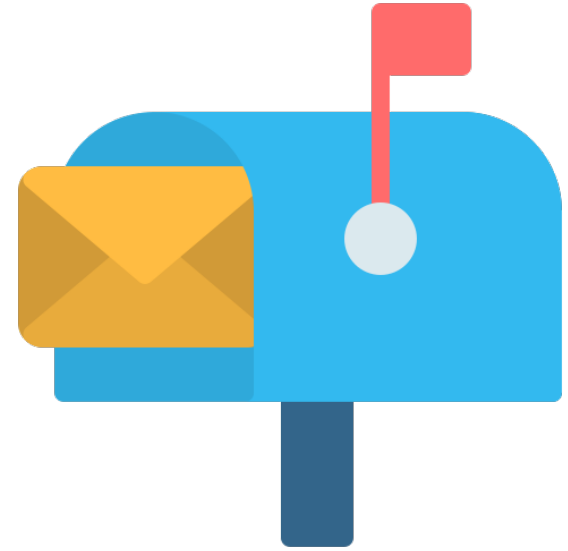
- Optional
- Complete if you really need one for an individual situation
- Allows you to fully represent the participant/employer before the IRS
- Limit to “Employment Taxes”
- Need an attorney, CPA or enrolled agent
 - Representative must not be designation “H”

State Forms: Power of Attorney, Appointment of Representative

- Use per state and contract requirements
 - ❑ Each state is unique
 - ❑ Each program contract is unique
- Look for forms:
 - ❑ State Income Tax
 - ❑ State Unemployment Tax
 - ❑ Workers' Compensation

IRS Form 8822-B: Change of Address Form

- Optional
- Use 8822-B (business)
- Can be used for an F/EA to change a participant/employer's mailing address from the participant/employer's physical address to the F/EA's address
- Must be signed by the participant/employer



Key Employer Forms: A Reference Guide

Form	Details	Additional (if applicable)
IRS Form SS-4	Required	
IRS Form 2678	Required for Vendor F/EAs	Optional for Government F/EAs
IRS Form 8821	Not required, unless contract specifically requires	
State POA Form(s)	Use per state rules	
IRS Form 8822-B	Not required, as needed	
IRS Form 2848	Not required, as needed	

Dear ASD,

I'm working with a participant who has a POA. Can this individual sign on behalf of the participant/employer and attach their POA paperwork?

Signed,

Hopeful in Hilton Head



Power of Attorney

- IMPORTANT:
 - ❑ The POA does not have to be the employer or the representative, but could be based on the participant's preferences
 - ❑ The language included in Power of Attorney documents vary based on individual circumstances – **just because one exists does not mean the appointed person has any control over the participant's care** – it depends on the specifics listed within the document
- If the participant is listed as the employer on the tax forms, and the POA will be signing on behalf of the participant, **they must have a completed and signed IRS Form 2848 to sign on behalf of the participant for IRS purposes**
 - ❑ Other POA paperwork is not often recognized by the IRS

Dear ASD,

Can IRS documents be signed electronically?

Signed,

Excited in Everett



Electronic Signatures

- It will depend on the your internal polices, procedures and internal controls, along with the specific form and your state regulations
- The IRS says, “Electronic signatures can take many forms and can be created by many different technologies. No specific technology or form of signature is required”
 - [10.10.1.3.1.1 \(10-17-2023\)](#) Acceptable Forms of Electronic Signatures



Delegating Duties



Forms to Delegate Duties: Thanks, Rev. Proc. 2013-39!

Sub-Agent Appointment: Form 2678

- Government and Vendor F/EAs can use Form 2678 to appoint a subagent
 - Take on joint liability for employment taxes with the primary agent
 - Must get informed consent from participants
- Government F/EA must have a separate EIN to appoint a subagent
- All returns (941, 940, W-2) must use subagent's EIN

Reporting Agent Appointment: Form 8655

- Government and Vendor F/EAs can use Form 8655 to appoint a reporting agent
- Can be helpful to perform some or all of payroll duties
 - Only if contract allows
 - Reporting agents do not have any liability for employment taxes, per IRS
 - Must get informed consent from participants
- 8655 is completed per instructions with the F/EA listed as the “taxpayer”

Dear ASD,

Should we include an 8655, Reporting Agent Authorization in our enrollment packet for the participant/employer?

Signed,

Ready for a Reporting Agent in Raleigh



IRS Form 8655: Only use between F/EA and Reporting Agent

- IRS Form 8655, Reporting Agent Authorization, should only be used between a F/EA and a reporting agent
- If a participant executes an IRS Form 8655 with a reporting agent, the participant has sole liability for employment taxes and must rely on the reporting agent to file and pay them correctly
- Executing an IRS Form 8655 between a participant and a reporting agent puts the participant in a very risky situation

**Always Follow
IRS Revenue Procedure 2013-39**

IRS Reporting for F/EAs



IRS Reporting Forms for F/EAs

- **IRS Form 941, Employer's Quarterly Federal Tax Return**
 - ❑ Complete in aggregate for all participant/employers served by F/EA
 - ❑ File quarterly with a Schedule R
- **IRS Form 940, Employer's Annual FUTA Return**
 - ❑ Complete in aggregate for all participant/employers served by F/EA
 - ❑ File annually with a Schedule R
- **IRS/SSA Form W-2, Wage and Tax Statement**
 - ❑ Complete **one Form W-2 for each employer/employee relationship**
 - ❑ Box C should include Agent Name, Agent for "Employer Name", Agent Address.
 - ❑ The participant's state information is included on line 15

Dear ASD,

Can we file a Form 941 for EACH individual employer so the IRS has detailed information for each employer and their EIN?

Signed,

Risk Adverse Ralph



IRS Form 941: Must be filed in Aggregate with a Schedule R

- **IRS Form 941 should never be completed for a single employer**, even if the F/EA is using a sub-agent or reporting agent
- **Why?**
 - Revenue Procedure 2013-39
 - Doing so can make the participant personally liable for unfulfilled Federal tax obligations
- **Complete in aggregate for all participant/employers served by F/EA**
 - **File quarterly with a Schedule R**
 - Provides the individual employer breakdown for the IRS

Always Follow
IRS Revenue Procedure 2013-39

Dear ASD,

We file 944s annually for participant/employers, rather than the 941 quarterly. Is this okay?

Signed,

Annual Filer in Alexandria



IRS Form 944: Annual Federal Tax Return: Not Applicable!

- Individual Federal Tax Returns should NEVER be completed for participant employers
- The IRS Form 944 should never be completed for a Home Care Service Recipients
- Doing so can make the participant personally liable for unfulfilled Federal tax obligations

**Always Follow
IRS Revenue Procedure 2013-39**

Common Confusions



Dear ASD,

We have a participant/employer whose grandparents are the primary caregivers. The parents are not in the picture. Would the grandparents qualify for parental exemptions for FICA/FUTA?

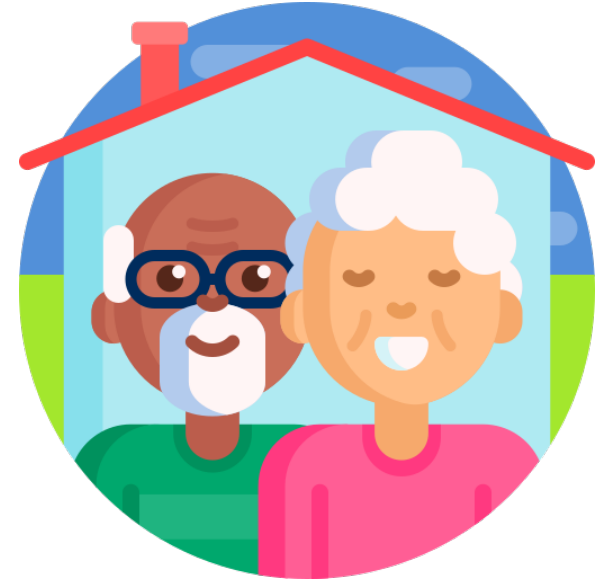
Signed,

Thoughtful in Thoreau



Grandparent Exemptions Do Not Exist

- Family exemptions for FICA and FUTA are based on the relationship between the employer (listed on tax forms) and the employee
- There are no grandparent exemptions for FICA or FUTA, even if the grandparents are involved - unless the grandparent adopts the child
- States may have different criteria for SUTA



Dear ASD,

We have a participant/employer whose step-parent is also a care provider. Do FICA/FUTA exemptions apply to step-parents?

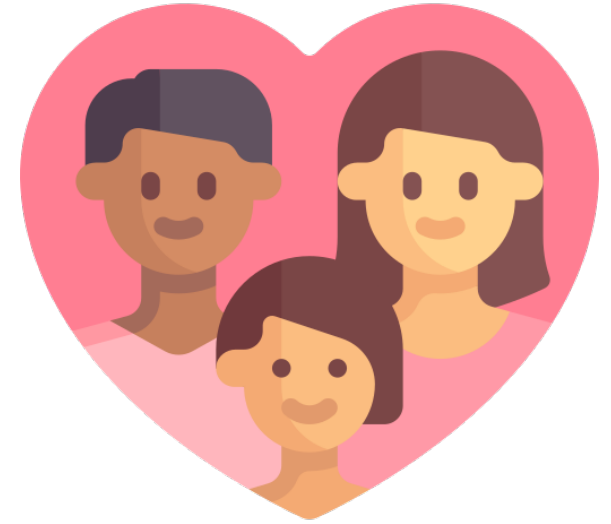
Signed,

Details in Detroit



Stepparent Exemptions

- Family exemptions for FICA and FUTA are based on the relationship between the employer (listed on tax forms) and the employee
- The IRS has published no formal guidance on step-parents
- IRS Office of Chief Counsel provided guidance that step-parents are considered FICA exempt if they “perform the duties of a parent at least 50% of the time”
- States may have different criteria for SUTA



Family Exemptions and Inclusions from Pub 926

Employer Listed on Tax Forms	Employee Relationship	Exempt
Child (adult or minor)	Parent	FICA, FUTA
Parent	Child under 21	FICA, FUTA
Spouse	Spouse	FICA FUTA
Employer Listed on Tax Forms	Employee Relationship	Wages Counted
Child, who has a child receiving care (requires three generations)	Parent, when both apply: 1) The employee is the Grandparent of care recipient and either apply: <ul style="list-style-type: none"> Care recipient is under 18 Care recipient has a physical/mental condition that requires at least 4 continuous weeks of personal care from an adult in the calendar quarter when the service was performed 2) The employer's marital status is one of the following <ul style="list-style-type: none"> Divorced and haven't remarried Widow or widower Lives with a spouse whose physical or mental condition prevents them from caring for your child for at least 4 continuous weeks in the calendar quarter services were performed 	FICA

Questions?



www.appliedselfdirection.com