EDD Employment Development Department
State of California

INFORMATION SHEET

MULTISTATE EMPLOYMENT

UNEMPLOYMENT INSURANCE (UI), EMPLOYMENT TRAINING TAX (ETT), AND STATE DISABILITY INSURANCE* (SDI)

When an employee performs services in California as well as in one or more other states, the state that has jurisdiction for coverage of that employee's services is determined by the application of four tests (refer to sections 602 and 603 of the California Unemployment Insurance Code [CUIC] below). These tests are applied to determine whether the employee's services are subject to employment taxes in California or some other state. An employee must perform some service in California before the tests can be applied to determine whether all the employee's services can be allocated to California.

Sections 602 and 603 of the California Unemployment Insurance Code (CUIC)

Sections 602 and 603 of the CUIC, similar to the provisions of other states' laws, provide for the application of four tests to determine if services of employees are considered subject to California law for UI, ETT, and SDI. These uniform provisions prevent overlapping coverage when an employee performs services in more than one state for a single employer. Pursuant to section 930.1 of the CUIC, employers may be granted a credit of previously reported UI taxable wages from another state for California UI reporting purposes. Application of a test must result in reporting wages to California or another state, or that test does not apply. An individual's services outside of California cannot become subject to California law unless some portion of the services are rendered in this state. These four tests are applied to each employee, not the employer, in descending order:

(1) Localization

An employee's services are "localized" in California, and, therefore, considered subject to California employment taxes if all or most of the employee's services are performed in California with only incidental services performed elsewhere (for example, where the out-of-state service is temporary or transient in nature or consists of isolated transactions). Where the service performed outside of California is either permanent, substantial, or unrelated, it cannot be treated as localized in California.

(2) Base of Operations

If test (1) does not apply in any state, services are considered subject to California employment taxes if some of the services are performed in California and the employee's one and only "base of operations" for all of his or her services is in California.

"Base of operations" is defined as a more or less permanent place from which the employee starts work and customarily returns to receive employer's instructions, to receive communications from customers or others, to replenish stocks or supplies, to repair equipment, or to perform other functions relating to the rendition of services.

(3) Place of Direction and Control

If tests (1) and (2) do not apply in any state, an employee's services are considered subject to California employment taxes if some of the services are performed in California and the "place from which the employer exercises basic and general direction and control" over all the employee's services is in California.

(4) Residence of Employee

If tests (1), (2), and (3) do not apply in any state, an employee's services are considered subject to California employment taxes if some services are performed in California and the employee's "residence" is in California. Residence means having a more or less permanent place of abode. It is more than a mere transient stopover but does not require the intent necessary to establish a permanent residence in the domiciliary sense.

Note: The tests explained above are used by all states to determine where a multistate employee's wages should be reported. In addition, most states, including California, subscribe to the Interstate Reciprocal Coverage Arrangement (IRCA). It provides that an employer may request written approval to report all wages paid to a multistate employee to any state in which services are performed, the employee has a residence, or the employer maintains a place of business. If interested, complete the *Employer's Election to Cover A Multi-State Worker Under The California Unemployment Insurance Code*, **DE 2325**.

* Includes Paid Family Leave (PFL).

PERSONAL INCOME TAX (PIT)

The PIT withholding and wage reporting requirements differ from those shown above for UI, ETT, and SDI. Wages paid to a resident employee for services performed within or without this state, or to a nonresident employee for services performed within this state, are subject to California PIT withholding and reportable as PIT wages on the *Quarterly Contribution Return and Report of Wages (Continuation),* **DE 9C**. For PIT purposes only, an *employer* is an individual or organization that pays wages to employees for services performed within California and meets one or more of the following criteria:

- Does business in California.
- Derives income from sources within California.
- Is subject in any manner whatsoever to the laws of California.

An employer that meets the above definition must withhold California PIT and report PIT wages paid to resident employees for services performed within and/or without this state and for nonresident employees for services performed within this state.

Example

Wages paid to a California resident for services performed exclusively in Nevada for a company that also has employees working in California are subject to PIT withholding and reportable as PIT wages. However, if the company did not have employees working in California, did no business in California, derived no income from sources within California, and was not subject to the laws of California, the wages paid to a California resident for services performed exclusively in Nevada would not be subject to withholding or reportable as PIT wages.

Employer Required to Withhold Income Taxes of Other States

Employers may need to withhold from the same wage payments when a California resident performs services that are subject to PIT withholding laws of both California and another state, political subdivision, or the District of Columbia.

In such cases, the employer will make the withholding required by the other jurisdiction and:

- For California, withhold the amount by which the California withholding amount exceeds the withholding amount for the other jurisdiction; **or**
- Do not withhold any California PIT if the withholding amount for the other jurisdiction is equal to, or greater than, the withholding amount for California.

The wages paid, earned within and/or without California, must be reported as PIT wages.

Examples

Wages paid to a California resident who works in Louisiana for six months and otherwise worked in California are reportable to California as PIT wages for all periods. However, the employer may or may not have to withhold PIT:

- If the deductions for Louisiana exceed those that would be required for California, no California PIT withholding is required.
- If the deductions for Louisiana are less than those of California, the employer should withhold the Louisiana amount **plus** an amount that equals the difference between the Louisiana amount and the California amount. The difference should be deposited with California and reported as PIT withheld on the **DE 9C**.

Wages paid to a California resident who works for a Texas company, but has worked for this company only in Germany, are subject to California PIT withholding and reportable as PIT wages. For more information on foreign employment, refer to the *Information Sheet: Foreign Employment and Employment on American Vessels or Aircraft,* **DE 231FE**.

Wages Paid to Nonresidents of California

The wages paid to a nonresident employee are subject to California PIT withholding and reportable as PIT wages. Only the wages earned in California are subject to PIT withholding. The amount of wages subject to California PIT withholding is that portion of the total number of working days employed in California compared to the total number of working days employed in both California and the other state.

Example

Assume there are 10 working days within the pay period and a nonresident employee works six of those days in California and four days in New Mexico. The employer should report six-tenths of the employee's earnings to California as PIT wages and deduct California PIT withholding on that amount.

ADDITIONAL INFORMATION

For further assistance, please contact the Taxpayer Assistance Center at 1-888-745-3886 or visit the nearest Employment Tax Office listed in the *California Employer's Guide,* **DE 44**, or access the Employment Development Department (EDD) website at **www.edd.ca.gov/Office_Locator/**.

The 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.

This information sheet is provided as a public service and is intended to provide nontechnical assistance. Every attempt has been made to provide information that is consistent with the appropriate statutes, rules, and administrative and court decisions. Any information that is inconsistent with the law, regulations, and administrative and court decisions is not binding on either the Employment Development Department or the taxpayer. Any information provided is not intended to be legal, accounting, tax, investment, or other professional advice.