

Welcome Back from all of us!
 We hope you have
 a good season in 2021,
 and we hope to see you on
 one of our visits!

2021 H-2A CONTRACT NEWS

YOUR H-2A CONTRACT

Your contract includes:

- **New wage rates:** In New York, Connecticut, Massachusetts, Maine, New Hampshire, Vermont and Rhode Island, the minimum wage per hour will be **\$14.99** per hour in 2021, up from \$14.29 per hour last year.
- **Transportation reimbursement:** Your boss must pay for your transportation from your home to the farm and the return trip to your home. Your new visa expense must be reimbursed shortly after arrival at the farm. Also, most workers receive only \$13.17 per day for food while traveling from home country to U.S. and return trip. That is the daily allowance when workers do not save their receipts. However, if you save your receipts, and turn them into the boss, you can receive up to \$55.00 a day. These figures were revised March 10, 2021. See “transportation arrangements” in your contract for details.
- **Housing protections:** The housing in the labor camp must be inspected for health and safety.
- **Vehicle safety rules:** The transportation provided by your boss must meet standards for safety, vehicle insurance, and drivers must be licensed.



Further information on your contract:

You should get a copy of your contract before you leave your country. Keep your contract for your records.

Your contract is about 8 pages long. It explains what your pay rate will be and the type of work you will do. It will also explain the hours of work that are promised, your responsibilities and many other things.

The law requires your contract to provide you with free housing, workers’ compensation insurance and other benefits.

The contract will also tell you who you are working for and where your labor camp is located.

You are only authorized to work for the farm listed on your visa and contract.

If you have questions about your contract, call us.

If you have questions about your wage rate, your work contract, or the H-2A rules, call the legal services office listed on this page that helps in the state where you work:

If you work in: NEW YORK

CONTACT:

Andrea Ortega
 Alaina Varvaloucas
 Arturo Delgado
 Catherine Giller

Farmworker Law Project
 Legal Aid Society of Mid-New York, Inc.
 52 South Manheim Boulevard
 New Paltz, NY 12561

Phone: **845-256-9096**
 Toll free in the U.S.:
 1-800-804-8575
 Office Cell/WhatsApp:
845-422-6624

From Jamaican landline:
 Toll free: 1-800-248-2429
 From Jamaican cell phone:
 845-256-9096
 (ask us to call you back)

If you work in: MAINE, CONNECTICUT, MASSACHUSETTS, NEW HAMPSHIRE, RHODE ISLAND, or VERMONT

CONTACT:

Mike Guare
 Nicolaas G.Meijer

Pine Tree Legal Assistance
 115 Main Street, 2nd Floor
 Bangor, ME 04401

Phone: **207-942-0673**
 Toll free in the U.S.:
 1-800-879-7463
 Collect from Jamaica:
 1-207-942-0673

Office Cell/WhatsApp **207-233-2930**

COVID-19 UPDATES



A lot has changed over the past year, and it is important that you continue to keep yourself and your coworkers protected. The laws and programs having to do with COVID-19 are changing week to week. We will try to keep everyone as updated as possible on vaccines and how to get them. You should always feel free to call us about the following:

- Whether or not you or someone else should be quarantining, or whether you can work
- Vaccines and how to get one (this is different by state)
- Whether or not you qualify for paid sick leave when you are sick with COVID-19 or need to quarantine from an exposure (in New York, many farmworkers qualify!)
- Whether you qualify for paid leave to get a vaccine (in New York, many farmworkers do!)
- COVID-19 tests and how to get one
- How to sign up for health insurance (this is **very** important during COVID-19!)
- Concerns about safety in the workplace

Remember to wear a mask and stay at least 6 feet away from other people!



***If you call an office listed here and you get an answering machine, please wait for the tone and leave your name, phone number and where you work. Our phones do not identify your phone number.*

AFFORDABLE HEALTH CARE FOR H-2A WORKERS

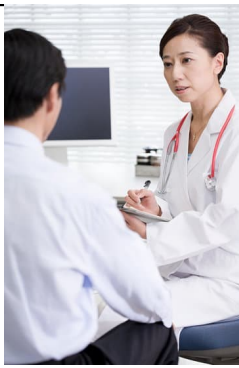
You **may** qualify for **health insurance** at little or no cost while working in the US on your H-2A contract under what is called the Affordable Care Act. (ACA).

- **To sign up for health care insurance under the Affordable Care Act (ACA)**, ask your boss, your local clinic or your Legal Services office for a phone number to contact the **navigator**. A navigator is a person who will see if you qualify for health insurance and help enroll you. Many navigators can visit you at your farm housing or office. Remember, you have the right to sign up.
- This health insurance is only available while you are in the United States. When you return home, you must cancel this insurance.
- H-2A workers over 65 cannot qualify for health insurance under the ACA.
- **Each state has different rules when signing up for health care insurance**, so check with legal services or the health department in your state.

All H-2A workers, including those over 65, are always covered under **Workers' Compensation**. This is insurance that covers you if you are injured at work or suffer a work-related illness. Tell your boss right away if you are injured or if you get sick at work. Be sure to tell your doctor that the injury, accident or illness happened at work. (see last page, for details)

If you are hospitalized, but you don't have health insurance, and if the reason you are in the hospital is not related to your work, ask the hospital social worker or case manager about any programs that help with hospital bills. It is best to ask while you are still in the hospital. Do not delay this request - it should be done immediately. Every hospital and every state have different programs. For example in New York state you can apply for Emergency Medicaid.

Local clinics are other ways to obtain less expensive doctor visits. Some clinics allow doctor visits for a reduced fee based on your wages. Remember to bring a paycheck stub to the clinic to show your income. Let them know how many people you support.

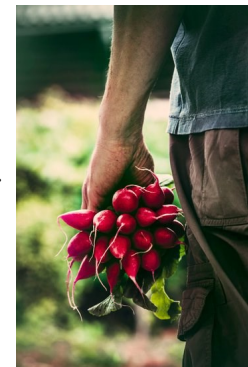


EXTENSIONS OF AN H-2A VISA

If your boss wants to extend the amount of time you are working in the United States, your boss must request permission from U.S. Immigration before your visa expires. If the extension is approved, then your boss must give you a copy of the approval of your extension. If a different farm wants you to work for additional time in the U.S., again you must have an immigration approval for this job before you start working. Make sure you get a copy of this new approval document for this employer, and keep it with your passport.

Many times a sick or injured person cannot travel until he or she gets better. You may request an extension of your time in the U.S. for health or worker's compensation purposes. You will need to apply for a new different kind of visa.

If you and your boss do not follow these rules, and you stay in the U.S. longer than your visa allows, you may be denied a visa to come to the United States in the future. Do **not** stay longer than your visa and travel time allows. You may call one of our offices if you have questions.



ADDITIONAL H-2A VISA FOR DIFFERENT FARMS

If you are asked to extend the amount of time you are working in the United States to work at another farm, you must be sure to follow the rules to avoid having problems with visas in the future.

- Be sure to have an H2A immigration approval before you begin to work at the new farm.
- Be sure to keep your immigration approval for your 2nd job with your passport.
- Never accept a verbal agreement that the new boss has secured an immigration approval; be sure to get a printed copy of it.
- Remember to collect your inbound travel reimbursement, as well as the cost of getting to the new farm, from the first farm before you transfer to the new farm. Collect your outbound travel reimbursement from the last farm.
- If you have more than two contracts, be sure to have immigration approval documents for all of the farms.
- You can contact legal services in your state if you have more questions.



DO YOU NEED TO RETURN HOME BECAUSE OF A FAMILY EMERGENCY?

Some contract workers need to return home because of a family emergency. You always have the right to leave the U.S. early. However, your H-2A visa allows only one entry into the United States.

If you want to return home and then come back during the same season, Immigration needs to approve your trip before you leave. Getting immigration approval is a formal process that could take some time. Your boss must agree that you can miss work and you would need to buy a round trip plane ticket. The process is not easy and you need the help of a lawyer.

If you leave the United States without following the rules, the U.S. may not approve a future visa for you. You may call one of our offices if you have questions.

RUMORS ABOUT PUBLIC CHARGE RULE

There has been a lot of confusion about an immigration rule called "public charge". Sometimes the government uses this rule to deny visas to people who have used certain public benefits in the United States. This rule is **very** complicated, so if you have questions, you should call an attorney.

However, getting health insurance under the ACA through your state marketplace (explained in the box above), when you are on an H-2A visa, **is allowed**, and will **not** impact your ability to obtain an H-2A visa or other immigration benefits in the future. Especially during COVID-19, it is very important you protect yourself by getting health insurance. Even if you don't have ACA health insurance, and you have an emergency, you can use Emergency Medicaid (also explained in the box above). Emergency Medicaid also does **not** matter for the public charge rule.

The "public charge" rule is complicated, so please contact a legal services office or an immigration lawyer if you have any questions about public benefits **before** you apply for them. These can be questions about:

- What the "public charge" rule means and how it applies to you;
- Whether or not you qualify for certain public benefits; and
- How government benefits might (or might not!) affect you in the future

BREAKS

Unfortunately, there is no federal law that says your boss must give you a break during your workday on a farm. However, most bosses realize that workers are more productive when they are given time to rest. Many workers rest around noon for lunch.

The federal wage law says that if you take less than 20 minutes to eat, you should be paid for that time. If your lunch break is 30 minutes or longer, however, that time is not counted as work time.

If you have questions, please call the legal services office in your state.



2021 H-2A CONTRACT NEWS SPECIAL TAX EDITION

INCOME TAXES 2020 FOR H2A WORKERS

Whether you are required to pay any income taxes will depend on how long you are in the U.S. on the H2A contract and how much money you earn. We will explain how this works in this special tax edition, which are the center pages of the H2A News.

To work in the U.S. on the H2A contract, the first thing you need is a **Social Security number**. Please see the box on this page for details.

The first time you work at the farm, and each year after, when you arrive, your employer will have you fill-up some forms and sign documents. Some of the forms are for withholding taxes from your paycheck. Withholding means an amount of money that will be taken from your check to pay taxes. For the majority of workers, it is best to withhold enough money to pay taxes so that you do not owe any at the end of the season. You also do not want to withhold too much because you will have to wait months to get your money back. Many people are waiting at least 4-6 months, or even longer, to be refunded the taxes that they overpaid from their paychecks. You also do not want to withhold too little or you will have to pay what you owe when you file your taxes.

The Federal withholding form is called a **W-4**. Also, many states have their own withholding form. For example, NY state withholding form is called the IT-2104. Each year you can change the amount withheld or taken out of you paycheck by filling out a new **W-4** form and a new state withholding form. If you did not do so at the beginning of the season, you can fill out new forms at any time during the season.

Your employer may permit you to have money withheld from your pay each week for payment to the U.S. Internal Revenue Service, or I.R.S. The I.R.S. is the agency which collects taxes for the Federal government. If you are not having money withheld from your pay and you want to do so, ask your employer. Most employers are already doing withholding for other workers and so there is no problem adding you to the list. The employer has tables to help you decide how much to withhold so that it is not too much and not too little compared to your end of year tax bill. You must sign a **W-4** and a state authorization for withholding.

If you have withholding, you will see it as a deduction on your pay receipt. Your employer then sends the money to the U.S. Internal Revenue Service (I.R.S.) under your name and Social Security number. Be sure if your Social Security number is on your check, it matches your actual number.

By end of January of the following year, your employer provides you a **W-2 form**. The **W-2 form** is what you need to prepare your tax returns. It will show your employer's name and address, your name and address, the amount of money you earned at that job, and the amount of income tax withholding, if any.

You need to prepare a **tax return** to get your tax refund. Many people get the word "return" mixed up with "refund". A tax return is a form that your tax preparer will fill out for you. We will show some samples in this newsletter. A refund is the check you receive after you file your return. To remember the difference between tax return and tax refund, remember you must send in a **tax return** to get your **tax refund check**.

Tax returns can be filed electronically or in paper form. Ask you tax preparer which one will be filed for you. Either way be sure to get a copy from your tax preparer.

Another important point is that if you did not have taxes withheld from your pay check, then you cannot get a refund. If you had only a small amount withheld from your pay check, you will not get a big refund. In either case, you may owe money. Every farm is different, so you cannot compare yourself to a friend at another farm who is getting a big tax refund.

Getting your tax return filed is your responsibility. Your tax return, for any year, must be postmarked or electronically filed to the I.R.S. by April 15 of the following year. If it is not filed by April 15 and you owe taxes, then you will be charged a penalty for filing late. The I.R.S. will also add interest every month to the penalty and to any taxes you owe.

New deadline for filing 2020 tax returns is May 17, 2021
Due to COVID-19, this date could possibly change again.

State Tax Returns. Depending on which state you are working in, you may also need to file a **state tax return**. Some states follow the I.R.S. guidelines regarding income, other states require that you do file returns for greater or lesser incomes. Please ask your tax preparer if you need to file a state tax return. Remember you need to file a state tax return to get a state refund check. If your tax preparer doesn't know, please contact the legal services office for your state if you have any questions.



SOCIAL SECURITY NUMBERS

H-2A workers are now required to have Social Security Numbers in the United States. Here is what you need to know:

- Social Security number are for employment and tax purposes. You can also use your number to open a U.S. bank account.
- Your boss should take you to apply for your Social Security Number.
- Use the same number for each job. You only apply once for your Social Security Number.
- Your Social Security Number is private – do not share your number or let others use it. Keep the card in a safe place.
- Sign your Social Security card. **Do not laminate it.**
- H-2A workers **cannot** be required to pay Social Security or Medicare taxes.
- Your boss **cannot** deduct Social Security or Medicare taxes from your pay.
- H-2A workers **are not eligible** to receive Social Security retirement benefits.
- If Social Security or Medicare taxes are deducted from your pay, you can apply for a reimbursement.

W-4 form

SAMPLES OF W-2s

Safe, accurate, FAST! Use **e-file** Visit the IRS website at www.irs.gov/efile

OMB No. 1545-0046

Employee's social security number: 123456789

Employer identification number (EIN): 123456789

Employer's name, address, and ZIP code: SYRACUSE UNIVERSITY, SYRACUSE, NY 13244

Control number: 123456789

Employee's first name and initial: JOHN DOE

Employee's address and ZIP code: 123456789

From **W-2 Wage and Tax Statement 2012** Department of the Treasury—Internal Revenue Service

W-2 Wage and Tax Statement 2008

SYRACUSE UNIVERSITY

SYRACUSE, NY 13244

JOHN DOE

123456789

159522093

26569.62

660.21

26569.62

1667.30

205.26

1578.26

22.88

1583.26

784.69

15

PAGE 1

Safe, accurate, FAST! Use **e-file** Visit the IRS Web Site at www.irs.gov/efile

Employee Reference Copy **W-2 Wage and Tax Statement 2012**

CHRIS'S TEST FOURTY

CRACKOW NJ

101-04-8051

1578.26

1578.26

22.88

1583.26

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15

FEDERAL TAX RETURNS

Short-Contract Workers

There are two ways that workers who are not U.S. citizens - including H-2A workers - file their tax returns. Workers who have been in the United States for short periods of time are called **“non-resident alien taxpayers”**. This year, these workers will file their tax returns on a form called a **“1040-NR”**. The **“1040-NR-EZ”** form was discontinued starting tax year 2020.

Workers who are here for longer periods of time might be **“resident alien taxpayers”**. Whether you are a **“non-resident alien taxpayer”** or a **“resident alien taxpayer”** depends on how much time you spend in the United States. Generally, workers who are here more than 4 months for 3 continuous years might qualify as **“resident alien taxpayers”**. The government has a formula to determine if a worker has been in the United States for long enough to qualify as a **resident alien taxpayer**. This formula is called the **“Substantial Presence Test”**. Your tax preparer can use this test and tell you if you qualify as a **resident alien taxpayer**. In order to do this, your tax preparer will need to know how many days you were present in the United States in each of the last three years. Your passport has visa stamps that show both the dates you entered the United States and the dates you returned to Jamaica each year.

Generally speaking, workers who come to the United States only on short contracts are **non-resident alien taxpayers**.

A non-resident alien taxpayer does not qualify for the Economic Impact Payment (E.I.P.), also known as the stimulus check.

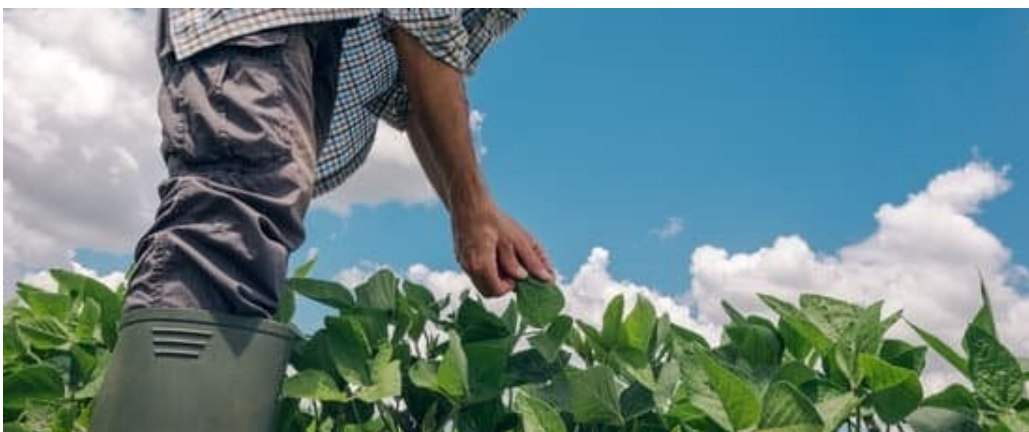
A **non-resident alien taxpayer** who is married should check the box for **“married non-resident alien”**. If the taxpayer is a unmarried, the box **“single non-resident alien”** should be checked. A non-resident alien whether single or married will pay an equal amount of taxes for equal earnings. There is no benefit for being married or having children for a non-resident taxpayer.

Also, a **non-resident alien taxpayer** cannot qualify for the **“Earned Income Tax Credit (EITC)”**.

Filing your tax return properly can save you time and money. Make sure that you talk to your tax preparer about whether you qualify as a non-resident alien taxpayer or a resident alien taxpayer.

Remember that even though you are relying on your tax preparer's expertise, you are ultimately responsible for your tax return and for making sure it gets filed every year.

Remember that the tax rules change every year. Please check with your tax preparer for updates and advice.



1040-NR Department of the Treasury—Internal Revenue Service (09) **2020** U.S. Nonresident Alien Income Tax Return OMB No. 1545-0074

Filing Status: Single Married filing separately (MFS) (formerly Married) Qualifying widow(er) (QW)

Your first name and middle initial: Last name: Your identifying number (see instructions):

Home address (number and street or rural route), if you have a P.O. box, see instructions. Apt. no. Check if Individual Estate or Trust

City, town, or post office. If you have a foreign address, also complete spaces below. State ZIP code

Foreign country name Foreign province/state/country Foreign postal code

At any time during 2020, did you receive, sell, send, exchange, or otherwise acquire any financial interest in any virtual currency? Yes No

Dependents (see instructions):

Income Effectively Connected With U.S. Trade or Business:

1a Wages, salaries, tips, etc. Attach Form(s) W-2 1a

1b Scholarship and fellowship grants. Attach Form(s) 1042-S or required statement. See instructions. 1b

1c Total income exempt by a treaty from Schedule OI (Form 1040-NR) item L, line 1(e) 1c

2a Tax-exempt interest 2a

2b Qualified dividends 2b

4a IRA distributions 4a

5a Pensions and annuities 5a

6 Reserved for future use 6

7 Capital gain or (loss). Attach Schedule D (Form 1040) if required. If not required, check here 7

8 Other income from Schedule 1 (Form 1040), line 9 8

9 Add lines 1a, 1b, 2b, 3b, 4b, 5b, 7, and 8. This is your total effectively connected income 9

10 Adjustments to income:

a From Schedule 1 (Form 1040), line 22 10a

b Charitable contributions for certain residents of India. See instructions 10b

c Scholarship and fellowship grants excluded 10c

d Add lines 10a through 10c. These are your total adjustments to income 10d

11 Subtract line 10d from line 9. This is your adjusted gross income 11

12 Itemized deductions (from Schedule A (Form 1040-NR) or, for certain residents of India, standard deduction. See instructions. 12

13a Qualified business income deduction. Attach Form 8995 or Form 8995-A 13a

b Exemptions for estates and trusts only. See instructions 13b

c Add lines 13a and 13b 13c

14 Add lines 12 and 13c 14

15 Taxable income. Subtract line 14 from line 11. If zero or less, enter -0- 15

First Page 1040NR form

Form 1040-NR (2020) Page 2

16 Tax (see instructions). Check if any from Form(s): 1 8814 2 4972 3 16

17 Amount from Schedule 2 (Form 1040), line 3 17

18 Add lines 16 and 17 18

19 Child tax credit or credit for other dependents 19

20 Amount from Schedule 3 (Form 1040), line 7 20

21 Add lines 19 and 20 21

22 Subtract line 21 from line 18. If zero or less, enter -0- 22

23a Tax on income not effectively connected with a U.S. trade or business from Schedule NEC (Form 1040-NR), line 15 23a

b Other taxes, including self-employment tax, from Form 1040-NR, line 10 23b

c Transportation tax (see instructions) 23c

d Add lines 23a through 23c 23d

24 Add lines 22 and 23d. This is your total tax 24

25 Federal income tax withheld from:

a Form(s) W-2 25a

b Form(s) 1099 25b

c Other forms (see instructions) 25c

d Add lines 25a through 25c 25d

e Form(s) 8805 25e

f Form(s) 8808-A 25f

g Form(s) 1042-S 25g

26 2020 estimated tax payments and amount applied from 2019 return 26

27 Amount you owe. Subtract line 26 from line 24. For details on how to pay, see instructions 27

28 Additional child tax credit. Attach Schedule 8812 (Form 1040) 28

29 Credit for amount paid with Form 1040-C 29

30 Reserved for future use 30

31 Amount from Schedule 3 (Form 1040), line 13 31

32 Add lines 28 through 31. These are your total other payments and refundable credits 32

33 Add lines 25d, 25e, 25f, 25g, 26, and 32. These are your total payments 33

34 If line 33 is more than line 24, subtract line 24 from line 33. This is the amount you overpaid 34

35a Amount of line 34 you want refunded to you. If Form 8888 is attached, check here 35a

b Routing number Savings Checking Other 35b

c Account number 35c

d If you want your refund check mailed to an address outside the United States not shown on page 1, enter it here 35d

e Amount of line 34 you want applied to your 2021 estimated tax 35e

36 Amount you owe. Subtract line 35e from line 34. For details on how to pay, see instructions 36

37 Estimated tax penalty (see instructions) 37

Third Party Designee (other than paid preparer):

Designee's name: Phone no.: Personal identification number (PIN):

Sign Here: Your signature: Date: Your occupation: If the IRS sent you an Identity Protection PIN, enter it here (see instructions):

Paid Preparer Use Only: Preparer's name: Preparer's signature: Date: PTIN: Check if Self-employed

Firm's name: Firm's address: Phone no.: Firm's EIN:

Go to www.irs.gov/Form1040NR for instructions and the latest information. Form 1040-NR (2020)

Second Page 1040NR form

FEDERAL TAX RETURNS continued



Long-Contract Workers

When H2A workers have been in the United States a period of time which is long enough, they file their tax returns as “**resident alien taxpayers**”. This year, these workers will file their tax returns on a form called a “**1040**”.

Generally speaking, workers who come to the United States on a long contract might qualify as **resident alien taxpayers**. If your contract is longer than 4 months, you may qualify as a **resident alien taxpayer**.

The government has a formula to determine if a worker has been in the United States long enough to qualify as a **resident alien taxpayer**. This formula is called the “Substantial Presence Test”. Your tax preparer can use this test and tell you if you qualify as a **resident alien taxpayer**. In order to do this, your tax preparer will need to know how many days you were present in the United States in each of the last three years. Your passport has visa stamps that show both the dates you entered the United States and the dates you returned to Jamaica each year.

There are some important advantages if you qualify as a **resident alien taxpayer**. First, if you are married, you can file your tax return as a married person. Doing that often reduces the amount of tax you have to pay, sometimes by a lot. Your spouse will need a number known as an “Individual Taxpayer Identification Number (ITIN)” or a Social Security number; see the box titled “ITIN” on this page for more information.

You might be able to file as a married person even if you are not legally married, but you have a “common-law marriage”. Ask your tax preparer about this if you have questions.

Also, **resident alien taxpayers** might qualify for the “Earned Income Tax Credit (EITC)”, which is another way you might be able to save some money when you file your tax return. You might even get a refund, or a bigger refund if you are eligible for the EITC. Ask your tax preparer about this if you have questions.

Filing your tax return can save you hundreds, maybe even thousands, of dollars. Make sure that you talk to your tax preparer about whether you qualify as a resident alien taxpayer, about filing as a married person and about the EITC.

Remember that even though you are relying on your tax preparer’s expertise, you are ultimately responsible for your tax return and for making sure it gets filed every year.

Remember that the tax rules change every year. Please check with your tax preparer for updates and advice.

ITINs

An ITIN (Individual Tax Identification Number) is a number issued by the IRS to those who do not qualify for a Social Security number. It is used for filing income taxes. An ITIN has 9 digits and begins with the number 9 (example: 900-00-0000). An advantage of your spouse having an ITIN is that it may lower the amount that you owe in income taxes or increase your refund.

H2A workers who file as Resident Aliens (those workers on long contract) on their tax returns can apply for an ITIN for their spouse. If your spouse obtains an ITIN and you file a joint income tax return, any income he or she earns may have to be counted in your joint income tax return.

In order to apply for an ITIN for your spouse you need: 1.) the IRS W-7 form, 2.) your income tax return, 3.) **original documents** that prove the identity and foreign status of your spouse. If you submit your spouse’s passport, it satisfies both the identity and foreign status. You can also provide a **certified copy of your spouse’s passport**, provided by the passport agency of your country to your tax preparer. It would be the only document of theirs you would have to submit to the IRS. Otherwise, you have to submit their birth certificate along with other documents such as: a national identification card, or electoral card, or driver’s license. If you have questions as to what other documents may be accepted, ask your tax preparer.

You can also file corrected tax returns for the last three years once your spouse has an ITIN. If you do that, you may be able to get a refund of some or all of the taxes you paid for the last three years.

To apply for an ITIN, you need to contact an Acceptance Agent or your tax preparer. Unlike your Social Security number, an ITIN may need to be renewed periodically. If you have questions as to who can help you request an ITIN, please contact one of our offices.

Your wife’s ITIN may **expire at some time**, it is not a permanent number. All ITINs not used on a federal tax return at least once in the prior three years will **expire** on December 31st of the third year. Additionally, all ITINs issued before 2013 will **expire** at the end of the year. It is good to check with your tax preparer before you file to know if the ITIN is still valid.



First Page 1040 form

Second Page 1040 form

ECONOMIC IMPACT PAYMENT Stimulus Checks



Only long-contract H2A workers who worked in 2020 and file Resident Returns as Single, Married Filing Separately (MFS) or Married Filing Joint (MFJ), qualify for the Economic Impact Payment (E.I.P.). The rules have changed slightly from when the first E.I.P.s were mailed.

It is important to note that if you think you qualified for the checks but have not received them, you should claim them on your 2020 tax return. This is especially important for workers who filed Married Filing Jointly (MFJ) with a spouse who has an ITIN. These workers did not qualify initially to get the E.I.P. but can now request the missing payment. Many have since received the \$600.00 second E.I.P., sent in January 2021, and the third check, for \$1,400.00, was to be sent in April. Please remember that you might receive a check, a debit card, or a direct deposit.

The first payments were based on prior tax returns, but they are actually linked to your work in 2020 and the filing of taxes for that year. The checks were sent at the beginning of the Covid-19 pandemic. Based on prior tax filings, the IRS tried to predict who qualified for the payments. As a result, many workers received checks and/or letters from the I.R.S. in error. We do not know the long-term consequences of checks that were received and cashed by workers who did not qualify.

Good news for H2A workers who qualify to file Resident Returns for the first time for the 2021 tax year. These workers will be eligible for the third E.I.P. of \$1,400.00. They will be able to request the E.I.P. with their 2021 Resident Tax Returns when they file in 2022.

TAX PREPARERS for H2A WORKERS

You are responsible for getting your taxes filed so finding a reputable tax preparer is very important. You should find a preparer who understands all the aspects of your special tax situation. Please make sure:

- ◆ That you discuss with your tax preparer whether you qualify as a **resident alien taxpayer**. See the article “Long Contract Workers” on the prior page.
- ◆ Your tax preparer should be able to advise you whether you are required to file state tax returns.
- ◆ If a person comes into your camp saying they can prepare taxes, get identification and credentials to prove that they can prepare taxes.
- ◆ Get **contact information** of the person preparing your return. That means you should get that person’s full name, address and phone number.
- ◆ Know how much you are being **charged** before agreeing to have your return prepared. Ask about additional costs.
- ◆ Get a **receipt** for your payment of the return.
- ◆ Make sure that **you and the preparer sign** the correct section of the tax return.
- ◆ Get a **copy** of your returns for your records. If you are not given one by your preparer, **ask** for a copy. You need to keep a copy in your record in case the I.R.S. asks you questions.
- ◆ Make sure your Social Security number and all your information on your W-2 is correct before you give your W-2 to the tax preparer to prepare your return. If there is a problem, the owner/boss should fix this problem quickly and give you a new corrected W-2.
- ◆ Make sure that **your Social Security number, address and spelling of your name** on your tax return are correct. The correct address is very important. The address on your return is the address where your refund will be sent. If the IRS sends you anything else, the address on your return is also the address the IRS will use. If you use the address of the boss, you will need to check with the farm boss to see if there is any mail for you. If you use your home address, check with post office or location where you receive mail.
- ◆ You can ask your tax preparer to have your tax refund direct deposited by the I.R.S. into your U.S. bank account only. Ask what information is needed and provide it before filing. There is no fee for this service. You will get your refund more quickly and will not have to worry about the refund check getting lost.
- ◆ DO NOT use the address for FLECTS. You must give your preparer your proper address.
- ◆ You can contact your boss to help you find a good preparer.



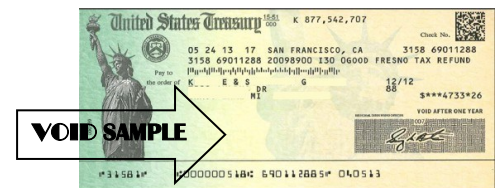
What If You Do Not Receive Your Refund Check?

- If you are expecting to receive a refund on your taxes, here are some important things to know.
- It is important to know when your tax return was actually mailed. That will help you know if your refund check is late.
 - ^If your tax return was mailed in the United States, and your refund check is being mailed to an address in the United States, it can take 6 weeks or more from the date you mail your return for the refund check to arrive.
 - ^If your tax return was mailed in Jamaica, and your refund check is being mailed to an address in Jamaica, it can take 3 months or longer for the refund check to arrive.
- If you have not received your refund check after waiting enough time, contact

2019 I.R.S. Returns filed by paper during the Covid-19 crisis began to be opened in August. As of January 1, 2021, not all returns have been opened or processed. Refund checks have been seriously delayed.

your preparer to check the status of you refund.

- **BE PATIENT**
- **DO NOT ask a new preparer** to send in another tax return for the same year. This will not speed up the process, but will slow it down instead. It will also cause a problem. When the I.R.S. gets 2 income tax returns for the same year from the same person, they believe someone other than you is trying to get your refund. You will then have to go through a process called **identity verification**. This takes a long time and is not easy. It can also continue to cause problems for years if not corrected right away.
- If you receive a letter from the I.R.S., have your tax preparer review and explain to you what the problem is and what you need to do to correct the problem. Sometimes it is good news.
- If additional time has passed and you have not received a check and your tax preparer is not helping, you can contact the I.R.S. to find out what the problem is.
- There are many reasons that your refund check is delayed. Here is a list of some possible problems:



- *Lost return.
- *Lost check.
- *Identity verification.
- *You owe taxes from prior year.
- *Wrong tax return form filled out.
- *Your address is not correct, and the check was mailed somewhere else. For example, your employer’s address is on the return, but you are at home.
- *You or your preparer completed the tax return but did not mail it or file with the I.R.S.
- *I.R.S. reviewed your taxes and sent you a letter explaining an error in your return, and you have not responded.
- *Stolen check.

- Being patient for a few months is good, especially if you are waiting for mail in a foreign country. But being patient and waiting a year and not doing anything is **not** good. Your check will probably not show up if it has not arrived within 4 months. If more than 4 months go by, you should do something about it. And the longer you wait to do something, the more difficult it might be to get your refund. If more than 3 years go by, it might be impossible.
- Your first step is to ask your tax preparer for help. If they refuse, you can call the I.R.S. directly or ask legal services in your state if they might be able to help you.
- If you have not received your state income tax refund after filing a state income tax return, you should also contact your tax preparer. Again, be patient – but not too patient!

H2A & STATE TAXES

Many H2A workers must file state income tax returns and pay state income tax. This is in addition to Federal income taxes. The amount of state taxes is usually much less than Federal taxes.

Each state has different rules regarding paying your state taxes. In some states, you may not need to file a state tax return. If you are on short contract, it is less likely you will need to file. Please ask your tax preparer to let you know if you need to send in a state tax return.

Just like Federal taxes, you get a refund if 1) you had state taxes taken from your pay, and 2) the amount taken out was more than the taxes you owe. If that is the case, you must file a state tax return to get the money back. This is true even if you are not required to file a state tax return and even if you do not owe any more state taxes.

Just like Federal taxes, you can change the amount taken out of your paycheck to pay your state taxes. The form is different from the Federal W-4, and it is a different form in each state. Ask your boss for the form. It must be completed, signed and returned to the boss.

This paper was produced by the legal services offices listed on first page. We are lawyers and paralegals who offer **free legal help** to eligible workers with the problems they are having at work. We provide legal advice and possibly representation when there are problems. If you have worked under the contract in the states we cover, you may already know some of us. During the harvest season we visit farmworkers in the labor camps to discuss our services and give out information about rights of farmworkers in the U.S. **The information in this paper is intended to provide general information only, not to give legal advice. No one should interpret any law without the aid of an attorney who is fully informed of all the facts involved!!**

WHAT SHOULD I BE PAID?

The law requires that H-2A workers in N.Y. and New England get paid at least \$14.99 per hour. Under some circumstances, you might be entitled to a higher amount of pay.



Call us if you have questions or concerns about how you are being paid, including concerns about whether you should be paid at a different rate (for example, you are being paid hourly, but think you would make more with a piece rate).

In New York only, H-2A workers have a right to overtime when you work more than 60 hours in a calendar week or if you work on your “day of rest”. The rate is time and a half ($\$14.99 \times 1.5 = \22.48 / hour). You need to be given one day of rest (24 hours) in every calendar week. While you cannot be **required** to work on your day of rest, you can **voluntarily** work, but you must be paid the overtime rate for any work you do on that day. If you work in New York and have questions about the new overtime law, you can call the Farmworker Law Project (see the first page of this newsletter).

BUILD-UP PAY 2021

Your pay receipt or stub should show how many hours you worked and how many pieces you completed. It should also tell you how many hours were offered to you.



It should also list everything that is deducted from your gross pay. Each week you should check your pay receipt to make sure you are getting paid properly. Your boss should record your hours daily. You should also write them down so you can compare your hours to what your check stub says.

Even when paid by the piece (bushel or bins), workers must still earn a minimum amount of pay. The minimum pay is equal to the minimum hourly wage rate times the number of hours you actually work, even if you are paid by the piece.

If you are being paid by the piece and you want to see if you are being paid correctly, the first thing to do is to calculate your minimum pay. It is very simple to do this. All you have to do is multiply your hourly pay by the number of hours you worked during the week. This year, the minimum hourly wage for H-2A workers in this part of the United States is \$14.99. So for example, if you worked 54 hours in a week, your gross pay (total pay before deductions) must be at least \$809.54 (54 hours times \$14.99).

After you figure out your minimum pay, compare your actual earnings to the minimum pay. For example, let’s say you work at a farm that pays by the bin. Let’s also say that you filled 36 bins and the piece rate is \$20.00 per bin. Your gross pay (before deductions) would be \$720.00 (36 bins times \$20). But, remember that you worked for 54 hours and \$720.00 is LESS than the guaranteed minimum of \$809.54. Your boss would need to pay you the difference of \$89.54 (\$809.54 minus \$720.00 is \$89.54). This extra amount, **which is usually called build-up pay**, should be included in your pay for the week.

For another example, let’s say you work at a farm that pays by the bushel. Let’s also say that you filled 760 bushels and the piece rate is \$1.00 per bushel. Your gross pay (before deductions) would be \$760.00 (760 bushels times \$1.00). But, remember that you worked for 54 hours and \$760.00 is LESS than the guaranteed minimum of \$809.54. Your boss would need to pay you the difference of \$49.54 (\$809.54 minus \$760.00 is \$49.54). This extra amount should be included in your pay for the week.

Here are two examples that show sometimes you may need to be paid by the hourly rate, and another when you earn more when paid by the bushel or bin. You are always paid the larger of the two pays. Remember this must be looked at on a weekly basis. You cannot calculate this on a daily basis.



You pick 836 bushels working for 60 hours @ \$1.00 per bushel
836 bushels X \$1.00 = \$836.00 piece rate pay
60 hours X \$14.99 pay/hr. = \$899.40 Minimum pay
You must be paid a total of \$899.40

You pick 42 bins working for 50 hours @ \$20.00 per bin
42 bins X \$20 = \$840.00 piece rate pay
50 hours X \$14.99 pay/hr. = \$749.50 Minimum pay
You must be paid a total of \$840.00



Remember that there are different crops that are paid at different rates. Don’t worry that it might seem complicated. If you are paid piece rate, just compare the total gross earning of your pay check to the number of hours you worked for the week multiplied by \$14.99. Whichever is larger should be your pay.

You should also keep track of the hours you work each day to be sure that you are paid for all hours worked. Not every farm keeps track of your hours and sometimes they record them incorrectly. Please review article “What Counts as Work Time” to be sure all your work hours are properly paid.

FIGURE OUT IF YOU EARNED THE 3/4 GUARANTEE!

Your boss must offer work to you for at least three quarters (75%) of all the hours promised in your contract. This is counted from the first workday after you arrive until the end date listed in your contract. If you are not offered these hours, your boss must make a payment to you at the end of the contract.

For example, let’s say you arrive on July 10, your first workday is July 11 and your contract ends on August 21. That is 6 weeks, and your contract offers 40 hours of work per week. That is 240 total hours (which is 6 weeks times 40 hours per week). Three-quarters of 240 hours is 180 hours. Therefore, your boss must offer you at least 180 hours of work by the end of the contract. You will not know for sure if you have been paid the 3/4 guarantee until your contract ends. So, at the end of the season, if your boss only offered you 160 hours of work, then he would have to pay you for 20 more hours.

This year, the minimum hourly wage for H-2A workers in this part of the United States is \$14.99. In the example above you are guaranteed 180 hours. That means that the boss must pay you at least \$2,698.20 for the season (which is 180 hours multiplied by \$14.99). If the boss only offers you 160 hours of work and only pays you for 160 hours, that would be \$2,398.40. That is less than the \$2,698.20 which the boss is required to pay you. Therefore, you would be owed \$299.80 (which is \$2,698.20 minus \$2,398.40).

If you are paid piece rate, (for example by bushel, bin or box) it is possible that if you are a very fast worker and that you may not be owed additional money. For example, if you picked 138 bins at \$20.00 a bin during those same 160 hours, you would be paid \$2,760.00. This is more than the guaranteed amount of \$2,698.20, so you would not receive any additional pay.

There are times when this guarantee does not apply. Your boss will not owe you money if you are fired for a good reason, if you quit, if the contract is cut short because of a natural disaster, or if you are unable to finish the contract because you got hurt.



But if you are sent home early or there is no work for you for some other reason, the 3/4 guarantee may protect you. If you want us to check for whether you received what was owed, please save all your pay receipts and call us at the end of the season.

WHAT COUNTS AS “WORK TIME”?

Time that you should be paid for, called compensable work time, which includes:

- Waiting time: Some of the time that you spend waiting at the worksite is time that you should be paid for. Some examples are waiting for your work assignment; waiting for fields to dry; or waiting for ladders, bins, or other equipment to arrive.
- Travel time: After your workday begins, the time you spend traveling from one field to another is work time that you should be paid for.
- Breaks: A short morning, afternoon, or meal break that is under 20 minutes counts as work time.

Time that you do not have to be paid for is called non-compensable time, which includes:

- Lunch breaks that are 30 minutes or longer, if you are allowed to completely stop working.
- Time spent traveling between the labor camp and the worksite in the morning before work, and in the evening after work, is usually non-compensable time. However, in some situations you must be paid for this time. Please call us if you want more information

Use these guidelines to keep a daily record of your work hours. You can use the Harvest calendars we provide or ask for the new farm worker log booklets.

IMPORTANT!!
IF YOU ARE HURT ON THE JOB:
WORKERS' COMPENSATION INSURANCE

If you are hurt while working, while traveling to work, and sometimes while in the labor camp, you are covered by workers' compensation insurance. This is an insurance program your employer must provide for you under your contract.

The insurance pays your medical bills and a small percentage of your lost wages if you cannot work. Every state has different rules. For example, in N.Y. you will only receive a small pay compensation if you miss 2 weeks or more of work.



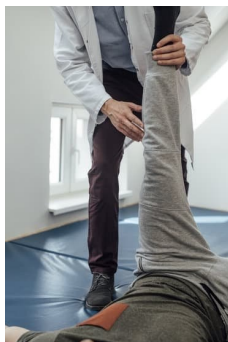
If you are injured:

—> Go to a doctor right away. Tell the doctor that you were injured or got sick at work. You have the right to speak to the doctor alone.

—> Tell your boss right away. You must do this in order to be covered by the insurance. Your boss needs to fill out a form to help start your claim. Once your boss knows what happened, it is illegal for the boss to try to stop you from getting your workers' compensation benefits.

—> The hospital or doctor's office should fill out and file proper forms for the worker's compensation insurance. If you have received a bill, contact the doctor or hospital to remind them it was a work-related medical problem and to bill the worker's compensation insurance.

—> Follow doctor's instructions. Such as: see specialists, return for follow up visits, attend physical therapy treatments. Do not work if the doctor has said not to, and follow limits on activities. If you don't understand, ask your doctor to explain. If you work before you are healed, you could cause more physical damage. **You also risk stopping your compensation checks.**



—> Usually cases of worker's compensation focus on healing your body to continue a normal work and personal life. You may need to be referred to lawyers who specialize in these types of cases.

—> Keep copies of your medical records. Make sure that you know the names of doctors you see or hospitals you go to, and keep copies of all bills and papers, both in the United States and in your home country.

—> Ask for help. If you want one of our offices to help you, we are available. It is better to call us before you go home, but you are always free to call us from home as well.

—> When you arrive home, continue to seek medical care if needed. If you are from Jamaica, your government has procedures in place to help you.

You should be able to continue to receive benefits and treatment even after you return home. It can be harder to get benefits and medical care when you are home, but a lawyer may be able to help you. If you are injured and return home before you are well or before you receive all of your benefits, you can call one of our offices for help.



YOU ARE ENTITLED TO
FREE HOUSING
IN GOOD CONDITION

Your boss must give you free housing in the labor camp. The person in charge of the labor camp is responsible for making sure that the housing meets health standards, that it is inspected, and that it has a government-issued permit.

There are many federal and state labor camp requirements, including the following:

- The flooring in the labor camp must be in good condition.
- The windows must open and there must be screens.
- During cold weather there must be adequate heating equipment.
- If there is no commissary, access to a stove and food storage.
- Each worker must be provided with their own bed, at least 12 inches off the floor, and there should be at least 36 inches (3 feet) between each bed.
- An adequate supply of clean water must be provided so workers can drink, cook, bathe, and do their laundry at the labor camp.
- There must also be an adequate supply of hot water for bathing.
- Toilet rooms should be in sanitary condition. There should be lights that work at all hours. All waste water must drain properly through a septic or sewer system.
- Effective measures must be taken to prevent infestation by insects and other animal pests.
- Garbage and recycling containers must be picked up regularly.
- If your labor camp has fire extinguishers, smoke detectors and carbon monoxide detectors, they should be in working order.
- There are more requirements that are not listed here.

Important: If there are smoke detectors or carbon monoxide detectors in your labor camp, do not remove the batteries! Alert the boss if new batteries are needed or if the detectors are not working properly.



The rules and responsibilities of living in the camp should be posted where everyone can see them. You may call us for more information.

Some of these rules and requirements should change because of the COVID-19 virus. For example, it may be required that there be more space between beds to keep workers safe. Please call us for more information.

LEGAL SERVICES HELPS

We have worked with farm workers on many problems over the years. There are many situations discussed in the newsletter.

For us to be able to help you, we ask that you:

- Provide us with correct information to keep in touch with you, as well as correct information regarding your issues.
- If your phone number or address changes, please let us know.
- Please remember to check your messages and return calls.

This paper was produced by the legal services offices listed on first page. We are lawyers and paralegals who offer **free legal help** to eligible workers with the problems they are having at work. We provide legal advice and possibly representation when there are problems. If you have worked under the contract in the states we cover, you may already know some of us. From planting to harvest season we visit farmworkers in the labor camps to discuss our services and give out information about rights of farmworkers in the U.S. **The information in this paper is intended to provide general information only, not to give legal advice. No one should interpret any law without the aid of an attorney who is fully informed of all the facts involved!!**