



CRASH COURSE

Hiring your first employee

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What to do before you make your first hire

Before you can lock down the relationship, there are a number of things you need to get in check. Some are legal and regulatory, while others are best practices that will help make your journey nice and easy. This short checklist will give you a quick rundown of each part.

Step 1: Figure out your business type

What kind of business do you want to be? And by that, we don't mean deciding whether you want to sell astronaut ice cream or just regular ice cream. Selecting the right business structure in the beginning will shield you from issues in the future.

Poke through the different types below, and explore more in this overview from the [Small Business Administration](#).

- **S Corp:** An S Corporation (“S Corp”) is a common choice for many owners because it can potentially provide large savings on the tax side. Generally, they're more legally complex than other entities.
- **C Corp:** A C Corporation (“C Corp”) is another option if you don't go with the S Corp. However, C Corps can be subject to “double taxation,” which make them an unlikely choice for many small businesses.
- **Partnership:** A Partnership is when there are at least two people leading the business, with each one personally responsible for the company's finances.
- **Sole proprietorship:** A Sole Proprietorship (“Sole prop”) is one of the most popular entities because it's easy to set up and gives the owner total control. Similar to a Partnership, as a Sole Prop, you are personally responsible for all financial obligations.
- **LLC:** A Limited Liability Corporation (“LLC”) is a simpler option for incorporating your business. It doesn't have the typical tax savings as the other types, but it is less confusing on the legal side.

Step 2: Apply for a federal employer identification number (FEIN)

Entity secured? Hooray. Now, it's time to get your FEIN. This number is a thumbprint that tells the IRS who you are. As an LLC or Sole Prop, you can use your Social Security Number instead of an FEIN until you hire your first teammate. If you use a [payroll provider](#), you'll also need to get your hands on one.

Find your FEIN in minutes with [this tool](#) from the IRS.

PRO TIP

To see the tax payments your [payroll company](#) is making on your behalf, [enroll](#) in the Electronic Federal Tax Payment System (EFTPS). Signing up is a cinch, and it will give you a better understanding of the taxes you're spending each month.

Step 3: Comply with your state

Your next mission is to register with your state. Every state has at least one department that specializes in tax compliance, unemployment, and disability insurance — and each state is wildly different. In California, for example, the [Employment Development Department \(EDD\)](#) is in charge of both tax collection and unemployment insurance. Across the country, New York's [Department of Taxation and Finance](#) manages withholding tax while the [Department of Labor](#) takes care of unemployment insurance. See? It's all over the map.

Step 4: Get workers' comp insurance

No two stars are alike, and neither are the approaches two different states can take to workers' comp. The National Federation of Independent Business (NFIB) lists out each of the 50 policies [here](#), but be sure to refer to your local state's website to see what your exact responsibilities are.

Step 5: Categorize your team

Both planets and team members need to be classified correctly. If you've ever brought on extra help, you already know how perplexing it is to pinpoint your worker's status. Sometimes your employee might resemble a contractor or vice versa, which can leave you in the dust.

Roger that. The chart below will help you clear up the differences between the two:

EMPLOYEE	VS	CONTRACTOR
Qualifies for company-sponsored benefits like health insurance, retirement planning, vacation days, fitness stipends, training, and more.	Company benefits	Needs to make their own arrangements for health insurance and retirement planning. Contractors aren't allowed to participate in any company-sponsored benefits programs.
Eligible for unemployment benefits and state workers' comp insurance.	Government benefits	Generally does not receive unemployment benefits or state workers' comp insurance.
Has local, state, and federal taxes withheld from their paychecks, along with Social Security and Medicare deductions.	Taxes	No deductions are withheld from their paychecks. Therefore, they need to withhold taxes on their own in order to avoid end-of-year penalties.
Could be entitled to overtime pay depending on the role or number of hours worked.	Overtime pay	Ineligible for overtime pay.

If you're still stumped, have the IRS determine your worker's status by filling out Form SS-8. Easy as that.

What to do on your employee's first day

So you're pumped about welcoming your new hire to the team. But how do you make sure it's a moment they'll always remember? At Gusto, we give new folks a watermelon — yes, a real watermelon — that pays tribute to a tradition that all started with our first employee. And you can set up your own traditions too. Soak up some inspiration and learn how to make your new hire's first day first-rate.

Key legal and regulatory items

Once the celebration winds down, it's time for you to dive into the legal and regulatory side of welcoming someone to your team. In the HR world, this is called "onboarding," and it's a pretty on-point thing to do.

Form I-9: Feel like your teammate is too good to be true? Double check their earthling status with Form I-9. The document verifies a person's eligibility to work in the US, and is kept on file the entire time your worker is with you. This means either three years from when they start or a year after they leave — whichever period is longer. If you want to authenticate your employee's status right this second, try your hand at the IRS's free [E-Verify](#) tool.

Form W-4: Another form floating around the hiring orbit is the [W-4](#). The document is used to determine an employee's tax withholding amount, and can only be filled out by them alone (even though we know you want to help!). Like the I-9, the W-4 doesn't need to be sent anywhere, but you should hold on to it for at least four years.

New hire reporting for states: Every state has a department that's dedicated to registering new hires. Once your employee begins, you'll typically send that office their name, address, and Social Security number. Time is of the essence here. You'll either have a couple days to a few months to send this information over. Have any other questions about your requirements? Your state's labor website will have all the details you need.

Payroll schedule: Once all the forms are nailed down, you need to think about how often you want to pay your new teammate (and yourself!). The most common frequencies are weekly, biweekly, and semimonthly, and state laws typically require that you stick to a minimum period. The basic rule is

that you can always pay your team more often, but never less.

Up your scheduling knowledge with the chart below or in [this article](#) that goes more in-depth.

	Monthly	Semimonthly	Biweekly	Weekly
Frequency (per year)	12 Months	24 Months	26 (Sometimes 27 weeks)	52 Weeks
Payroll date	End of month	Usually 1st & 15th or 15th and 30th	Every two weeks usually on friday	Every week usually on friday
Hours per pay period (for hourly employees)	173.33	86.67	80	40
Payroll processing cost	Lowest	Low	Medium-low	Medium
Implications to accounting	Lowest	Low	Medium-low	Medium
Implications to benefits	Lowest	Low	Medium-low	Medium
Processing time	Lowest	Low	Medium-low	Medium
Salaried employees	Most companies pay their salaried employees semimonthly or biweekly.			
Hourly employees	Lowest preference	Low preference	Prefeered	Most preferred

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What to know about taxes, legal, and regulatory requirements

While you're working on your moonshot idea, you'll also have to moonlight as a compliance expert. With a little education, it's easy to do. Here's a list of important terms for you to commit to memory.

Deposit taxes and file returns

Throughout the year, you'll have to forward the taxes you've withheld from your team to the IRS. While a lot of [payroll services](#) take care of this part, it's still important to know what's what.

OVERTIME PAY

Over the moon about overtime? So are we. These important laws come from the Fair Labor Standards Act (FLSA), and vary across local and state regions. Overtime pay equals time and a half of a person's regular wage, and primarily applies to nonexempt hourly employees who work more than 40 hours in a single week. As a rule of thumb, you should always stick to the [minimum wage law](#) that helps your employees out the most.

TAX WITHHOLDING

Hold up: What is [tax withholding](#)? When you run payroll, you send a portion of your team's paychecks to the IRS. That total is then subtracted from your each person's yearly income tax bill. Employees use the W-4 to calculate that number, called the withholding allowance, which then tells employers how much to take out. Learn more about withholding tax and W-4s in [this rundown](#).

EXERCISE YOUR EXEMPTION KNOWLEDGE

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

Benefits

[Benefits](#) don't have to feel like going down a black hole. By caring for your team, you can help your employees and their families stay happy, healthy, and financially secure for the road ahead. In this section, we'll go through a few of the terms that make up the benefits universe.

PRE-TAX HEALTH BENEFITS

“Pre-tax” is a pretty wonderful word. Under [Section 125 plans](#), employees can pay their insurance premiums before taxes are taken out, which allows them to save a good chunk of money. Some of these plans, also called “cafeteria plans,” enable people to set aside pre-tax dollars for health-related expenses.

Here are a few options to explore:

- [Premium Only Plans \(POPs\)](#)
- [Health Savings Accounts \(HSAs\)](#)
- [Medical Savings Accounts \(MSAs\)](#)
- [Flexible Spending Arrangements \(FSAs\)](#)
- [Health Reimbursement Arrangements \(HRAs\)](#)

Depending on where you live, your employee may be eligible for exemptions on the state level. Since people receive these benefits pre-tax, they’re not subject to Social Security and Medicare tax.

RETIREMENT BENEFITS

Retirement might feel like it’s light years away. But by offering your team a plan, they’ll be in a better place to plan for whatever lies ahead. There are also tons of business advantages to doing so, including pre-tax plan contributions, access to tax credits, and the warm and fuzzy feeling you get when you’re protecting your team.

Employee plan contributions are easily taken out through payroll, tax-free. In addition to lowering your team’s taxable income, the amount will stack up over time and can be carried over if they change jobs or move accounts. Want to learn more about what’s out there? Get an overview of the most popular retirement plans [here](#).

PRO TIP

Section 125 is not just for employees — you can also reap a bunch of benefits as an employer. Under the program, you can get your payroll taxes slashed thanks to the credits offered to participating companies.

More links to help you out:

- [Benefits of setting up a plan](#)
- [Types of plans](#)
- [How to choose a plan](#)

FRINGE BENEFITS

Time to get fringey. Fringe benefits are extra perks you can give to your employees to make their lives easier. They might sound like they're kind of out there, but many companies use these benefits to make compensation packages more meaningful. And as an added bonus, some are even tax-free.

Fringe benefits include things like:

- Meals
- Commuter benefits
- Gym stipends
- Education stipends
- And [more](#)

What to look for in your first hire

We're so glad you asked. We rang up five business owners to hear about the qualities they search for in founding team members. Here's what they told us.



“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.”

CHARLOTTE GENEVIER • CEO/FOUNDER, THE COTERY



“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.”

TYLER MENEZES • EXECUTIVE DIRECTOR, STUDENTRND



“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.”

JONATHAN JUNKER • CO-FOUNDER, GRAYPANTS



“There are three essential things to look for when hiring your first employee: cultural fit, skill diversification, and passion. 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.”

ALVARO GALBETE VELILLA • PRESIDENT, PULSELOCKER

Additional resources

The hiring galaxy is full of twists and turns — and loads of awesomeness. And by getting more comfortable with all the details, you can spend more time basking in the joy of this important day.

HR TEMPLATES AND LEGAL RESOURCES

For sample templates and legal information, check out the following sites:

- [Startup Company Lawyer](#)
- [Rocket Lawyer Business Legal Forms](#)
- [HR at MIT](#)
- [Orrick Start-Up Forms Library](#)

JOB DESCRIPTIONS

A good job description is critical for finding the right employee. For writing tips, take a look at these links:

- [HR at MIT Job Descriptions](#)
- [Mashable HOW TO: Write a Standout Job Description](#)

NON-DISCLOSURE AGREEMENTS

Some businesses may require their employees to sign non-disclosure agreements (NDAs). Here's a simple one from Rocket Lawyer:

- [Rocket Lawyer Sample NDA](#)

FRAMEWORK

Our resource center is where we talk about the latest and greatest in small business. Come here to find:

- [Hiring email templates](#)
- [Crash Course: Hiring your first contractor](#)
- And much more

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Thanks for reading!

We hope you enjoyed learning about all the awesomeness involved when you welcome a new employee to the team. Have any questions about what you read? Flip through [our help center](#), [visit our blog](#), and take a look at some of the other [free Framework resources](#) that are just waiting for you to explore.

With Gusto, we help you and your team stay compliant with all the tax and regulatory laws so you never have to worry about a thing.

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