

FOREIGN EMPLOYMENT AND EMPLOYMENT ON AMERICAN VESSELS OR AIRCRAFT

FOREIGN EMPLOYMENT BY A UNITED STATES CITIZEN

UNEMPLOYMENT INSURANCE, STATE DISABILITY INSURANCE, AND EMPLOYMENT TRAINING TAX

For purposes of unemployment insurance (UI), state disability insurance (SDI),* and employment training tax (ETT), a citizen of the United States performing services outside the United States and Canada for an American employer is covered by California law if:

1. The American employer's principal place of business in the United States is in California, or
2. The American employer has no place of business in the United States, but:
 - The employer is an individual who is a resident of California, or
 - The employer is a corporation or limited liability company (LLC) that is organized under California laws, or
 - The employer is a partnership or trust and the number of partners or trustees who are California residents exceeds the number who are residents of any other state.
3. If neither #1 nor #2 applies, then the worker is covered by California law if the American employer has elected coverage in California. If the employer has not elected coverage in California or any other state, the worker is covered by California law if the worker has filed a benefit claim in California.

An "American employer" means a person who is any of the following:

- (a) An individual who is a resident of the United States.
- (b) A partnership, if two-thirds or more of the partners are residents of the United States.
- (c) A trust, if all the trustees are residents of the United States.
- (d) A corporation organized under the laws of the United States or of any state.

* Includes Paid Family Leave (PFL) beginning January 1, 2004.

- (e) An LLC organized under the laws of the United States or of any state.
- (f) Any Indian tribe as described by subsection (u) of Section 3306 of Title 26 of the United States Code.

PERSONAL INCOME TAX (PIT) WAGES AND WITHHOLDING

Wages paid to a California resident for services performed outside the United States are reportable as PIT wages and subject to California PIT withholding when they are paid by an employer who does business in California, derives income from sources within California, or in any manner is subject to the laws of California.

EXAMPLE

XYZ Company, a Delaware corporation, maintains its principal place of business in California but has branch offices in London, England, and Paris, France. XYZ hired John Jones, a U.S. citizen, to manage the London operations, and John and his family have moved their residence to England. John's services are subject to UI, ETT, and SDI in California because he is a U.S. citizen performing services outside the United States for an American employer that maintains its principal place of business in California. John's wages are not subject to California PIT withholding because he is not a California resident and he performed no services in California.

NONRESIDENT ALIENS WORKING IN CALIFORNIA

Residents of countries other than the United States who are not United States citizens are also subject to California law for most services performed in this state. For example:

Mr. X, a foreign citizen and president of a corporation in his country, comes to California two weeks every year to visit a subsidiary corporation operating in California. He is paid wages by the subsidiary for management services while visiting in California. At the end of two weeks he returns to his home country. Since the services were performed in California and are not specifically exempted by statute, the wages paid to Mr. X by the subsidiary are subject to all California payroll taxes (UI, ETT, SDI, and PIT) even though Mr. X is neither a citizen of the United States nor a resident of California.

EMPLOYMENT ON AN AMERICAN VESSEL OR AIRCRAFT — WITHIN OR WITHOUT THE UNITED STATES

UNEMPLOYMENT INSURANCE, STATE DISABILITY INSURANCE, AND EMPLOYMENT TRAINING TAX

Service performed for an employing unit on or in connection with an American vessel operating on navigable waters within or within and without the United States or on or in connection with an American aircraft operating within or within and without the United States is reportable to California if:

- The employing unit maintains in California an operating office from which the operations of the American vessel or aircraft are ordinarily and regularly supervised, managed, directed, and controlled, and
- Such services are included in “employment” under the Federal Unemployment Tax Act (FUTA).

“American vessel” means any vessel documented under the laws of the United States, and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any state.

“American aircraft” means an aircraft registered under the laws of the United States.

EXAMPLE

ABC Company sails cruise ships from San Francisco to Alaska with a stop at a port in the State of Washington. ABC’s ships are all documented under the laws of the United States, and ABC regularly supervises, manages, directs, and controls its ships from its office in San Francisco. Wages paid to ABC’s crew members are reportable to California because (1) the services were performed on an American vessel operating on navigable waters within and without the United States, (2) the employer directs the vessel from its operating office in San Francisco, and (3) the services are included in “employment” under FUTA.

Workers performing services on or in connection with a vessel or aircraft that is not an American vessel or American aircraft are not in covered employment if the worker is employed on or in connection with such vessel or aircraft when outside the United States.

PIT WAGES AND WITHHOLDING

Wages paid for services on an American vessel are not reportable as PIT wages or subject to PIT withholding.

Wages paid to a California resident for services performed on an American aircraft are reportable as PIT wages and subject to PIT withholding. In addition, a California resident may be subject to another state’s income tax laws if over 50 percent of the California resident’s scheduled flight time during the calendar year is in that other state. Similarly, a nonresident of California may be subject to California PIT wages and withholding (as well as withholding for the nonresident’s home state) if over 50 percent of the nonresident’s scheduled flight time for the calendar year is in California.

EXAMPLES

A flight attendant for Acme Air lives in San Diego, California, and flies a regular round trip from San Diego, California, to Albuquerque, New Mexico, with an intermediate stop in Phoenix, Arizona. This regular route consists of 20 percent scheduled flight time in California, 60 percent scheduled flight time in Arizona, and 20 percent scheduled flight time in New Mexico. The flight attendant’s wages are subject to the personal income tax laws of California (the worker’s state of residence) and Arizona (the state in which the worker spends over 50 percent of scheduled flight time).

A pilot for A-OK Skyway Express lives in Ashland, Oregon, and flies a regular route between Medford, Oregon, and San Francisco, California. This route consists of 10 percent scheduled flight time in Oregon and 90 percent scheduled flight time in California. The pilot’s wages are subject to the personal income tax laws of Oregon (the worker’s state of residence) and California (the state in which the worker spends over 50 percent of scheduled flight time.)

ADDITIONAL INFORMATION

If you have any questions regarding this Information Sheet, you may:

- Visit your local Employment Tax Office listed in the California Employer’s Guide (DE 44) and on our Internet site at www.edd.ca.gov/taxrep/taxloc.htm#taxloc.
- Call the Employment Tax Call Center toll-free at 1-(888)-745-3886.

Speech and hearing impaired users can reach the Department by calling 1-(800)-547-9565.

Equal Opportunity Employer/Program. Auxiliary services and assistance available to persons with disabilities.