



Crash course to hiring your first employee



Congratulations!

Your business has grown and you're ready to hire your first employee. Where do you start? Once you've found the perfect person, the next step is figuring out compensation, benefits, and compliance. This may sound overwhelming, but don't worry, we're here to help. In this guide, we'll walk you through the process of hiring your first employee so that, right from day one, they'll be ready to contribute to your team's success.

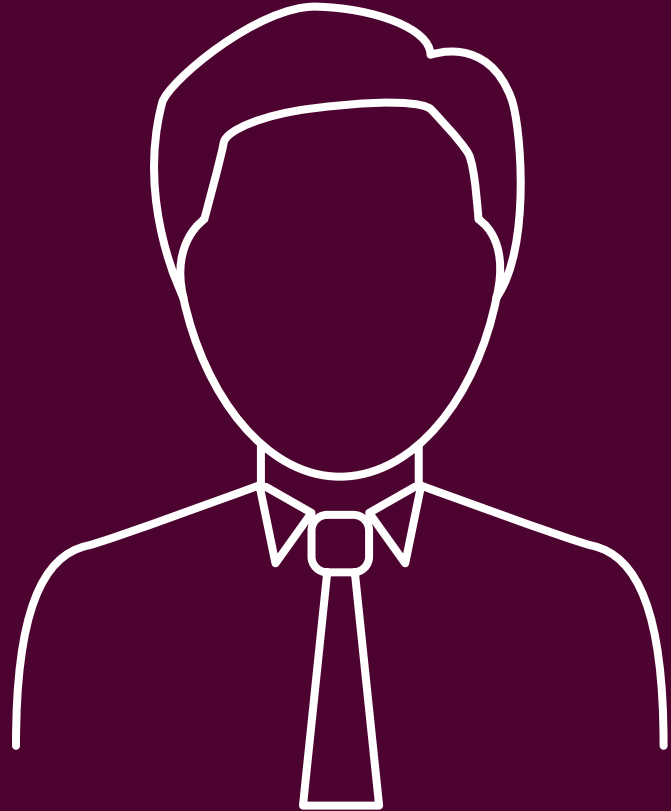
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What to do before you make the first hire.

There are a number of things your company needs to do before making your first hire – some are legal and regulatory, while others are best practices. Here is a short checklist of the four things you need to do before you make your first hire.



Apply for a federal employer identification number (FEIN)

First, you have to decide what type of corporate entity you want to form for your small business. Most small businesses are incorporated because they provide liability protection. The different corporate entity types include:

S Corp

An S Corporation (“S Corp”) is a popular choice for many businesses. They are generally more complicated legally but can provide significant tax savings.

C Corp

A C Corporation (“C Corp”) is an alternative choice to the S Corp. Unlike the S Corp, C Corps can be subject to “double taxation,” which may make them unpopular with small businesses.

LLC

A Limited Liability Corporation (“LLC”) is a lightweight alternative to incorporate your business. It does not have the typical tax savings as the other options, but it is less complicated legally.

After you determine your corporate identity, you’ll want to set up your **FEIN** (Note: sole proprietorships do not need a FEIN, but partnerships do). If you plan on running payroll through a payroll provider, you’ll likely

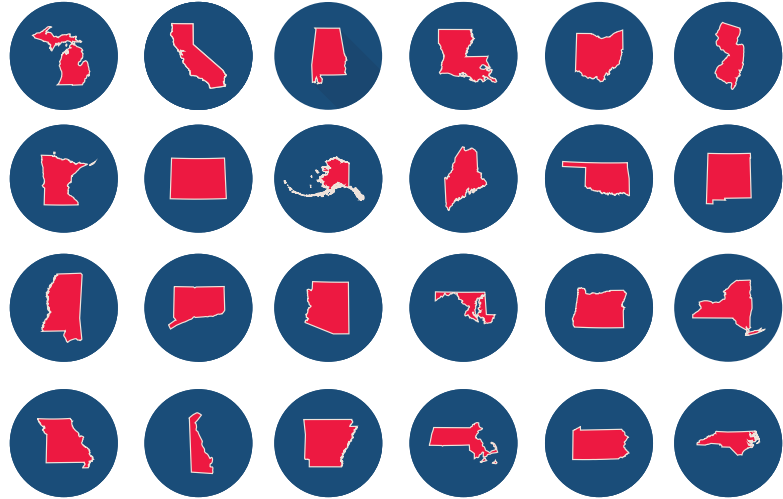
need a FEIN because your Social Security Number is not sufficient. To see what payments your payroll company is making on your behalf, enroll in **EFTPS**.

Important websites

- › Small Business Association
- › Biz Filings Comparing Company Types LLC, S Corp, C Corp, DBA
- › Set up your FEIN
- › Enroll in EFTPS

Become compliant with your relevant state departments

As an employer, you'll need to register your company with your state. Every state has one to three departments that handle compliance with state tax collection, unemployment, disability, etc. In California, for example, the **Employment Development Department (EDD)** handles both tax collection and labor and workforce laws like unemployment. In New York, the **Department of Taxation and Finance** manages your withholding tax while the **Department of Labor** manages labor and workforce.



Gusto automatically manages your state payroll-related tax payments and filings, but you'll need to register your business in your state first.

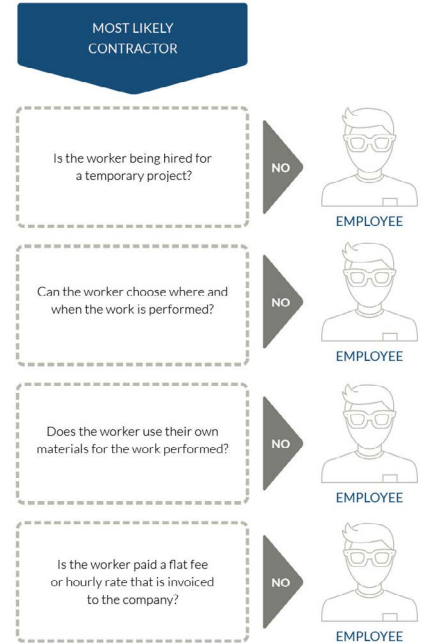
Purchase workers' compensation insurance

Every state has its own set of workers' compensation rules. The National Federation of Independent Business (NFIB) has a page that summarizes each state's policy, but be sure to check your local state regulation directly to see if you have to set up a policy for your first employee.

Make sure workers are properly classified

As you expand your team, you may want to bring on additional help. Sometimes a contractor is a good fit, but be careful because your contractor may actually be an employee. Use this guide to check to see if your worker is a contractor or employee.

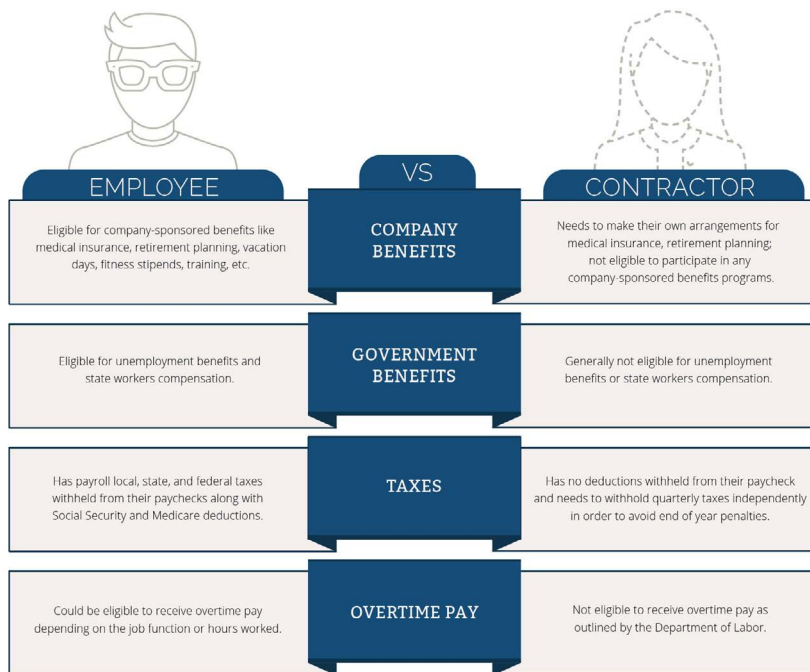
Employee or a contractor?

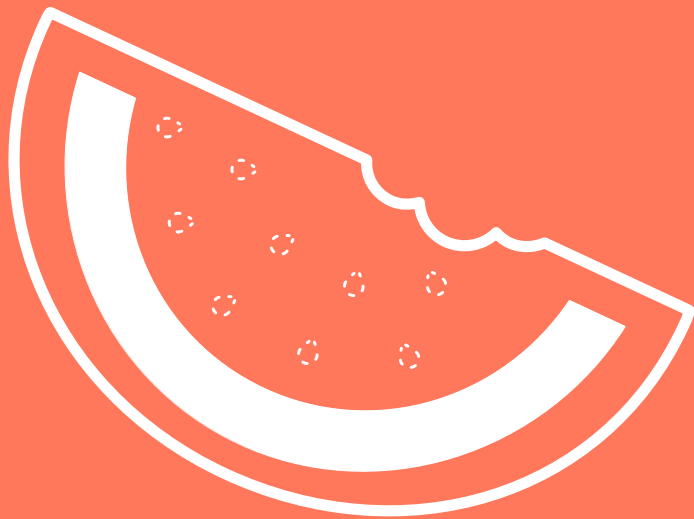


Employee vs Contractor

Before you make this important staffing decision you need to fully understand both types of workers and the importance of classifying them correctly. Failing to do so could cost your business.

If you are still unclear, complete IRS Form SS-8 and they'll give you a final determination of the worker's status. It could take 6 months for a decision, but it will give you peace of mind to continue running your business.





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What to do on your employee's first day.

Your employee's first day is incredibly exciting. At Gusto, in addition to helping new employees get situated with internal systems, we give them cool Gusto swag, a "welcome!" balloon, and an "inside joke" watermelon (yes, a real watermelon).

You can do something fun for you employee's first day too **here are some suggestions.**

Key legal and regulatory items

As part of employee on-boarding, there are a few key legal and regulatory items. We have linked to the appropriate documents here, but make sure you have the most recent version.

Form I-9

Each employee needs to fill out Form **I-9** to verify he/she is legally eligible to work in the United States. You don't need to submit the form, but you must keep it on file (a digital copy works just fine) for the entirety of the employee's employment, and a minimum of either three years from the hire date or one year from the term date, whichever is longer. You can also verify the employee's work

status online using **e-Verify**.

Form W-4

Your employee will also need to fill out Form **W-4** to determine their tax withholding (Note: You cannot do this on their behalf). The W-4 does not need to be submitted anywhere, but each company is legally required to keep every employee's W-4 on file for a minimum of four years.

A withholding tax is a pay-as-you-go tax to the IRS and can be calculated through the W-4 and their IRS **withholding calculator**. These three things determine how much you withhold for your employee:

- > Marital status
- > The number of allowances claimed on the W-4

- > Compensation (Note: This may depend on the State where your employee receives payroll.)

Employees who anticipate a full refund may be exempt from withholding. This is different from employees who are exempt, like clergy or certain visa holders.

Gusto automatically manages your state payroll-related tax payments and filings, but you'll need to register your business in your state first.

New hire reporting for states

Each state has a department to report your new hires. You will typically provide the employee's name, address, and social security number. Depending on the state, you may have anywhere between a few days to 90 days to submit this information to the state.

Check your local state tax, labor, and workforce website for more information. In California, for example, your employer has to file a **DE-34** for each employee. Depending on your state, your employer may have to file these documents within a certain time frame. Fortunately, your payroll provider should be able to file documents like the DE-34 automatically on your behalf.

Choose a payroll schedule

Every business has to **decide which payroll schedule is best** for them and employees. The most common frequencies in the U.S. are monthly, semi-monthly (twice a month), biweekly (every two weeks) and weekly. State laws typically require a minimum pay period — you can always pay more frequently but not less. Each pay schedule has advantages and disadvantages. Refer to the Gusto Guide on Payroll Periods to help you choose the right payroll for your company and your employees.

Gusto Guide on Pay Periods	WEEKLY	BIWEEKLY	SEMI-MONTHLY	MONTHLY
Frequency (per year)	52	26 ¹	24	12
Payroll Date	Every week usually on Friday	Every two weeks usually on Friday	Typically 1 st & 15 th or 15 th & 30 th	End of the Month
Hours per pay period ^{1-3*}	40	80	86.67	173.33
Payroll Processing Cost [*]	Medium	Medium - Low	Low	Lowest
Implications to Accounting	Medium	Medium - Low	Low	Lowest
Implications to Benefits	Medium	Medium - Low	Low	Lowest
Processing Time [*]	Medium	Medium - Low	Low	Lowest
Salaried Employees	Salaried employees prefer being paid more frequently but the differences are minor. Most companies pay their salaried employees semi-monthly or biweekly.			
Hourly Employees	Most Preferred	Preferred	Low Preference	Low Preference

^{*} Gusto's time and costs are the same no matter what pay period you choose. ^{**} For hourly employees. ¹ Sometimes 27

03

Important taxes, legal, and regulatory issues for your first hire.

There are a number of taxes, legal issues, and regulations you have to consider when you hire your first employee. Here is a list of some of the more important terms.



Deposit taxes and file returns

There are different due dates for the taxes you've withheld for your employee. Your payroll provider will match these due dates to your payroll schedule. Some taxes are also due quarterly and annually, depending on local or state regulations.

Overtime

Overtime laws differ across local and state regions. A non-exempt employee is paid hourly and is most impacted by overtime.

An exempt employee is not paid by hour, but depending on your city and state, likely has a minimum salary.

As a rule, you should always follow the minimum wage law that is the most favorable to the employee. Check your local and state departments of labor to make sure you're being compliant for your non-exempt and exempt employees.

Withhold taxes

We covered withholding taxes in "What to Do On Your Employee's First Day," Form W-4.

Choosing a modern, online payroll provider is the best way to stay compliant and make sure all your taxes get paid accurately and on-time.

Benefits

Caring for your team by offering health, retirement and other benefits helps employees and their families stay healthy and financially secure.

Pre-Tax health benefits

A **section 125** plan provides employers the option to offer taxable and nontaxable benefits. Under section 125, employees can deduct insurance premiums pretax and set aside pre-tax funds for healthcare and medical expenses.

Five popular pre-tax health benefit options are **Premium Only Plans (POPs), Health Savings Accounts (HSAs), Medical Savings Accounts (MSAs), Flexible Spending Arrangements (FSAs), and Health Reimbursement**

Arrangements (HRAs). Depending on your state, your employee may be eligible for exemptions on the state level as well. Since the employees are receiving these benefits pre-tax, these premiums are also not subject to Social Security and Medicare tax. (Note: Section 125 can be beneficial for employees and employers. Under section 125, employers can also see a significant decrease in company payroll tax.)

Retirement benefits

Employers can also offer a wide variety of retirement benefits that helps the company and employees. For a small business, there are some advantages to starting a retirement plan for your employee including tax deductible contributions to the plan, **access to various tax credits or incentives** for starting a plan, and attracting and retaining employees.

For employees, retirement plans are very attractive. Contributions to the tax plan are deducted through payroll, tax-free. In addition to lowering the employee's taxable income, these contributions add up over time and can be carried over across employers or into private accounts. The **IRS has more information** on the most popular plans for employers.

Retirement benefits

- › Lots of Benefits - when you set up an employee retirement plan
- › Types of Retirement Plans
- › Small Business Retirement Plan Resources
- › Publication 560 (2013), Retirement Plans for Small Business
- › What You Should Know About Your Retirement Plan

Fringe benefits

There are also additional benefits you can provide for your employees, some of it tax-free. They include:

- › Commuter benefits
- › Employer-Provided Cell Phones
- › Meals
- › Athletic Facilities

For more information, see the **IRS guide to fringe benefits**.

04

What to look for in your first hire?

We asked five successful Gusto small business owners what they look for in their first hire.





Charlotte Genevier

CEO/Founder, The Cotery

“A startup’s first hire needs to have three things: self-motivation, alignment of vision, and resilience. While you’ll undoubtedly work closely with them, your first hire will typically be largely self-directed. You need to count on their ability to get things done without you breathing down their neck. This makes alignment of vision crucial: how can you trust your hire to take action in the right direction if they don’t agree with the direction you’re steering the company? Lastly, if your first hire isn’t resilient, they won’t be able to handle the ups and downs inherent in starting a business.”



Tyler Menezes

Executive Director, StudentRND

“I’d recommend that you look for someone with autonomy, someone who’s able to break down a problem by themselves. Your first hire should be someone who’s particularly good in a specific area, but is also capable of making decisions in a field they might know nothing about. We’re always looking for people who are able to take on a project they may have no previous experience with, but can make a reasonable effort in getting it done.”



Jonathan Junker

Co-founder, Graypants

“For us, personality is everything. My advice is to find someone you really enjoy being around. And find people you really look up to. I look up to the people I work with more than anybody.”



Alvaro Galbete Velilla

President, Pulselocker

“There are three essential things to look for when hiring your first employee. The first is cultural fit. At the end of the day, human values really matter. The second factor is related to skill diversification. It’s important to bring on professionals with complementary skills and talents to ensure a minimum sustainable structure with minimal overlap (which can be challenging.) Finally, the third thing to look for is passion and tenacity. We love working with people who want to join us — not just for the paycheck, but because they’re stoked at the possibility of leaving a fingerprint on the business.”



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Additional resources.

We know there are more things to your first hire than filling out paperwork. Here are some of important resources you can use to get your first hire up and running quickly.

Broad templates and legal resources

For broad templates and legal resources, check out these sites:

- › Startup Company Lawyer
- › Rocket Lawyer Business Legal Forms
- › HR at MIT
- › Orrick Start-Up Forms Library

Job description

A good job description is critical for recruiting the right employee for your business. For job description writing tips, check out these options:

- › HR at MIT Job Descriptions
- › Mashable HOW TO: Write a Standout Job Description

Offer letter

Once you've identified a qualified candidate, you may want to send your potential hire an offer letter with congratulations and details on the offer. For sample offer letters, check out these options:

- › Rocket Lawyer Employment Offer Letter
- › HR Marketer Sample Offer Letter

Non-disclosure agreements

Some businesses may require their employees to sign non-disclosure agreements (NDAs). Harvard Business School provides a simple NDA:

- › HBS Sample NDA

Employee and contractor agreements

When you hire an employee or contractor, you may want to clarify the role, compensation, and other legal ramifications of the position (including scope and limitations). Here are some resources to help you generate these documents.

- › Orrick Start-Up Forms: Employment and Consultant
- › Docracy Independent Contractor Agreement Template



Let us help you

Many of the biggest headaches in employee onboarding are handled by Gusto. We make sure your employee is compliant with tax and regulatory laws so you don't have to worry. We built our software with small business owners in mind, because we know you're already busy growing your business.

For more information on how Gusto can help you, check out the following resources:

- **Gusto blog:** This is our ongoing corporate blog that covers the latest small business best practices, updated multiple times a week.
- **Gusto FAQ:** We answer some of the most common questions about our payroll software and its features.
- **Gusto customers:** See what other Gusto customers are doing to grow their business.