

2019 Taxpayer Planning: Hiring Family Members

Dear Client:

One of the advantages of someone running their own business is hiring family members, which can provide a deduction for compensation paid. When including family members in business operations, certain tax treatment and employment tax rules apply.

Both spouses carrying on a trade or business. If spouses carry on a business together and share in the profits and losses, they may be partners whether or not they have a formal partnership agreement. There are different filing requirements for a sole proprietor vs. a joint venture as a partnership. The spouses can elect not to treat the joint venture as a partnership by making a qualified joint venture election.

Qualified joint venture. Spouses may elect treatment as a qualified joint venture instead of a partnership. A qualified joint venture conducts a trade or business where:

- The only members are a married couple who file a joint return,
- Both spouses materially participate in the trade or business, and
- Both spouses elect not to be treated as a partnership.

Only businesses owned and operated by spouses as co-owners and not in the name of a state law entity, such as a limited partnership or limited liability company, are eligible for the qualified joint venture election.

Employment taxes. If the business has employees, either of the spouses as sole proprietors may report and pay the employment taxes. The spouse, as an employer, must have an EIN for their sole proprietorship. If the business filed or paid employment taxes for part of the year under the partnership's EIN, the spouse may be considered the employee's "successor employer" for purposes of figuring whether wages reached the Social Security and federal unemployment wage base limits.

The wages for the services of an individual who works for their spouse, or parent employed by a child, are subject to income tax withholding and Social Security and Medicare taxes, but not the Federal Unemployment Tax Act (FUTA).

Additionally, there are special rules for children employed by parents. Children under the age of 18 are not subject to Social Security and Medicare taxes on their wages if the business is a sole proprietorship or a partnership in which each partner(s) is a parent of the child. Additionally, the payments for wages to a child under age 21 are not subject to FUTA.

Contact Us

Please contact our office if you would like additional guidance on the tax impact of hiring family members on your business.

Sincerely,

Hettick Accounting & Tax LLC