EMPLOYER’S OBLIGATIONS FOR FORM W-4 OR DE 4

Each employee must complete a Form W-4 for federal and California withholding. Employers withhold taxes based on what the employee reports on the W-4. If the employee wants to claim a different marital status and/or different number of allowances for California Personal Income Tax (PIT) withholding, the employee must also complete a DE 4. Employers retain the W-4 and/or DE 4 for payroll records.

FORM W-4 AND DE 4 FILED

If you question the W-4 or DE 4 because it meets either of the following two conditions, then you must submit a copy of this form to Franchise Tax Board by fax to (916) 843-1094 or mail to the address shown below. Please retain the original form in the employee’s payroll records.

- The employee claims more than 10 withholdings.
- The employee claims exemption from State or federal income tax withholding and the employee’s usual weekly wages will exceed $200.

Continue to treat the W-4 or DE 4 as valid until notified in writing by FTB of the proper marital status and number of allowances to use for California withholding purposes.

REQUEST FOR REVIEW OF FTB DETERMINATION

If an employee disagrees with an FTB determination as it applies to California withholding, the employee may request a review of the determination by writing to the address below.

W-4 Unit
Franchise Tax Board MS F180
P.O. Box 2952
Sacramento, CA 95812-2952

Fax (916) 843-1094

The burden of proof rests with the employee to show that the determination is incorrect for California withholding purposes. Continue to withhold California PIT based on the FTB determination until notified in writing by FTB of any changes. In the event FTB finds no reasonable basis for the number of withholding allowances claimed on the DE 4, the employee may be subject to a $500 penalty.

If either of the following two conditions exist, the W-4/DE 4 is considered invalid per the Code of Federal Regulations, Title 26, Section 31.3402(f)(2)-1(e) and the California Code of Regulations, Title 22, Section 4340-1(b):

- The employee makes major changes to Form W-4 or DE 4, such as crossing out words or writing more than is asked.
- The employee admits that Form W-4 or DE 4 is false.

When you receive an invalid Form W-4 or DE 4, do not use it to calculate PIT withholding. Tell the employee that it is invalid and ask for another one. If the employee does not give you a valid one, withhold PIT as if the employee was single and claiming no withholding allowances. However, if you have an earlier Form W-4 or DE 4 for this worker that is valid, withhold as you did before.

ASSISTANCE WITH ANY QUESTIONS OR SPECIFIC PROBLEMS

If you need assistance, please contact our Taxpayer Assistance Center at 1-888-745-3886.