

## Settlements Program

The Settlements Program allows an employer the opportunity to enter into a settlement agreement to avoid the cost of prolonged litigation associated with resolving a disputed employment tax matter.

A settlement is a compromise on the dollar amount of a tax liability, consistent with a reasonable evaluation of the costs and risks associated with litigation of the issues.

Section 1236 of the [California Unemployment Insurance Code \(CUIC\)](http://leginfo.legislature.ca.gov/faces/codes.xhtml) (leginfo.legislature.ca.gov/faces/codes.xhtml) allows the Employment Development Department (EDD) to settle certain civil employment tax disputes.

### Settlements Process

The settlements process begins with an employer or their agent submitting an offer. Generally, a settlement offer will only be considered when the assessment or denial of claim for refund is under petition with the California Unemployment Insurance Appeals Board (CUIAB). If the case involves fraud, intent to evade, or criminal violations, the case is generally not eligible for settlement.

When reviewing an offer, the state will consider the risk of loss and the cost of litigation, balanced against the benefits of reaching a settlement agreement. Issues of fairness, financial hardship, and the survival of the business may be considered to establish a settlement amount, but cannot be used as the sole reason for entering into a settlement agreement. Upon approval of the settlement offer, the employer and the EDD will enter into a settlement agreement. All settlement agreements are subject to approval by an administrative law judge of the CUIAB, and some require approval by the CUIAB Appeals Board and/or the Attorney General.

### How to Apply

To apply for a settlement, you must submit a settlement offer in writing. The settlement offer must include all of the following information:

- Your EDD employer payroll tax account number.
- The specific assessment or the denial of claim for refund for which you are offering the settlement, along with information such as the date of assessment or denial of claim for refund, amount of liability involved, and time period covered.
- The basis for your offer, including the amount and terms of your offer.

- An analysis of the risk of loss to the state or a reasonable estimate of the cost of litigation which appears excessive and the reason why your offer should be considered.
- The name, address, and phone number of the individual authorized to negotiate your settlement agreement, if applicable.

To apply, email or fax your settlement offer to:

[taxtsdsg@edd.ca.gov](mailto:taxtsdsg@edd.ca.gov)  
Fax: 1-916-449-2161

Or mail your request to the Settlements Group at:

Employment Development Department  
Settlements Office, MIC 93  
PO Box 826880  
Sacramento, CA 94280-0001

If your offer meets the criteria for a settlement, the EDD will contact you. If your offer does not meet the criteria for a settlement agreement, you will receive a denial letter from the Settlements Office.

Open and constructive discussions are conducted throughout the entire settlement process. If an agreement is not reached between the employer and the EDD, all information disclosed during the negotiation process is considered confidential and cannot be used by the EDD against the employer.

### Coverage

If the workers' status is the subject of any part of the litigation, in order to enter into a settlement you will be required to agree to begin reporting the workers as employees and start withholding and paying the payroll taxes on those workers' wages once a settlement is approved.

### Public Disclosure

Section 1236 of the CUIC requires a public record for any settlement agreement that forgives more than \$500 in taxes and penalties. The public records are on file with the EDD Director in Sacramento, California.

## Who to Contact

If you have specific questions regarding the EDD Settlements Program, contact the Settlements Office at 1-916-653-9130.

## Additional Information

If your disputed employment tax matter is final or the sole issue is inability to pay, it will not meet the criteria for a settlement. However, there may be other options available to you. For information on these options, call the phone number listed on your most recent *Statement of Account* (DE 2176) or 1-888-745-3886. If you are unable to resolve the issue and require further assistance, contact the EDD Taxpayer Advocate Office at 1-866-594-4177 (toll-free) or 1-916-654-8957.

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 non-technical 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.