

WITHHOLDING FROM PENSIONS, ANNUITIES, AND CERTAIN OTHER DEFERRED INCOME

TAXABLE PAYMENTS

Pensions, annuities, and other deferred income as described in Section 3405 of the Internal Revenue Code are considered wages and subject to the withholding of Personal Income Tax (PIT). However, a payee/recipient may elect NOT to have PIT withheld.

Payments to Out-of-State Residents

Federal law prohibits states from taxing retirement income received by nonresident individuals after December 31, 1995. Therefore, no California income tax is to be withheld from pension recipients who reside outside of California.

To determine a payee's state of residence, the payer may rely on the most recent address of the payee contained in its business records.

WITHHOLDING NOTICE

The payer must provide to each payee, not earlier than six months before distribution of the first payment and not later than the time of the first payment, a notice with the following rights:

- (a) To elect not to have withholding apply to any payment or distribution and how to make that election.
- (b) To change or revoke an election and when it takes effect.

The election and any change or revocation of an election is effective for payments made more than 30 days after the payer receives the election or revocation unless the payer elects to make it effective at an earlier date. For non-periodic payments, the payee may make or revoke an election at any time before the distribution.

Withholding Elections

A payee may name the number of allowances, decide how much is to be withheld, or elect not to have withholding for periodic or non-periodic (including lump sum) payments. To do so, the payee files with the payer a Withholding Certificate for Pension or Annuity Payments (DE 4P or federal Form W-4P) or a substitute form provided by the payer. Such choice remains in effect until revoked or changed by the payee by filing a new election form. However, the election on non-periodic payments is on a payment-by-payment basis unless the payer decides to make the election permanent.

When PIT withholding is required, the payer may calculate the PIT using one of the methods shown below:

- (a) California Withholding Schedules.
- (b) A designated dollar amount as requested by the recipient.
- (c) Ten percent of the amount of federal withholding computed pursuant to Section 3405 of the Internal Revenue Code.

If the payee has not filed a withholding form (DE 4P or Form W-4P), PIT withholding is required. The payer may calculate PIT using one of the following methods:

- (a) Using the California Withholding Schedules, treating the payee as a married individual claiming three allowances.
- (b) Withholding 10 percent of the amount of federal withholding computed pursuant to Section 3405 of the Internal Revenue Code.

At the payer's option, withholding will not be required with respect to any designated distribution if the amount to be deducted and withheld is less than \$10.

Form 1099-R

At the end of the year, the payer shall give each individual a Form 1099-R showing the gross payments and the income tax withheld during the year.

Reporting of California PIT Withheld

Payers are required to:

- (a) File a Quarterly Contribution Return and Report of Wages (DE 9).
- (b) File a Quarterly Contribution Return and Report of Wages (Continuation) (DE 9C), listing the pension recipient's social security account number, name, and PIT withheld on the DE 9C each quarter. Do not report the amount of the payment/distribution as either total subject wages or PIT wages.
- (c) File a Payroll Tax Deposit (DE 88) along with the PIT withheld from the pension payments. The payers' filing date is dependent on both their federal deposit schedule and the amount of accumulated PIT withheld during the quarter. Please refer to the current year's California Employer's Guide (DE 44) "California Deposit Requirements" section, to determine if/when the payer must deposit PIT withheld more frequently than quarterly. If PIT is overpaid and overreported in a quarter, refer to the DE 44 "Correcting Payroll Tax Deposits" section to properly make the necessary adjustments.

Separate Reporting Account Number

The payer may request a separate account number to report California PIT withheld from the taxable portion of payments of pensions, annuities, and certain other deferred income. This separate account number for reporting withholdings may be obtained by submitting a completed Registration Form for Employers Depositing Only Personal Income Tax Withholding (DE 1P) to the Employment Development Department (EDD).

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 DE 44 or access EDD's Web site at www.edd.ca.gov/Office_Locator/.

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 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.