

Payroll Newsletter 2012

HUTCHINSON AND BLOODGOOD LLP
CERTIFIED PUBLIC ACCOUNTANTS AND CONSULTANTS



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New Tax Rates and Wage Base Limitations Announced for 2012

Type of Tax	Tax Rate	Wage Base Limit
Employee:		
Social Security	4.2%*	\$110,100
Medicare	1.45%	No Limit
SDI/Paid Family Leave	1.0%	\$95,585
Employer:		
Social Security	6.2%	\$110,100
Medicare	1.45%	No Limit
ETT	0.1%	\$7,000
SUI	Variable	\$7,000
FUTA	0.6%	\$7,000
Self-employed:		
Social Security	10.4%*	\$110,100
Medicare	2.9%	No Limit

*Effective through February 2012. A future update will be sent when Congress decides whether or not to extend the payroll tax cut for all of 2012.

Forms and Publications

Listed below are telephone numbers and websites where you can order and download various types of forms and publications from different government agencies.

Employment Development Department

www.edd.ca.gov/forms

(888) 745-3886

Internal Revenue Service

www.irs.gov/formspubs/index.htm

(800) 829-1040

(800) 829-4933

State Board of Equalization

www.boe.ca.gov/formspubs/index.htm

(800) 400-7115

To enroll in EFTPS (Electronic Federal Tax Payment System)

www.eftps.gov

(800) 555-4477

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Paid Family Leave

The California Paid Family Leave (PFL) program began paying benefits to employees on leave for a covered reason on July 1, 2004.

Employers must post the EDD's DE 1857A, Notice to Employees, in a conspicuous location in the workplace. Employers must also have DE 2511, a pamphlet that explains PFL, to all employees hired on or after January 1, 2004, and to all employees who are absent on or after July 1, 2004, if the absence is for a reason that may qualify for PFL benefits.

Employers may request copies of the pamphlet from the EDD or may download it from the EDD's Web site at:
http://www.edd.ca.gov/disability/pfl_forms_and_publications.htm

HR/Payroll Industry Web Links

Click on any of the links below to access valuable information for HR/payroll professionals.

American Payroll Association
www.americanpayroll.org

National Payroll Week
www.nationalpayrollweek.com

U.S. Department of Labor
www.dol.gov

International Association for Human Resource Information Management
www.ihrim.org

Society for Human Resource Management (SHRM)
www.shrm.org

TAX PLANS THAT SAVE



Accounting/Taxation
Financial Planning
Estate Planning
International Tax

Auditing
Succession Planning
Business Valuations
Network Integration



Glendale
818.637.5000

San Diego
619.849.6500

El Centro
760.352.1021

Watsonville
831.724.2441



Electronic Federal Tax Payment System (EFTPS)

All businesses are required to make electronic payments beginning January 1, 2011. Businesses will no longer be able to use paper coupons, Form 8109 or Federal Tax Deposit Coupons to deposit taxes directly to an authorized bank. Instead, businesses will need to make deposits by telephone or online using the Electronic Federal Tax Payment System. This applies to Federal Tax Deposits only. Businesses that are allowed to remit taxes with a return can continue making their payments in the same manner. You may be subject to a 10% penalty if you are required to use the EFTPS system and fail to do so.

To use EFTPS, you must first enroll. Since the enrollment process can take up to 10 weeks to complete, we encourage you to enroll now. Delaying your enrollment may prevent you from making your required EFT payment.

Taxpayers who have not received a notice and an enrollment packet (Form 9779) from the IRS, but feel you are subject to the electronic deposit rules, should call the phone numbers or visit the EFTPS website listed on page one.

If you use a third-party payroll processor and/or financial institution to pay your taxes, you must enroll to use EFTPS. Please ensure that your payroll processor is aware of your EFTPS requirements.

There are two electronic deposit methods under EFTPS:

EFTPS Direct - Instructs IRS to make a withdrawal from your bank account. No penalties if payments are made timely and you have funds to cover payment.

EFTPS Through Your Financial Institution - Instructs bank to send payment to IRS account. This method is not penalty proof as the taxpayer remains liable for the timeliness of the deposit until it is actually credited to the Treasury's account by your bank. California EFT deposit requirements differ from the Federal

requirements. But usually, businesses that electronically file federal taxes will want to electronically file California taxes. To obtain the California Form DE 27, *Electronic Fund Transfer Program Information Guide* or Form DE 26, *Electronic Funds Transfer Authorization*, access EDD's website (see page one) or contact the EFT Unit at 916-654-9130.

Note: If you use EFTPS to make your payroll tax deposits, you must use EFTPS to pay all of your depository taxes, including employment taxes, excise taxes, and corporate income taxes.

FUTA Deposit Rules for 2012

FUTA tax is computed on each calendar quarter. If the employer's FUTA tax liability at the end of the quarter (plus any accumulated FUTA tax liability for prior quarters) is more than \$500, the tax is to be deposited on or before the last day of the month following that quarter.

Reminder to File Form DE 542 Report of Independent Contractors

The State of California requires business owners to report independent contractors within 20 days of entering into a contract that is expected to pay \$600 or more.

Businesses need to report only individuals who are independent contractors that are subject to federal Form 1099 reporting requirements, receiving payments of \$600 or more in 2012. You are not required to report payments made to corporations, partnerships, limited liability companies or limited liability partnerships.



Form DE 34-Report of New Employees

No Exceptions. All employers must report the hiring or rehiring of all workers to the EDD within 20 days of hire. This applies to all employers, including those who have domestic help, nonprofit organizations, etc.

Send form to:

Employment Development Department
 Document Management Group, MIC96
 P.O. Box 997016,
 West Sacramento, CA 95799-7016
 Or fax the forms to the EDD at (916) 319-4400

Penalties. The EDD may assess a penalty of \$24 for each failure to report a new hire, unless the failure is due to good cause. If the employer and employee conspire to omit filing the required information or issue a false or incomplete report, the EDD may assess a penalty of \$490.

Are Your Federal Payroll Tax Deposits Timely? Lookback!

The Lookback Rule. For 2012 each employer must "lookback" to the four quarters beginning July 1, 2010, and ended June 30, 2011. If the employment taxes originally reported on Forms 941 during these four quarters totaled less than \$50,000, the employer is a "monthly depositor." If the employment taxes reported in these quarters exceeded \$50,000 the employer is a "semi-weekly depositor."

The "lookback" is done annually. Each subsequent year the employer would be subject to a similar "lookback" to the immediate past 12-month period ended June 30th, in order to determine depositor status for the upcoming calendar year. New employers are considered to have zero employment liabilities for any quarter in the "lookback" period in which the employer did not exist. Therefore, new employers will be monthly depositors unless they fall under the de minimis rule.

Deposit Due Dates for Semi-Weekly Depositor

Pay Date	Deposit By
Wed, Thurs, Fri	Following Wednesday
Sat, Sun, Mon, or Tues	Following Friday

Deposit Rules

Monthly Depositors Rule. A "monthly depositor" must deposit employment taxes accumulated within the calendar month on or before the 15th day of the following month. If the 15th follows on a weekend or holiday, deposits can be made the first business day following the 15th, except for electronic filers.

Note: Electronic filers must file monthly deposits on the last business day prior to the 15th of the month or their payroll tax deposit will be considered late and a penalty will be assessed.

Semi-Weekly Depositors Rule. The deposits of "semi-weekly depositors" are due either on or before Wednesday or Friday, of each week, depending on when the wages are paid. If wages are paid on Wednesday, Thursday or Friday, taxes must be deposited on or before the following Wednesday. If the payday falls on Saturday, Sunday, Monday, or Tuesday the deposit is due by the following Friday.

One Day Rule. Employers who accumulate \$100,000 or more of employment taxes within a deposit period must make that deposit by the close of the next business day.

De Minimis Rule. When the total amount of accumulated employment taxes on Form 941 for the calendar quarter is less than \$2,500, the employer is permitted to remit the taxes with the quarterly return, Form 941.



How Do State Payroll Tax Deposits Work?

Next Day Depositor. Employers who are required to make a deposit of Federal payroll taxes by the next banking day and have more than \$500 of state Personal Income Tax (PIT) withholding must deposit both PIT and SDI to the EDD by the next banking day.

Monthly Depositor. If an employer is required to make a monthly deposit of Federal payroll taxes and the state Personal Income Tax (PIT) withheld is \$350 or more, a monthly deposit of both PIT and SDI must be made to the EDD within the same number of days as required for Federal purposes.

Semi-Weekly Depositor. If an employer is required to make semi-weekly deposits of Federal payroll taxes and the state Personal Income Tax (PIT) withheld is more than \$500, a semi-weekly deposit of both PIT and SDI must be made to the EDD within the same number of days as required for Federal purposes.

If you are not required to make Federal monthly deposits, you are still required to make monthly state deposits of both PIT and SDI if the PIT withheld in a monthly or cumulative of one or more months exceeds \$350. If your state PIT withheld exceeds \$350, you must remit by the **15th day of the following month.**

If the above state requirements do not apply to you: All state taxes, PIT, SDI, SUI, and ETT must be deposited quarterly.

Note: Use Form DE 88 to make your deposits to the EDD.

California Payroll Reporting Changes for 2012

Effective January 1, 2011, employers report total subject wages, Unemployment Insurance and Disability Insurance, taxable wages and contributions by filing a **new** Quarterly Contribution Return and Report of Wages (DE 9) quarterly instead of annually.

Employers continue to report wages and personal income tax withheld quarterly on the **new** Quarterly Contribution Return and Report of Wages (Continuation) (DE 9C).



Form 1099 Information Returns

A business, which in any year makes payments aggregating \$600 or more to a person (recipient) for services, rents, etc. must report the payments to the IRS on Form 1099. Generally, payments to a corporation are exempt from this reporting requirement, however, the present exception in the regulations are payments made to corporate law firms. Attorneys are required to promptly supply their TINs and failure to do so can result in backup withholding under Sec. 3046.

In general, the business must provide a copy of the **2011 Form 1099 to the recipient by January 31, 2012 and file a copy with the IRS by February 28, 2012.** The business should exercise care in completing the recipient's name and TIN (taxpayer identification number), since penalties and 30% backup withholding can result from inaccuracies. **The business should obtain a Form W-9 from each recipient prior to payment and rely on the name and TIN thereon.**

Telephone number required on Information Returns. Payers are required to include their telephone number on some information forms (such as Forms 1098, 1099 and W-2G).

IRS shares Form 1099 information with California. If you file information returns (IRS Forms 1099 series, Forms 5498, 1098, and W-2G) with the Internal Revenue Service, you do not file a copy of the same forms with the Franchise Tax Board. The IRS will forward the information to the FTB.



"Bits and Pieces of Information"

FORMS W-2 and W-3 - IRS requires all compensation to employees like Christmas bonus, year-end bonus, auto allowances, personal use of company vehicle, etc. to be reported on Form W-2. **No person may be paid as both an employee and an independent contractor.**

Mail all Forms W-2 and W-3 for 2011 to: Social Security Administration, Data Operations Center, Wilkes-Barre, PA 18769-0001.

New Form W-2 - The IRS has issued a draft Form W-2 for 2012. Under the Patient Protection and Affordable Care Act, employers are required to report the cost of employer-sponsored health insurance coverage. However, for 2012, the IRS has granted one year of relief from reporting for employers filing fewer than 250 W-2 Forms.

More than 2% shareholder/employee of an S Corporation - S corporations that pay health insurance premiums for the benefit of a more-than-two-percent shareholder have to include the cost of the premiums as wages in the shareholder/employee's Form W-2.

SUPPLEMENTAL WAGES - paid separately from regular wages. The federal withholding rate for 2011, which permits a flat rate of 25% withholding on supplemental pay (bonuses, etc.) in lieu of taking into account any withholding allowances on Form W-4 remains the same for 2012. If supplemental wages exceed \$1,000,000, the excess is subject to withholding at 35%.

California allows a 6.6% withholding on separately paid overtime wages, commissions, sales awards and vacation pay. For the payment of bonuses and stock options, California requires a 10.23% withholding rate.

OVERTIME PAY - Employers must pay nonunion employees (who are not working an alternative workweek schedule) at least time and one-half pay for hours worked in excess of eight hours in one day, hours worked in excess of 40 hours in one workweek and the first eight hours worked on the seventh consecutive day of work in a given week. In addition, employers must pay employees at least double-time for any hours worked in excess of 12 hours in one day and hours worked in excess of eight hours on any seventh consecutive day of a workweek. These changes do not affect exempt professionals, managers and administrative employees.

2012 INDIVIDUAL ESTIMATED TAX PAYMENTS - For 2012, individuals may generally avoid penalty for failure to pay federal estimated income tax by (1) paying at least **90%** of current year tax, (2) paying **100%** of prior year's tax (if for 12 months) or, (3) paying on current basis under **annualized** income methods. **For year 2012, high-income individuals must pay in 110% of prior year's tax if selecting the prior year tax option.** High-income individuals are defined as individuals whose AGI (Adjusted Gross Income) for the preceding year was more than \$150,000 (\$75,000 for married filing separately). In general, California follows the same estimated tax rules as federal with the exception of individuals with California adjusted gross income equal to or greater than \$1 million (\$500,000 for MFS). These taxpayers must pay 90% of the current year tax to avoid the underpayment of estimated tax penalty.

STANDARD MILEAGE RATES - Beginning in 2012, the rate for the business use of an automobile is 55.5 cents (up 4.5 cents from 51 cents per mile in 2011), charitable use of an automobile remains at 14 cents and medical and moving rates increase to 23 cents (up 4 cents from 19 cents per mile in 2011).

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\$10,000 CASH REPORTING - Any person who receives in the course of a trade of business, more than \$10,000 in cash in one transaction (or two or more related transactions), must file Form 8300 with the Internal Revenue Service within 15 days of the transactions and furnish the payer with a statement by January 31st of the following year. The IRS defines "cash" to include cashier's checks, bank drafts, traveler's checks, and money orders having a face amount of \$10,000 or less.

SOLE SHAREHOLDERS MAY AVOID SDI - Any person who is a corporate officer and sole shareholder or the only shareholder other than his or her spouse may elect to be excluded from SDI by filing Form DE 459, **Sole Shareholder/Corporate Officer Exclusion Statement**. The statement is effective for the calendar quarter in which it is filed, and remains in effect for not less than two complete years and in all subsequent quarters until withdrawn. The exclusion applies only to SDI and does not affect requirements for unemployment insurance compensation.

FORM 945 NON-PAYROLL ITEMS - Since 1994, withholding information for pensions, annuities, gambling payments and backup withholdings are reported on Form 945, Annual Return of Withheld Federal Income Tax, and on 945A, Annual Record of Federal Tax Liability. If you withhold state income taxes on non-payroll items, please contact our office for further assistance.

HOUSEHOLD EMPLOYEES - Household employee wages (\$1,700 for 2011 and \$1,800 for 2012 for Social Security or \$1,000 or more in any calendar quarter in 2011 or 2012) must be reported on Form 1040 Schedule H of the Individual Tax Return. Because the state rules are complex, please contact our office for further information.

2012 MAXIMUM EARNINGS FOR SOCIAL SECURITY RECIPIENTS - The annual amount a social security recipient under his/her full retirement age can earn without losing social security benefits will remain the same for 2012 at \$14,160. Benefits are reduced by \$1 for each \$2 earned over the limit.

Note: Full retirement age (also called "normal retirement age") has been 65 for many years. However, beginning with people born in 1938 or later, that age will gradually increase until it reaches 67 for people born after 1959.

In the year individuals reach their full retirement age, \$1 in benefits will be deducted for each \$3 you earn (over \$38,880 for 2012). This reduction of benefits only applies on earnings received before the month the individual reaches their full retirement age.

MINIMUM WAGE - California minimum wage will remain the same at \$8.00 per hour for 2012.

CALIFORNIA ESTIMATED TAX PAYMENTS

Installment payments due for tax years beginning January 1, 2010 and after shall be:

- 30% of the required annual payment for the first quarter,
- 40% of the required annual payment for the second quarter,
- No installment due for the third quarter, and
- 30% of the required annual payment for the fourth quarter.

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MANDATORY E - PAY

Taxpayers are required to remit their payments electronically if they made an estimate payment exceeding \$20,000 for the 2009 or 2010 taxable year or the total tax liability shown on their original 2009 or 2010 tax return exceeds \$80,000. Once this threshold is met, ALL payments regardless of amount, taxable type or tax year must be remitted electronically. Beginning 2011, California assesses a 1% penalty on the amount that was not paid electronically.



EDITORIAL COMMENT - We have attempted to provide you with an update on changes in the payroll tax and related areas. Because space was limited we could not go into all the necessary details of a topic. If you are interested in or have questions on any topic, we will be pleased to review with you the law changes and its application to your individual situation.

NEED FORMS OR HELP? We can assist you in preparing your 2011 Forms W-2 and Forms 1099 for filing with the IRS. If you need Form W-4, Form I-9, or Form DE 34 for new employees, please call our office or visit our website at www.hbllp.com.