

PENALTY REFERENCE CHART

The Employment Development Department (EDD) applies penalties in accordance with the California Unemployment Insurance Code (CUIC) and case law to ensure penalties are appropriately and accurately applied.

Please use the chart below for reference purposes only. Penalties are listed by CUIC section.

Penalty Name (On EDD correspondence)	CUIC Section	Penalty Reason	Penalty Computation/Rate
Benefit Charge Assessment Penalty	803(f)	Failure by a reimbursable employer to pay the cost of Unemployment Insurance (UI) benefits paid to an individual within 30 days from the date of the notice.	10% of the unpaid contributions plus interest.
		Exception – Good cause.	
SEF LEC Penalty (School Employees Fund Local Experience Charge)	828	Penalty charged if a school employer fails to pay a quarterly local experience charge within 30 days from the date of notice.	10% of the unpaid amount plus interest.
		Exception – None.	
977(c) Rate Increase	977(c)	Employer obtains or attempts to obtain a reduced UI rate due to deliberate ignorance, reckless disregard, fraud, intent to evade, misrepresentation, or willful nondisclosure.	Assigned the maximum UI contribution rate pursuant to Section 977(a) of the CUIC table plus 2% for specified rating periods.
		Exception – None.	
NER Penalty (New Employee Registry)	1088.5(e)	Failure to report the hiring of a new employee or rehired employee as required and within the time required, pursuant to Section 1088.5(d) of the CUIC.	\$24 for each failure to report the hiring of an employee or \$490 if the failure is the result of conspiracy.
		Exception – Good cause.	
ICR Penalty (Independent Contractor Reporting)	1088.8(e)	Failure to report an independent contractor as required and within the time required, pursuant to Section 1088.8(c) of the CUIC.	\$24 for each failure to report an independent contractor or \$490 if the failure is the result of conspiracy.
		Exception – Good cause.	
Underpayment Penalty	1112(a)	Failure to pay contributions by the due date.	15% of the late contributions (10% for periods prior to the third quarter of 2014).
		Exception – Good cause.	

Penalty Name (On EDD correspondence)	CUIC Section	Penalty Reason	Penalty Computation/Rate
Late Payment Penalty	1112(a)	Failure to submit a <i>Payroll Tax Deposit</i> , DE 88, payment within the time required.	15% of the late contributions (10% for periods prior to the third quarter of 2014).
		Exception – Good cause.	
Quarterly Threshold Penalty	1112(a)	Personal Income Tax (PIT) reported on a DE 88 deposit exceeded the limits for the quarterly deposit schedule. Penalty and interest are based on State Disability Insurance (SDI) and PIT withholdings.	15% of the contributions (10% for periods prior to the third quarter of 2014).
		Exception – Good cause.	
Payment Noncompliance Penalty	1112(b)	Failure to remit SDI and PIT payments by electronic funds transfer (if required).	15% of the contributions (10% for periods prior to the third quarter of 2014).
		Exception – Good cause.	
Late Report Penalty	1112.5(a)	Failure to file reports within 60 days of the due date. Applies only to amounts that were not paid by the due date. This penalty is in addition to penalties required by Sections 1112, 1126, and 1127 of the CUIC.	15% of the late contributions and PIT withholdings (10% for periods prior to the third quarter of 2014).
		Exception – Good cause.	
Wage Item Penalty	1114(a)	Failure to file wage reports within 15 days of a specific written demand.	\$20 per wage item (\$10 for periods prior to the third quarter of 2014).
		Exception – Good cause.	
Wage Noncompliance Penalty	1114(b)	Failure to file wage reports for each employee on magnetic media (if required).	\$20 per wage item (\$10 for periods prior to the third quarter of 2014).
		Exception – Good cause.	
Annual Return Penalty	1117	Failure to file annual reconciliation return within 30 days of written notice.	The lesser of: \$1,000 or 5% of the contributions to be reconciled.
		Exception – Good cause.	
1126 Assessment Penalty	1126	Penalty added to an assessment for failure to file returns or reports.	15% of the assessed contributions (10% for periods prior to the third quarter of 2014).
		Exception – None.	

Penalty Name (On EDD correspondence)	CUIC Section	Penalty Reason	Penalty Computation/Rate
Failure to Register Penalty	1126.1	Failure to register as an employer when the failure is due to intentional disregard or intent to evade.	\$100 per unreported employee – applied in the assessed quarter with the highest number of unreported employees.
		Exception – None.	
1127 Assessment Penalty	1127	Filing of deficient returns or reports when the employer was negligent or intentionally disregarded the law.	15% of the assessed contributions (10% for periods prior to the third quarter of 2014).
		Exception – None.	
Fraud or Intent to Evade Penalty	1128(a)	Failure to file returns or reports or if any part of the deficiency for which an assessment is made is due to fraud or intent to evade. This is in addition to penalties assessed pursuant to Sections 1126 and 1127 of the CUIC.	50% of the assessed contributions.
		Exception – None.	
Additional Fraud or Intent to Evade Penalty	1128(b)	Failure to provide information returns to workers as required under Section 13050 of the CUIC or Section 6041A of the Internal Revenue Code (IRC) when penalty is assessed pursuant to Section 1128(a) of the CUIC. This is in addition to penalties assessed pursuant to Sections 1126 and 1127 of the CUIC.	50% of the assessed contributions.
		Exception – None.	
Money Exchange Penalty	1128.1	Penalty charged to an individual or business who knowingly participates in a money exchange scheme with an employer in an attempt to conceal wages.	100% of the assessed contributions based on concealed wages.
		Exception – None.	
Assessment Finality Penalty	1135	Failure to pay assessments by the date the assessment becomes final.	15% of the unpaid contributions due after the finality date (10% for periods prior to the third quarter of 2014).
		Exception – None.	
False Statement Penalty	1142(a)	Making a false statement or representation or willfully failing to report a material fact regarding the termination of an employee's employment. This penalty is assessed against the employer, the employer's agent, or both.	Not less than two (2) or more than 10 times the claimant's weekly benefit amount.
		Exception – None.	

Penalty Name (On EDD correspondence)	CUIC Section	Penalty Reason	Penalty Computation/Rate
False Statement Penalty	1142(b)	Submission of a written statement containing a false statement or representation or willfully failing to report a material fact concerning the reasonable assurance of reemployment following a break between academic years or terms. This penalty is assessed against the employer, the employer's agent, or both.	Not less than two (2) nor more than 10 times the claimant's weekly benefit amount.
		Exception – None.	
False Statement Penalty	1142.1	Making a false statement or representation or willfully failing to report a material fact regarding the termination of an employee's employment, regarding any week during which the employee worked or regarding any time granted to the employee for professional development, when the employee was performing services for an educational institution as defined in Section 1253.3 of the CUIC. This penalty is assessed against the employer.	Not less than two (2) nor more than 10 times the claimant's weekly benefit amount.
		Exception – None.	
Advisor Penalty	1145	Person or business entity knowingly advising another person or business entity to violate any provision of Chapter 4, Part 1 of Division 1 of the CUIC. This penalty is assessed against the advisor.	The greater of: \$5,000 or 10% of the underreported contributions, penalties, and interest.
		Exception – None.	
Worker Information Return Penalty	13052	Failure to furnish a statement to an employee in the manner, at the time, and showing the information required by Section 13050 of the CUIC or furnishing a false or fraudulent statement to an employee.	\$50 for each occurrence.
		Exception – Reasonable cause.	
Additional Worker Information Return Penalty	13052.5	Failure to report amounts paid as remuneration for personal services on an information return as required by Section 13050 of the CUIC or Section 6041A of the IRC on the date prescribed. This penalty shall be assessed against the person or entity required to file and may be charged in lieu of, or in addition to, the penalty under Section 13052 of the CUIC.	The maximum income tax rate pursuant to Section 17041 of the Revenue and Taxation Code multiplied by the unreported amounts paid for personal services.
		Exception – None.	

ADDITIONAL INFORMATION

For further assistance, please contact the Taxpayer Assistance Center at 888-745-3886 or visit the nearest Employment Tax Office listed in the *California Employer's Guide*, [DE 44](#), and on the EDD website at www.edd.ca.gov/Office_Locator/. Additional information is also available through the EDD no-fee payroll tax seminars and online courses. View the in-person and online course offerings on the EDD website at www.edd.ca.gov/Payroll_Tax_Seminars/.

For information regarding penalty waivers, refer to *Information Sheet: Waiver of Penalty Policy*, [DE 231J](#).

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.

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