



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

PAYROLL TAX & EMPLOYMENT ISSUES IN 2022

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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, 2022. 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 2021 earnings is January 31, 2022. Additionally, Forms W-2 and W-3 must be submitted to the Social Security Administration by January 31, 2022.

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.**

SPECIAL POINTS OF INTEREST FOR 2022

- Mileage rate has increased to 58.5 cents per mile for business use.
- California Minimum Wage increases to \$14.00/hour for employers with 25 or fewer employees, and \$15.00/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 \$147,000.
- California SDI Rate decreases to 1.1%, with the limit increasing to \$145,600.
- California sales and use tax rate remains at 7.25%. City rates vary. See www.cdtfa.ca.gov.
- The percentage method on

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 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.

Supplemental Wages remains 22% for Federal and remains at 10.23% for California. (For employees receiving \$1 million or more in supplemental wages during the year the Federal rate is 37%).

- Form 1099-NEC is still being used instead of 1099-MISC when reporting non-employee compensation.

FORM 941 CHANGES: DEFERRALS AND CREDITS

The CARES Act brought many changes to the world of wages and payroll taxes reported on the quarterly form 941. These changes included deferral of payroll taxes and certain payroll tax credits. The omnibus spending and coronavirus relief bill that was signed into law on December 27, 2020, extended and enhanced some of these credits.

Payroll Tax Credits: COVID related sick and family leave credits made available under the CARES Act were originally eligible from 4/1/20 to 12/31/20. These credits were extended through September 30, 2021. The sick pay credits were available at the employee's rate of pay (up to \$511 per day) up to a total of 80 hours. Additional credits were available if the employee is caring for a family member who has COVID (sick leave credit at a cap of \$200 per day) or a Family Leave Credit due to the closure of schools and day cares (also up to \$200 per day). Eligible credits also include employer paid expenses for a qualified health plan and Medicare tax.

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](http://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.
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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-NEC 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 https://www.edd.ca.gov/pdf_pub_ctr/de38.pdf.

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](http://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 of 5% 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 was 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 2022

As many are aware, 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 2022, California has expanded Paid Family Leave to include time off due to a caring for a parent-in-law in addition to their own parents.

For more information, please visit https://edd.ca.gov/pdf_pub_ctr/de2530.pdf.

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 2022

January 18, 2022

December Federal and State liability should be deposited if you are a monthly depositor.

January 31, 2022

Last day to distribute W-2's to employees and most 1099's to recipients (see February 15, 2022 for exceptions).

Copy A 2021 Wage and Tax Statement Form W-2 and transmittal due (Form W-3) due.

2021 Federal Unemployment Tax Return due (Form 940).

2021 4th Quarter Employer Payroll Tax Returns due (Forms 941, DE9 & DE9C).

May 2, 2022

2022 1st Quarter Employer Payroll Tax Returns due (Forms 941, DE9 & DE9C). 2022 1st Quarter FUTA and SUTA deposit due if required.

May 16, 2022

April Federal and State liability should be deposited if you are a monthly depositor.

June 15, 2022

May Federal and State liability should be deposited if you are a monthly depositor.

July 15, 2022

June Federal and State liability should be deposited if you are a monthly depositor.

2021 4th Quarter or Annual FUTA and SUTA deposit due.

2021 Annual Employer Payroll Tax Returns due (Forms 943, 945) if required.

Forms 1099-NEC and transmittal (Form 1096) reporting non-employee compensation payments due (FTB copies are no longer required).

February 15, 2022

January Federal and State liability should be deposited if you are a monthly depositor.

Begin withholding for each employee who previously claimed exemption 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.

Forms 1099-B, 1099-S, and 1099-MISC with amounts in box 8 or 10 due to recipients.

February 28, 2022

Form 1099-MISC and transmittal (Form 1096) for vendors **not** reporting non-employee compensation payments due. (If e-filing, due date is extended to March 31, 2022)

March 15, 2022

February Federal and State liability should be deposited if you are a monthly depositor.

April 15, 2022

March Federal and State liability should be deposited if you are a monthly depositor.

Qualified Purchasers must report and pay Use Tax to the California Dept. of Tax and Fee Administration (CDTFA).

August 1, 2022

2022 2nd Quarter Employer Payroll Tax Returns due (Forms 941, DE9 & DE9C). 2022 2nd Quarter FUTA and SUTA deposit due if required.

August 15, 2022

July Federal and State liability should be deposited if you are a monthly depositor.

September 15, 2022

August Federal and State liability should be deposited if you are a monthly depositor.

October 17, 2022

September Federal and State liability should be deposited if you are a monthly depositor.

October 31, 2022

2022 3rd Quarter Employer Payroll Tax Returns due (Forms 941, DE9 & DE9C). 2022 3rd Quarter FUTA and SUTA deposit due if required.

November 15, 2022

October Federal and State liability should be deposited if you are a monthly depositor.

December 15, 2022

November Federal and State liability should be deposited if you are a monthly depositor.

Request a new Form W-4 from each employee who claimed total exemption from withholding during the year, or whose withholding status will change.

January 17, 2023

December Federal and State Liability should be deposited if you are a monthly depositor.

PLEASE NOTE:

The 2022 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, 2022. These guides and tax tables are available at:

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

2022 CONTRIBUTION LIMITS

	Contribution Limit	Age 50+ Catch Up Contributions	Age 55+ Catch Up Contributions
IRA	\$6,000	\$1,000	\$-
Simple IRA	\$14,000	\$3,000	\$-
401(k), 403(b) and 457	\$20,500	\$6,500	\$-
Defined Contributions	\$61,000	\$6,500	\$-
HSA Individual	\$3,650	\$-	\$1,000

HSA Family	\$7,300	\$-	\$1,000
FSA (Flexible Spending Arrangement)	\$2,850	\$-	\$-

2022 TAX RATES & WAGE LIMITS

Tax	Payee	Rate	Wage Limit
Social Security (FICA)	Employer	6.2%	\$147,000
Social Security (FICA)	Employee	6.2%	\$147,000
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	1.1%	\$145,600
Federal Unemployment Training Tax (FUTA)	Employer	0.6%	\$7,000
State Unemployment Tax (SUI)	Employer	Varies	\$7,000

2022 MISCELLANEOUS

Sales Tax	7.25%
California Minimum Wage, 25 Employees or less	\$14.00
California Minimum Wage, 26 Employees or more	\$15.00
Federal Business Mileage	\$0.585
Federal Medical or Moving Mileage	\$0.18
Federal Charity Mileage	\$0.14