

WAGES

WHAT ARE STATE EMPLOYMENT TAXES?

State employment taxes (also known as state *payroll* taxes) are Unemployment Insurance (UI), Employment Training Tax (ETT), State Disability Insurance* (SDI), and personal income tax (PIT) withholding.

Wages are subject to all employment taxes and reportable as PIT wages unless otherwise stated.

WHAT ARE WAGES?

Wages are payments made to an employee for his or her personal services, including commissions, bonuses, and the reasonable cash value of all remuneration paid to an employee in any medium other than cash (for example, lodging and meals).

Wages Include, but Are Not Limited to, the Following:

- Salaries, hourly pay, piece rate, or payments by the job.
 - Commissions and bonuses.
 - The reasonable cash value of compensation other than cash.
 - Meals and lodging:
 1. Except that meals and lodging are not subject to PIT withholding or reportable as PIT wages when furnished on the employer's premises for the employer's convenience and in the case of lodging when it is furnished as a condition of employment.
 2. Special rules apply to household employers. See Information Sheet: *Household Employment* (DE 231L) and *Household Employer's Guide* (DE 8829).
 - Cash tips and gratuities of \$20 or more in a month that are included in a written statement furnished by the employee to the employer. See Information Sheet: *Tips* (DE 231T).
 - Banquet tips and employer-controlled tips, which are considered a regular wage and are fully taxable. The taxability of banquet tips and employer-controlled tips is not contingent upon the employee reporting them to the employer.
- Group legal services that are provided by an employer to an employee or his or her spouse.
 - Employer contributions, without payroll deduction, into a qualified tuition plan account (such as a Golden State Scholarshare Trust account) for the benefit of the employee or the employee's designated beneficiary.
 - Amounts in lieu of cash wages that are offset by the employer against a debt due from the employee or applied to a debt owed to a third party by the employee.
 - Sickness and accident payments except those made under a workers' compensation law or paid from an employee-funded plan. See page 2 for sickness and accident payments made more than six calendar months following the last month in which the employee worked for the employer.
 - Fringe benefits provided or paid for by the employer on behalf of employees and their dependents unless specifically excluded from income. See Information Sheet: *Taxability of Employee Benefits* (DE 231EB).
 - Pension and retirement contributions made by employers unless the contributions are to a qualified plan, such as those defined in Internal Revenue Code (IRC) Sections 401(k), 408(k), 408(p), 403(a), 403(b), and 3121(v)(3).
 - Any employer contributions under a qualified cash or deferred arrangement (such as IRC Section 401[k]) that represent elective employee contributions. Not subject to PIT withholding and not reportable as PIT wages if the payments are excludable from gross income for State income tax purposes.
 - Amounts deferred under a nonqualified deferred compensation plan (taxable when services are performed or when there is no substantial risk of forfeiture, whichever is later).
 - Employer payment, without payroll deduction, of taxes due from the employee for SDI and/or social security/medicare. (Exception: employee social security/medicare taxes paid by the employer without payroll deduction for household employment or agricultural labor are not wages for UI, ETT, and SDI purposes, but they are reportable as PIT wages.) See Information Sheet: *Social Security/Medicare/SDI Taxes Paid by an Employer* (DE 231Q).

*Includes Paid Family Leave (PFL).

Wages Do Not Include the Following Types of Payments:

(These types of payments are not subject to State employment taxes or reportable as PIT wages unless otherwise stated.)

- Payments to minor son or daughter under age 18 employed by parent (or by a partnership consisting only of parents); wife employed by husband or husband employed by wife; domestic partner employed by his or her domestic partner (as defined in Section 297 of the Family Code), and parent employed by son or daughter. Payments are subject to PIT withholding and reportable as PIT wages.
- Repayment of required or necessary business expenses incurred by the employee while performing services for the employer (for example, travel expenses).
- Sickness or accident disability payments made more than six calendar months following the last month in which the employee worked (subject to PIT withholding and reportable as PIT wages).
- Severance payments if the purpose is to supplement unemployment compensation benefits (subject to PIT withholding and reportable as PIT wages).
- Vacation or holiday pay earned but not paid prior to the termination of employment (subject to PIT withholding and reportable as PIT wages).
- Health insurance premiums or health care expenses paid by the employer on behalf of the employee, the employee's domestic partner (as defined in Section 297 of the Family Code), or the employee's dependents.
- Sickness or accident disability payments under a workers' compensation law.
- Moving expenses, if it is reasonable to believe the expenses are an allowable deduction to the employee under IRC Sections 217 and 132.
- Employee achievement awards, if it is reasonable to believe the amount is excludable from gross income under IRC Section 74(c).
- Scholarship payments or fellowship grants, if it is reasonable to believe the amount is excludable from gross income under IRC Section 117.
- Dependent care assistance programs, if it is reasonable to believe the amount is excludable from gross income under IRC Section 129.
- Payments from a qualified plan to an employee for retirement (subject to PIT withholding for California residents unless the recipient elects exemption from withholding).
- Employer contributions to a trust under IRC Section 401(a) or to an annuity plan under IRC Section 403(b). Employer contributions to certain qualified retirement or deferred compensation plans, such as those defined in IRC Sections 401(k), 408(k), 408(p), and 403(b), are also not subject to employment taxes, unless the contributions result from a salary reduction agreement. Refer

to the "Types of Payments" table in the *California Employer's Guide* (DE 44) for the status of employee contributions to retirement plans.

- Employee payroll deductions made under a cafeteria plan that follows the provisions of Section 125 of the IRC made for the following purposes:

Medical insurance	Dependent care assistance
Dental insurance	Reimbursement of medical or
Vision insurance	hospital expenses
Life insurance	
- Fees paid to a director of a corporation for performing services in the capacity of a director as defined in California Unemployment Insurance Code (CUIC) Section 622(b). These services are subject to PIT withholding and reportable as PIT wages if the director is a common law employee—see Information Sheet: *Employment* (DE 231). Payments to directors for services not defined in CUIC Section 622(b) may be considered wages for all employment tax purposes.
- Back pay awarded to an employee because the employer failed to comply with the Worker Adjustment and Retraining Notification (WARN) Act (subject to PIT withholding and reportable as PIT wages).

SHOULD WAGES BE REPORTED WHEN PAID OR EARNED?

For reporting purposes, wages are taxable when paid, when constructively paid, or when an employee receives remuneration other than cash. Wages are *constructively paid* when credited to the employee's account or set apart for the employee so they may be drawn at any time, although not actually in his or her possession. The weekly amount paid to UI and SDI claimants is based on the amount of wages paid during the quarter in which the claimant's wages were the highest within the designated base period. For this reason, it is important to report wages during the quarter when they were actually or constructively paid.

If still unpaid at the time the *Quarterly Wage and Withholding Report* (DE 6) is due, wages due to an employee that were not paid within the time required by law should be reported on a separate DE 6 under the caption "Wages Legally Due But Unpaid." This will ensure that a claimant receives proper wage credit for the quarter when the wages should have been paid. However, the employment taxes due on these wages should be paid when the wages are actually or constructively paid to the employee.

ADDITIONAL INFORMATION

Additional information regarding the taxability of wages may be found in the DE 44. Questions regarding wages may be directed to the local Employment Tax Office listed in the DE 44 or on our Web site at www.edd.ca.gov/taxrep/taxloc.htm#taxloc. You may also call us toll-free at 1-888-745-3886.

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