

EXEMPT EMPLOYMENT

The California Unemployment Insurance Code provides that certain employees and specific types of employment are not subject to one or more payroll taxes, which include: Unemployment Insurance (UI), Employment Training Tax (ETT), State Disability Insurance* (SDI), and Personal Income Tax (PIT) withholding. Some *exempt* (not subject) services are discussed in separate information sheets in more detail (these will be noted in the following discussion by the listing of a DE 231 form). Below is a brief explanation of the more common exemptions. Unless otherwise stated, payments for these workers and services are reportable as PIT wages on the *Quarterly Contribution Return and Report of Wages (Continuation)* (DE 9C).

NOTE: Workers engaged in exempt employment may qualify for elective UI and/or SDI coverage. Refer to Information Sheet: *Specialized Coverage* (DE 231SC) for detailed information.

- Agricultural labor is subject to UI, ETT, and SDI but is not subject to PIT withholding unless the employer and employee voluntarily agree.
- Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority is not subject to SDI until the employer pays at least \$750 in cash wages in any calendar quarter. Such service is not subject to UI and ETT until the employer pays at least \$1,000 in cash wages in any calendar quarter. Wages paid for domestic service are not subject to PIT withholding unless both the employer and employee voluntarily agree. Refer to Information Sheet: *Household Employment* (DE 231L) for more detailed information.
- Elected officials and members of a legislative body or members of the judiciary of a state government or a political subdivision of a state are not subject to UI, ETT, and SDI but are subject to PIT withholding.
- Election campaign workers are not subject to UI, ETT, and SDI but are subject to PIT withholding. Refer to Information Sheet: *Election Campaign Workers* (DE 231V) for more detailed information.
- Employees of a church or convention or association of churches or an organization that operates primarily for religious purposes and is operated, supervised, controlled, or principally supported by a church or convention or association of churches are not subject to UI, ETT, and SDI but are subject to PIT withholding. Ministers who are duly ordained, commissioned, or licensed in the exercise of their ministry and members of a religious order in the exercise of duties required by such order are not subject to UI, ETT, SDI, or PIT withholding.
- Employees of other states and their political subdivisions are not subject to UI, ETT, and SDI but are subject to PIT withholding if the services are performed in California or the employee is a California resident.
- Family employees - Services provided by (1) children under the age of 18 employed by a parent or partnership of parents only, (2) spouse employed by spouse, (3) registered domestic partner employed by registered domestic partner, and (4) parent employed by son or daughter are not subject to UI, ETT, and SDI. Payments to family employees are subject to PIT withholding. Refer to Information Sheet: *Family Employment* (DE 231FAM) for more detailed information.
- Federal employees are exempt from UI, ETT, and SDI. The federal government withholds PIT by agreement with the state from federal employees working in California and military personnel who are California residents stationed in California.
- Foreign government employees are not subject to UI, ETT, SDI, or PIT withholding. Employees of instrumentalities owned by a foreign government are similarly exempt when there is a formal agreement. Payments to employees in these two categories are not reportable as PIT wages.
- Foreign professional athletes who are neither citizens nor residents of the United States who perform in California for occasional or incidental professional engagements are not subject to UI, ETT, and SDI but are subject to PIT withholding.
- Interns who have completed a four-year course in medical school are not subject to UI and ETT when completing their internship at a hospital. Interns are not subject to SDI unless employed by a private nonprofit hospital. Payments to interns are subject to PIT withholding.

* Includes Paid Family Leave (PFL).

- Newspaper and magazine vendors buying at fixed prices and retaining the excess from sales to consumers are not subject to UI, ETT, SDI, and PIT withholding, and their wages are not reportable as PIT wages. Newspaper carriers delivering to consumers are similarly not subject unless they are at least 18 years old or it is regular, full-time work (in those cases, the workers are subject to all payroll taxes).
- Patients employed by the hospital in which they are patients are not subject to UI, ETT, and SDI but are subject to PIT withholding.
- Professional services performed by a consultant working as an independent contractor are not subject to UI, ETT, SDI, and PIT withholding. These services are limited to attorneys, physicians, dentists, engineers, architects, accountants, chiropractors, and scientists who have a degree from a four-year institution of higher learning relating to the specialized knowledge and skills of the professional service being provided. Payments for these services are not reportable as PIT wages.
- Salespersons - Real estate, mineral, oil and gas, cemetery, and yacht brokers and real estate, cemetery, and yacht salespersons, as well as direct salespersons, are not subject to UI, ETT, and SDI if certain conditions are met. Refer to Information Sheet: *Salespersons* (DE 231N) for detailed information about these conditions and whether payments to such workers are subject to PIT withholding and reportable as PIT wages.
- Service performed outside the U.S. on a foreign vessel or aircraft are not subject to UI, ETT, SDI, and PIT withholding. Payments for these services are not reportable as PIT wages.
- Students under the age of 22 in a qualified work experience program are exempt from UI, ETT, and SDI but are subject to PIT withholding.
- Students working for the school in which they are enrolled and regularly attending classes are not subject to UI, ETT, and SDI. A student's spouse is also not subject if advised at the time such service commences that such service is provided under a program to provide financial assistance to the student and such employment will not be covered by any program of unemployment insurance or disability compensation. Payments to students and their spouses working for the school are subject to PIT withholding.
- Student nurses working for a hospital or nursing school are not subject to UI and ETT if they are enrolled in and regularly attending approved nurses' training classes. They are not subject to SDI unless employed by a private nonprofit hospital. Payments to student nurses are subject to PIT withholding.
- Intermittent and adjunct instructors at private post-secondary institutions are not subject to SDI and PIT withholding if they have a contract with the school that states they will be responsible for their own income taxes, there is no disability insurance provided, and the instruction is a secondary occupation. Payments for these services are subject to UI and ETT, and their wages are reportable as PIT wages.
- Temporary workers for state government and their political subdivisions performing services in the case of fire, storm, snow, earthquake, flood, or other similar emergency are not subject to UI, ETT, and SDI but are subject to PIT withholding.
- Transcribers of depositions, court proceedings, and hearings performed away from the office of the person, firm, or association obligated to produce a transcript of these proceedings are not subject to UI, ETT, SDI, and PIT withholding. Payments for their services are not reportable as PIT wages.
- Workers who perform services that are not in the course of the employer's trade or business are not subject to UI, ETT, SDI, and PIT withholding if they (1) receive only noncash payments or (2) are paid cash wages of less than \$50 and work fewer than 24 different days in that calendar quarter or fewer than 24 days in the preceding quarter. When either of these conditions apply, the payments are also not reportable as PIT wages. Refer to Information Sheet: *Casual Labor* (DE 231K) for more detailed information.

ADDITIONAL INFORMATION

The above is just a partial listing of the more common exemptions. Before applying the above exemptions or to obtain further information about exempt employees and services, employers should contact the Taxpayer Assistance Center at 888-745-3886 or visit their nearest Employment Tax Office listed in the *California Employer's Guide* (DE 44) and on the Employment Development Department's (EDD) website at www.edd.ca.gov/Office_Locator/. Additional information is also available through the EDD's no-fee payroll tax seminars and online courses. View the in-person and online course offerings on the EDD's website at www.edd.ca.gov/Payroll_Tax_Seminar/.

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 888-745-3886 (voice) or TTY 800-547-9565.

This information sheet is provided as a public service and is intended to provide nontechnical 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.