



D. H. SCOTT & COMPANY
CERTIFIED PUBLIC ACCOUNTANTS
A LIMITED LIABILITY PARTNERSHIP

PAYROLL TAX & EMPLOYMENT ISSUES IN 2021

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With the new year comes the changes in tax rates, payroll tax dates, and the sundry “housekeeping” that keeps your business running smoothly. In this update, we are emphasizing payroll tax and employment issues. We have provided a Payroll Tax Calendar for your reference throughout the year. Remember to review your Federal and State Withholding Tables to make certain they have been updated for recent law changes.

The DE 44—California Employer’s Guide and DE 8829—Household Employer’s Guide are no longer automatically mailed to employers. If you would like to receive a mailed paper copy of a guide annually in December/January of each year, visit the Online Forms and Publications page at forms.edd.ca.gov/forms.

FORMS W-2 & W-4

Legally, W-4 forms previously provided to you that **claim exemption from withholding** expire on February 15, 2021. For any employee who previously claimed exemption from withholding and has not provided a new W-4, the employer should begin withholding tax as if the employee is single. As the employer, you can be charged penalties for incorrect reporting of a name and/or Social Security Number on Form W-2. Errors not only affect the employer, but the employee as well—the Social Security Administration is unable to post the earnings records to the employee’s account for benefit purposes.

The deadline for providing your employees’ Form W-2 for 2020 earnings is February 1, 2021. Additionally, Forms W-2 and W-3 must be submitted to the Social Security Administration by February 1, 2021.

FORM I-9

Employers are required to determine that all new employees are eligible to work in the United States. Form I-9, Employment Eligibility Verification Form, is used as proof of an individual’s identity and eligibility. **Form I-9 can be found at www.uscis.gov/i-9.**

FEDERAL EARNED INCOME TAX CREDIT NOTIFICATION

All employers are required to notify their employees about the availability of the federal Earned Income Tax Credit (EITC). Written notification must be

SPECIAL POINTS OF INTEREST FOR 2021

- Mileage rate has decreased to 56 cents per mile for business use.
- California Minimum Wage increases to \$13.00/hour for employers with 25 or fewer employees, and \$14.00/hour for employers with 26 or more employees.
- FICA—Social Security Rate for employees and employers remains at 6.2% each. The limit increases to \$142,800.
- California SDI Rate increases to 1.2%, with the limit increasing to \$128,298.
- California sales and use tax rate remains at 7.25%. City rates vary. See www.cdtfa.ca.gov.
- The percentage method on Supplemental Wages remains at 22% for Federal and 10.23% for California. (For employees receiving \$1 million or more in supplemental wages during the year, refer to IRS Pub. 15).
- PPP Loan forgiveness is underway.
- Form 1099-NEC is now being used instead of 1099-MISC when reporting non-employee compensation.
- The CARES Act has brought many changes to employment

provided to employees in person or by mail within one week before or after, or at the same time, that you provide an annual wage summary, including, a Form W-2 or a Form 1099. This information can be found on the back of most W-2 forms. More information can be found at www.irs.gov.

tax filings of Form 941.

- Mandatory retirement withholding began in 2020 for certain California employers, depending on number of employees.

IMPORTANT CALIFORNIA AND FEDERAL FORM 940 INFORMATION

If you received a PPP loan, the loan forgiveness application should be completed within 10 months of the last day of the forgiveness covered period. In the event the application is not completed in this timeframe, you may have to begin making payments that were previously deferred.

Forgiveness applications are now being accepted by lenders. If you received a PPP loan and have not been contacted by the lender, please reach out to them for instruction on how to submit the forgiveness application. Most lending institutions have electronic links to access their forgiveness application system.

A second round of PPP funding has recently been passed by congress. If you have used up your first PPP loan and can show a 25% decline in gross receipts in any 2020 quarter compared with the same quarter in 2019, you may be eligible for a second PPP forgivable loan.

Please contact our office for the latest information regarding the income tax implications of the PPP loans.

COLLECTION REQUIREMENTS FOR OUT-OF-STATE RETAILERS' USE TAX *Applies to sales made on or after April 25, 2019*

Retailers located outside of California (remote sellers, including foreign) to register with the CDTFA and collect California use tax if, during the preceding or current calendar year, the total combined sales of tangible personal property for delivery in California by the retailer and all persons related to the retailer exceed \$500,000.

Prior use tax registration requirements still apply

Visit www.cdtfa.ca.gov for more information.

NEW-HIRE REPORTING REQUIREMENTS

All California employers must report their **new or rehired** (after 60 consecutive days of separation) employees who work in California to the New Employee Registry **no later than 20 days after their start-of-work-date**. Employers must report the employee's full name, Social Security number, home address and start-of-work date as well as the Employer's name, address, California employer account number and Federal employer identification number (FEIN). Visit www.edd.ca.gov for more information and guidance on new employee reporting. Multi-state employers can also submit reports at ocsp.acf.hhs.gov/csp/mser.

Reporting Requirements (one of the following):

- CA Form DE 34, either by mail or electronically at www.edd.ca.gov/Payroll_Taxes/e-Services_for_Business.htm.

- A copy of the employee's W-4 with the start-of-work date, California employer account number and the FEIN added **or** a custom letter with all required information.

INDEPENDENT CONTRACTOR REPORTING

The requirements placed in effect on January 1, 2001, remain an important part of your reporting requirements. Any business or government entity that is required to file a Federal Form 1099-MISC for services is required to report information to the State of California Employment Development Department. **This information must be reported on The Report of Independent Contractors Form DE 542.** The information must be reported **within 20 days of the earlier of either:**

- Entering into a contract which equals or exceeds \$600; or
- When aggregate payments to an Independent Contractor reach \$600 in a calendar year.

If you have any questions regarding the reporting requirements, you may contact the EDD by calling 888-745-3886 or visiting their website at www.edd.ca.gov, or you can give us a call.

INDEPENDENT CONTRACTOR CLASSIFICATION (AB5) TEST

On September 18, 2019, California Governor Gavin Newsom signed legislation outlining a much stricter test for determining when a worker is an independent contractor or an employee. Assembly Bill 5, the "ABC" test, and its exemptions went into effect on January 1, 2020. Under the more restrictive test, an individual is presumed to be an employee, unless the company can prove **all** the following:

- That the worker is free from control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact; and
- That the worker performs work that is outside the usual course of the hiring entity's business; and
- That the worker is customarily engaged in an independently established trade, occupation or business of the same nature as the work performed.

For more information please visit www.irs.gov/pub/irs-pdf/i1099misc.pdf.

2020 FORM 1099

The information return filing for 2020 has undergone many changes. Please see specifics below:

Form 1099-NEC

The Form 1099-NEC has replaced the filing for any payments reported in Box 7 of the Form 1099-MISC in prior years. Any payments on this form are being reported as non-employee compensation for the recipient. The payments to be reported in Box 1 of the new Form 1099-NEC include any payments made in the course of your trade or business over \$600 to the following:

- A vendor that you have paid for services performed that is not a corporation. If you have paid the vendor for services and parts, include the total paid that includes parts.
- A person who is in the business of catching fish that you have paid in cash, including corporations.
- Any attorney fees paid, including law firms that are corporations. If the amount is paid as part of a settlement agreement, this should be reported on the Form 1099-MISC.

You must also file a Form 1099-NEC for any vendor that you have withheld federal income tax from their payment. This amount should be reported in Box 4. Also, any withholding to a state would be reported in Boxes 5 through 7.

The Copy A of this form will be submitted to the Internal Revenue Service along with the Form 1096, which is the summary form that has been used in the past for

1099-MISC reporting.

Important to note is that this form is due to the IRS by February 1, 2021 whether filing on paper or electronically. The recipient copies are also due by February 1, 2021.

Form 1099-MISC

The Form 1099-MISC has been redesigned this year to remove the non-employee compensation that was previously reported on Box 7.

The new 1099-MISC is filed with the Internal Revenue Service along with the Form 1096. Recipient copies are due by February 1, 2021 with the exception those forms that are reporting payments under Box 8 or 10, which are extended to February 16, 2021. The IRS copies (Copy A), along with the 1096, are due to be filed by March 1, 2021 if filing on paper and March 31, 2021 if filing electronically.

More information regarding preparing Forms 1099-MISC and 1099-NEC can be found at www.irs.gov/pub/irs-pdf/i1099gi.pdf.

California Filing

Although in previous years the IRS has shared 1099 information with California, the IRS announced that information reporting data for the new Form 1099-NEC will not be included in the combined federal/state filing program. As a result, there will be a 1099-NEC filing requirement directly to the California Franchise Tax Board this year.

1099-INT & 1099-DIV

Payments of interest and dividends of \$10.00 or more must be reported.

MANDATORY E-FILE FOR CALIFORNIA EMPLOYERS

ALL employers are required to electronically submit employment tax returns, wage reports, and payroll tax deposits to the Employment Development Department (EDD). Create your payroll tax account at www.edd.ca.gov/e-Services_for_Business. To request a waiver, complete and submit form DE 1245W.

IMPORTANT: Noncompliance penalties will be charged on certain forms and payments submitted by paper.

California Mandatory Retirement Withholding

California state law now requires that any employer that does not already offer an employer-sponsored retirement plan begin retirement plan withholding. This withholding will either be remitted to an employer-sponsored plan or to Calsavers, in the event the employer does not begin to sponsor a plan. Remittance to Calsavers does not require an employer match but does include automatic enrollment if the employee fails to opt out. Employer participation is mandatory and registration deadlines vary based on employer size.

- More than 100 employees - deadline was September 30, 2020
- More than 50 employees - deadline is June 30, 2021
- Five or more employees - deadline is June 30, 2022

For more information, please visit www.calsavers.com.

Changes to California Paid Family Leave for 2021

California offers Paid Family Leave to take paid time off work for situations such as caring for a seriously ill family member or when welcoming a new child into the family.

Beginning in January 2021, California has expanded Paid Family Leave to include time off due to a military deployment of a spouse, registered domestic partner, parent or child when being deployed to a foreign country.

Did you know?

California has a program for employers who need to reduce hours but do not want to lay off employees. The Work Sharing Unemployment Insurance program allows for the payment of benefits to individuals whose wages and hours have been reduced. This program is considered a temporary and practical alternative to layoffs. For additional information please visit:

http://www.edd.ca.gov/Unemployment/Work_Sharing_Program.htm.

PAYROLL TAX CALENDAR		2021
<p>January 19, 2021 December Federal and State liability should be deposited if you are a monthly depositor.</p>	<p>May 17, 2021 April Federal and State liability should be deposited if you are a monthly depositor.</p>	
<p>February 1, 2021 Last day to distribute W-2's to employees and 1099's to recipients.</p> <ul style="list-style-type: none"> - Copy A 2020 Wage and Tax Statement Form W-2 and transmittal due (Form W-3). Also, Copy A and recipient copies of Form 1099-NEC and transmittal (Form 1096). - 2020 Federal Unemployment Tax Return due (Form 940). - 2020 4th Quarter Employer Payroll Tax Returns due (Forms 941, DE9 & DE9C). - 2020 4th Quarter or Annual FUTA and SUTA deposit due. - 2020 Annual Employer Payroll Tax Returns due (Forms 943, 945) if required. 	<p>June 15, 2021 May Federal and State liability should be deposited if you are a monthly depositor.</p>	
<p>February 16, 2021 January Federal and State liability should be deposited if you are a monthly depositor.</p> <p><i>Begin withholding for each employee who previously claimed <u>exemption</u> from withholding but has not completed a new W-4 for the current year. If a new W-4 has not been received, withhold at single or married filing separately status, until a new W-4 has been received.</i></p>	<p>July 15, 2021 June Federal and State liability should be deposited if you are a monthly depositor.</p>	
<p>March 1, 2021 Copy A of all paper forms 1099 (except 1099-NEC) and transmittal (Form 1096) due.</p>	<p>August 2, 2021 2021 2nd Quarter Employer Payroll Tax Returns due (Forms 941, DE9 & DE9C). 2021 2nd Quarter FUTA and SUTA deposit due if required.</p>	
<p>March 15, 2021 February Federal and State liability should be deposited if you are a monthly depositor.</p>	<p>August 16, 2021 July Federal and State liability should be deposited if you are a monthly depositor.</p>	
<p>April 15, 2021 March Federal and State liability should be deposited if you are a monthly depositor.</p> <p>Qualified Purchasers must report and pay Use Tax to the California Dept. of Tax and Fee Administration (CDTFA).</p>	<p>September 15, 2021 August Federal and State liability should be deposited if you are a monthly depositor.</p>	
<p>April 30, 2021 2021 1st Quarter Employer Payroll Tax Returns due (Forms 941, DE9 & DE9C). 2021 1st Quarter FUTA and SUTA deposit due if required.</p>	<p>October 15, 2021 September Federal and State liability should be deposited if you are a monthly depositor.</p>	
	<p>November 1, 2021 2021 3rd Quarter Employer Payroll Tax Returns due (Forms 941, DE9 & DE9C). 2021 3rd Quarter FUTA and SUTA deposit due if required.</p>	
	<p>November 15, 2021 October Federal and State liability should be deposited if you are a monthly depositor.</p>	
	<p>December 15, 2021 November Federal and State liability should be deposited if you are a monthly depositor.</p> <p><i>Request a new Form W-4 from each employee who claimed total exemption from withholding during the year, or whose withholding status will change.</i></p>	
	<p>January 18, 2022 December Federal and State Liability should be deposited if you are a monthly depositor.</p>	

PLEASE NOTE:

The 2021 Payroll Tax Calendar does **not** include due dates for employers who fall into the

semi-weekly deposit requirements (\$50,000 or more total federal tax liability for the look-back period of July 1 to June 30 of the prior year). If wages are paid Wednesday – Friday, deposit by the following Wednesday. If wages are paid on Saturday – Tuesday, deposit by the following Friday. If, on any day, an employer’s undeposited federal employment tax liability equals or exceeds \$100,000, taxes must be deposited by the close of the next banking day. If you use EFTPS Direct, the transaction must be processed at least one banking day prior to the due date. If you withhold more than \$350 in California PIT, you may be required to make California tax deposits more frequently.

See http://www.edd.ca.gov/Payroll_Taxes/Timely_Payroll_Tax_Deposits.htm for additional guidance.

CALIFORNIA SICK LEAVE REQUIREMENTS

The California Healthy Workplace Healthy Family Act of 2014 (AB1522), as amended by Senate Bill 3 on April 4, 2016, requires paid sick leave for employees who have worked in California for 30 or more days within a year. Employers must accrue sick time at the rate of at least 1 hour for every 30 hours worked, paid at the employee’s regular wage rate, or provide at least 24 hours or 3 days at the beginning of a 12-month period of paid sick leave for each eligible employee to use per year. A poster must be displayed in the workplace and a written notice to employees listing their sick leave rights must be provided at the time of hire. Both notices can be found at www.dir.ca.gov/wpnodb.html.

PLEASE READ

We cannot overemphasize the need for employers to use the IRS Circular E, Employer’s Tax Guide (Pub. 15) and the California Employer’s Guide (DE 44) as a reference. You should also refer to your income tax withholding tables to be sure they are current. Both the IRS and the California Employment Development Department have issued new withholding tables which are effective January 1, 2021. These guides and tax tables are available at:

www.irs.gov &
www.edd.ca.gov.

2021 Contribution Limits

	Contribution Limit	Age 50+ Catch Up Contributions	Age 55+ Catch Up Contributions
IRA	\$6,000	\$1,000	\$ -
Simple IRA	\$13,500	\$3,000	\$ -
401(k), 403(b) and 457	\$19,500	\$6,500	\$ -
Defined Contributions	\$58,000	\$6,500	\$ -
HSA Individual	\$3,600	\$ -	\$1,000
HSA Family	\$7,200	\$ -	\$1,000
FSA (Flexible Spending Arrangement)	\$2,750	\$ -	\$ -

2021 Tax Rates & Wage Limits

Tax	Payee	Rate	Wage Limit
Social Security (FICA)	Employer	6.2%	\$142,800
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Medicare (HI)	Employer	1.45%	No Limit
Medicare (HI)	Employee	1.45%	No Limit
Additional Medicare	Employee	0.9%	Over \$200,000
State Disability Insurance (SDI)	Employee	1.2%	\$128,298
Federal Unemployment Training Tax (FUTA)	Employer	0.6%	\$7,000
State Unemployment Tax (SUI)	Employer	Varies	\$7,000

2021 Mileage

Federal Business Mileage	\$0.56
Federal Medical or Moving Mileage	\$0.16
Federal Charity Mileage	\$0.14