

STATE OF EMERGENCY OR DISASTER

REQUESTS FOR EXTENSION TO REPORT AND PAY

California employers directly affected by an emergency or disaster may request an extension of up to 60 days to file their state payroll reports and to deposit state payroll taxes with EDD, without penalty or interest. The extension is granted under Section 1111.5 of the California Unemployment Insurance Code (CUIC) if the Governor declares a state of emergency.

State payroll taxes include Unemployment Insurance (UI), Employment Training Tax (ETT), State Disability Insurance (SDI) (includes Paid Family Leave), and California Personal Income Tax (PIT). To request an extension, employers must send a letter to EDD specifically requesting an extension of time under Section 1111.5 of the CUIC, along with the previously unfiled report(s) and payment(s). The letter must also provide detailed information as to why the report or payment could not be submitted in a timely manner.

Employers should mail the letter and tax report or payment to the address specified on their filing form. If an employer has already been charged a late filing or payment penalty that he/she believes may qualify for this extension, the employer should send a written request to:

Employment Development Department
P.O. Box 826846, MIC 3A
Sacramento, CA 94246-0001

RECONSTRUCTING PAYROLL RECORDS

If employer payroll records were lost or destroyed due to a disaster, it will be necessary to reconstruct the records in order to file any quarterly and/or year end payroll tax reports due and not yet submitted. It will also be necessary to determine and remit any payroll taxes due. If information is not available to determine the exact wages paid, employers may make reasonable estimates based on the best information available. EDD can provide employers with copies of previously filed reports which may serve as a basis for their estimates. For further information or to request copies of previously filed reports, call the EDD Taxpayer Assistance Center at (888) 745-3886.

DISASTER RELIEF PAYMENTS

Effective in tax years after September 11, 2001, *qualified disaster relief payments* (as defined in Section 139 of the Internal Revenue Code [IRC]) made by an employer are not subject to PIT withholding or reportable as PIT wages under CUIC Sections 13006, 13009(q), and 13009.5. However, disaster relief payments paid by employers are subject to UI, ETT, and SDI (includes Paid Family Leave) unless excluded under CUIC Section 938 as payment resulting from the death of an employee.

A *qualified disaster relief payment* is defined by Section 139(b) of the Internal Revenue Code as any amount paid to or for the benefit of an individual:

- (1) to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses incurred as a result of a qualified disaster,
- (2) to reimburse or pay reasonable and necessary expenses incurred for the repair or rehabilitation of a personal residence or repair or replacement of its contents to the extent that the need for such repair, rehabilitation, or replacement is attributable to a qualified disaster,
- (3) by a person engaged in the furnishing or sale of transportation as a common carrier by reason of the death or personal physical injuries incurred as a result of a qualified disaster, or
- (4) if such amount is paid by a federal, state, or local government, or agency or instrumentality thereof, in connection with a qualified disaster in order to promote the general welfare,

but only to the extent any expense compensated by such payment (as indicated in items 1-4 above) is not compensated by insurance or otherwise.

A *qualified disaster* is defined by IRC Section 139(c) as:

- (1) a disaster that results from a terroristic or military action (as defined in IRC Section 692(c)[2]),
- (2) a Presidentially declared disaster (as defined in IRC Section 1033(h)[3]),

- (3) a disaster which results from an accident involving a common carrier, or from any other event which is determined by the Secretary (of Labor) to be of a catastrophic nature, or
- (4) with respect to amounts described in item (4) (see page 1), a disaster which is determined by an applicable federal, state, or local authority as determined by the Secretary (of Labor) to warrant such assistance from the federal, state, or local government or agency or instrumentality thereof.

Additional information about emergencies and disasters can be found on the Governor's Office of Emergency Services' Web site at www.oes.ca.gov.

EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Requests for services, aids, and/or alternate formats need to be made by calling 1-888-745-3886 (voice) or TTY 1-800-547-9565.