

**Determination of Employment Work Status
for Purposes of State of California Employment Taxes
and Personal Income Tax Withholding**

Purpose

This form is to be used by businesses who would like to get a determination as to whether a worker is an employee for purposes of California Unemployment Insurance, Employment Training Tax, State Disability Insurance*, and Personal Income Tax withholding.

Note

If you require any assistance in the completion of this form, contact the nearest Employment Tax Office of the Employment Development Department (EDD) or call (888) 745-3886. Upon completion, return to:

**STATE OF CALIFORNIA
EMPLOYMENT DEVELOPMENT DEPARTMENT
FACD-Central Operations, MIC 94
P.O. Box 826880
Sacramento, CA 94280-0001**

The EDD may need to contact you if additional information is required.

General Information

This form should be completed carefully, and it should be completed for one individual who is representative of the class of workers whose status is in question. If a written determination is desired for any other class of workers, complete a separate DE 1870. A written determination for any worker will apply to other workers of the same class if facts are not different from those of the worker whose status was ruled upon.

This form is designed to cover many work activities. Some of the questions may not apply to you. You must answer questions 1-39 or mark them "UNKNOWN" or "DOES NOT APPLY." Answer questions 40-79 only if applicable. If additional space is needed, please attach another sheet.

PLEASE TYPE OR PRINT ALL INFORMATION CLEARLY

* Includes Paid Family Leave (PFL).

NAME OF FIRM			
NAME OF OWNER			
ADDRESS OF FIRM	(CITY)	(STATE)	(ZIP CODE)
TELEPHONE NUMBER (INCLUDING AREA CODE)			
FIRM'S FEDERAL IDENTIFICATION NUMBER			
FIRM'S EDD EMPLOYER ACCOUNT NUMBER			

Check the type of firm for which the work relationship is in question:

- Individual
 Partnership
 Corporation
 Limited Liability Company (LLC)
 Limited Liability Partnership (LLP)
 Other (specify): _____

If the firm is a corporation, is the worker an officer of the corporation? Yes No

If the firm is an LLC or LLP, is the worker a member of the LLC or partner in the LLP? Yes No

13a. Does the worker have helpers? Yes No

If "Yes," answer questions 13b. through 13g.

If "No," go to question 14.

b. Were the helpers hired by: Worker The firm Unknown

c. Who could discharge the helpers: Worker The firm Unknown

d. Who paid the helpers: Worker The firm Unknown

e. If the worker paid the helpers, did the firm reimburse the worker? Yes No Unknown

f. What services do the helpers perform? _____

g. Are social security (FICA), state disability insurance (SDI), and income taxes withheld from the helpers' wages?

Yes No Unknown

If "Yes," who reports and pays these taxes? _____

14a. Was the worker permitted to provide services for others during the same time periods services were performed for the firm? Yes No Unknown

If "Yes," answer questions 14b. through 14f.

If "No" or "Unknown," go to question 15.

b. What percent of the worker's total working time was spent working for others? _____

c. What percent of the worker's total income was earned from others? _____

d. Describe services the worker performed for others: _____

e. Did the firm have first call on the worker's time and efforts? Yes No Unknown

f. Who owned or rented the premises where the services were performed? _____

15. List the kind and value of tools, equipment, and facilities furnished by the firm: _____

16. List the kind and value of tools, equipment, and facilities furnished by the worker? _____

17a. List any expenses connected with the services of the worker: _____

b. Who was responsible for paying the expenses? _____

c. Was the worker reimbursed by the firm for any of these expenses? Yes No

18. Did the worker perform under: His/her business name The firm's name

19. Did the worker advertise or maintain a business listing in the telephone directory, a trade journal, etc.?

Yes No Unknown

20a. Did the worker hold himself/herself out to the public as available to provide services of this nature?

Yes No Unknown

If "Yes," please explain: _____

b. Or any other nature? Yes No Unknown

If "Yes," please explain: _____

21. Did the worker have an office or shop of his/her own? Yes No Unknown

If "Yes," where (e.g., was the office in the worker's home or was it rented office space?): _____

22a. Was a license or certificate required to perform the services? Yes No Unknown

If "Yes," does the firm possess such a valid license or certificate? Yes No

b. Who issued the license or certificate to the firm and/or worker? State type and number for the firm and/or worker:

c. Who paid the worker's license or certificate fee? _____

23. Did the firm engage the worker? Full-time Part-time Particular Job Indefinite Period

Other, please explain: _____

24. Did the firm require the worker to perform during a scheduled time? Yes No

If "Yes," please explain: _____

25a. Was the worker given training by the firm? Yes No

If "Yes," what kind and how often? _____

b. Who paid for the worker's training expenses? _____

26. Was the worker required to follow daily, weekly, etc., routines or schedules established by the firm?

Yes No

If "Yes," give examples:

27. Was the worker given instructions about the way the service was to be performed? Yes No

If "Yes," explain the nature of the instructions: _____

28. Could the firm change the methods used by the worker in performing the services or otherwise direct him/her as to how to perform the work? Yes No

Explain your answer: _____

- 29a. Does the worker report to the firm or its representatives? Yes No
 If "Yes," how often? _____
- b. For what purpose? _____
- c. In what manner (in person, in writing, by telephone, time record, etc.)? _____
 Attach copies of report forms used in reporting to the firm.
30. Was the worker required to produce a certain amount of work regularly if services were to continue?
 Yes No
31. Check the type of pay the applicant received? Salary Commission Hourly
 Other, please explain: _____
32. Was the worker guaranteed a minimum pay? Yes No
33. Was the worker eligible for a pension, bonuses, paid vacations, sick pay, etc.? Yes No
 If "Yes," explain: _____
34. Did the firm carry workers' compensation insurance on the worker? Yes No
35. Could the firm discharge the worker at any time? Yes No
36. Could the worker quit at any time? Yes No
37. Would a liability be incurred if the worker quit or was discharged before the job was complete? Yes No
 If "Yes," please explain: _____
38. Please explain why you think the worker is/was an employee of the firm or an independent contractor:

39. How did the worker report earnings for income tax purposes? Wages Self-employment Income
 Unknown

ANSWER QUESTIONS 40 THROUGH 45 ONLY IF THE WORKER IS AN AGENT DRIVER OR COMMISSION DRIVER (AN AGENT-DRIVER OR COMMISSION DRIVER IS A PERSON WHO OPERATES HIS/HER OWN TRUCK OR THE TRUCK OF THE FIRM AND SERVES THE CUSTOMERS OF THE FIRM AS WELL AS SOLICITING HIS/HER OWN CUSTOMERS)

40. State the products and/or services the driver distributes (for example: bakery products and laundry services):

41. If the driver distributes more than one product or service, which is considered the principal or main product?
 Explain: _____
42. Does the driver serve? Customers or routes designated by the firm His/her own customers Both
43. Was the driver required to perform the services personally? Yes No
44. Were the driver's services part of a continuing relationship with the firm and not in the nature of a single transaction? Yes No
45. What investment, other than for transportation, does the driver have in the business?

**ANSWER QUESTIONS 46 THROUGH 58 ONLY IF THE WORKER WAS A
TRAVELING OR CITY SALESPERSON**

46. What type of product is sold? _____
47. To whom are sales made? _____
48. What typical type of business is the buyer in? _____
49. Does the buyer resell the product or use it in its business? _____
50. Did the worker have an exclusive territory? Yes No
51. Did the firm specify when and how often to work the territory? Yes No
If "Yes," please explain: _____

52. What percent of total sales that the worker made for the firm were made to wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments? _____
53. What was the percent of working time that the worker spent in selling to organizations other than those specified in #52, such as manufacturers, schools, churches, and homeowners? _____
54. What was the approximate number of hours worked per day for the firm? _____
55. Was the worker required to perform the services personally? Yes No
56. Was the worker required to forward the orders to the firm? Yes No
57. Were the worker's services part of a continuing relationship with the firm? Yes No
58. What investment, other than transportation, does the worker have in the business? _____

ANSWER QUESTIONS 59 THROUGH 67 ONLY IF THE INDIVIDUAL WORKED AT HOME

59. Who furnished materials or goods used by the worker? Individual Firm
60. Was the worker furnished a pattern or given instructions to follow in making the product? Yes No
If "Yes," please explain: _____

61. Was the worker required to return the finished product either to the firm or to someone designated by the firm?
 Yes No
62. Was the worker required to perform the services personally? Yes No
63. Were the worker's services part of a continuing relationship with the firm? Yes No
64. Is the firm licensed by the California Division of Labor Standards Enforcement? Yes No Unknown
65. Does the worker have a valid permit from the California Division of Labor Standards Enforcement?
 Yes No Unknown
66. Who bears the cost of material damaged by the worker? Worker Firm
67. Explain the nature of any substantial investment in facilities used in connection with performance of the worker's services. _____

**ANSWER QUESTIONS 68 THROUGH 72 ONLY IF THE INDIVIDUAL IS A
REAL ESTATE SALESPERSON OR BROKER**

68. Does the firm provide advances against unearned commissions, expense accounts, or reimbursements of expenses incurred by the worker? Yes No

Please explain: _____

69. Does the firm approve the sales before they are placed in escrow? Yes No

70. Does the worker have any other duties with the firm besides selling real estate? Yes No

If "Yes," please explain the nature of such duties and the method of payment: _____

71. Does the firm allow the worker to have exclusive listings? Yes No

72. Does the worker have a valid license to sell real properties? Yes No

**ANSWER QUESTIONS 73 THROUGH 79 ONLY IF THE FIRM IS A
TEMPORARY SERVICES EMPLOYER OR LEASING EMPLOYER**

73. Does the firm negotiate with clients or customers for such matters as time, place, type of work, working conditions, quality, and price of the services? Yes No

74. Does the firm determine the assignments or reassignments of the workers, even though workers retain the right to refuse specific assignments? Yes No

75. Does the firm retain the authority to assign or reassign a worker to other clients or customers when a worker is determined unacceptable by a specific client or customer? Yes No

76. Does the firm assign or reassign the worker to perform services for a client or customer? Yes No

77. Does the firm set the rate of pay of the worker, whether or not through negotiation? Yes No

78. Does the firm pay the worker from its own account(s)? Yes No

79. Does the firm retain the right to hire and terminate workers? Yes No

I declare that all copies of contracts and all statements submitted are true, correct, and complete to the best of my knowledge and belief. If any misrepresentation has been made or facts have been omitted, I understand that the determination will not be valid and will not be binding upon the Department.

(NAME PRINTED)

(SIGNATURE)

(TITLE)

(DATE)

(PHONE NUMBER)