

INSTALLMENT AGREEMENT

Employers have a legal obligation to voluntarily report and pay contributions and withholdings when due. However, the Employment Development Department (EDD) recognizes that there are situations where it is in the best interest of California's taxpayers that the EDD accept an installment agreement to liquidate debts due to the state over a period of time. Please consider the following information in order to determine whether an installment agreement is appropriate.

Resources Available to Pay the Liability

Do you have sufficient money of your own to pay this liability? Can you borrow the money from other sources to pay the liability? Are there other resources available to pay the liability which will not force the closure of your business? If yes, you must make arrangements to pay the entire amount within 30 days.

NOTE: All employers who fail to file and pay liabilities timely are subject to the filing of a Notice of State Tax Lien. This lien is issued to protect the interest of the State of California and is not considered involuntary collection action. The filing of a State Tax Lien is an automatic process and cannot be stopped unless the liability is fully paid.

Requesting an Installment Agreement

If immediate payment is not possible and you have an established history of timely reporting and payments with the EDD, and are not insolvent or bankrupt, contact your assigned representative to negotiate an installment agreement. If you're not currently in contact with a representative, you may contact the Taxpayer Assistance Center at 888-745-3886 or visit the EDD website at www.edd.ca.gov/pdf_pub_ctr/de927b.pdf to obtain an *Installment Agreement Request*, DE 927B. When the completed DE 927B is received, an EDD representative will contact you to finalize the agreement.

Short-Term Installment Agreement

A short-term installment agreement can generally be negotiated. The liability must be satisfied as quickly as possible. The EDD will require a good faith payment for all delinquent *Quarterly Contribution Return and Report of Wages*, DE 9, *Quarterly Contribution Return and Report of Wages (Continuation)*, DE 9C, and *Payroll Tax Deposit*, DE 88, forms that have not been filed/paid through the current quarter for tax years 2011 forward. For years prior to 2011, any delinquent *Annual Reconciliation Statement*, DE 7, and *Quarterly Wage and Withholding Report*, DE 6, forms must be filed. In addition, the EDD may also require the taxpayer to complete a *Financial Statement*,

DE 926B, for individuals or *Financial Statement for Businesses*, DE 926C, or *Corporate Information Questionnaire*, DE 204, for installment agreements less than one year. To obtain the DE 926B and DE 926C, contact the Taxpayer Assistance Center at 888-745-3886 or visit the EDD website at www.edd.ca.gov/Payroll_Taxes/Forms_and_Publications.htm.

We will also ask that you sign an *Installment Agreement*, DE 927.

The installment agreement will be in effect 10 business days after a verbal agreement has been established, and the balance due must be paid in full on or before the agreed upon completion date.

Long-Term Installment Agreement

The EDD will consider a long-term installment agreement. Submit a written request for a long-term installment agreement, addressed to the office that is handling your account. Your request should include the following:

- (1) How the delinquent liability was established and what action has been taken to resolve the liability. Submit your proposed payment schedule and describe how you will keep current on future financial obligations to the EDD.
- (2) A good faith payment.
- (3) All DE 9, DE 9C, and DE 88s that have not been filed/paid through the current quarter for tax years 2011 forward. For years prior to 2011, any delinquent DE 7 and DE 6s must be filed.

You can electronically submit employment tax returns, wage reports, and payroll tax deposits using e-Services for Business at www.edd.ca.gov/e-Services_for_Business to comply with the e-file and e-pay mandate. For more information on this mandate, visit www.edd.ca.gov/EfileMandate.

- (4) Financial information on business as well as personal assets. The DE 926B and DE 926C are available by contacting the Taxpayer Assistance Center at 888-745-3886 or from the EDD website at www.edd.ca.gov/Payroll_Taxes/Forms_and_Publications.htm, but any recent financial statement which has substantially the same data is acceptable. Corporations and all corporate officers, individual business owners, partnerships, and each general partner are required to complete financial statements. Corporate officers should provide personal financial information as well as information involving the corporation.

(5) Corporations, limited liability companies (LLC), and limited liability partnerships (LLP) will be required to complete a DE 204. The form establishes the responsible persons of the corporation, LLC, or LLP. Responsible persons who willfully fail to pay contributions, withholdings, penalties, and interest on the date they become delinquent may be held personally liable.

(4) Fail to submit timely an *Interim Contribution Return*, DE 2858, with payment when specifically required as a condition of the agreement.

(5) Are found to have intentionally provided false, materially inaccurate, or incomplete information. This does not apply to simple mistakes.

NOTE: Failure to meet the terms of the installment agreement may result in involuntary collection action, including, but not limited to, seizure and sale of assets.

Provide Supportive Documentation

It is your responsibility to provide the information necessary to substantiate your inability to pay the full amount due. Provide sufficient documentation such as loan denials from financial institutions, tax returns, the past three months' bank statements, CPA financial reports, etc.

We may request documentation to support your entries on the financial statement. For instance, if you state that your monthly income is \$2,500, we may require proof of that income. If your utility bill is \$200 per month, we may request copies of your utility bills.

We may also request a credit bureau report periodically to help clarify your financial situation.

The Agreement

In negotiating the installment agreement, numerous factors are considered. However, the principal factor is whether the interests of the taxpayers of California would be best served by accepting the agreement. Generally, this occurs when an installment agreement will allow a business that would otherwise be forced to close, to continue in operation and to pay all debts owed to the state.

Your past history with the EDD should indicate your ability and willingness to honor the terms of the agreement. This means you have an established history of timely reporting and payments with us.

Once an agreement is reached, the plan will remain in effect for the period negotiated unless you:

- (1) Fail to make payments as agreed. This includes nonpayment, late payment, paying less than agreed, or checks returned by your bank unpaid.
- (2) Incur additional liability after the agreement is negotiated. Additional liability usually arises because you do not pay current taxes. This condition would not apply if the additional liability results from a nonfraudulent assessment covering a prior period.
- (3) Fail to file all required reports and/or DE 88s on a timely basis without good cause.

Finalizing the Installment Agreement

When all the necessary information, forms, and supporting documentation have been received, we will review the data and contact you to finalize the installment agreement, if appropriate, or request payment in full.

When the installment agreement has been approved, you will receive a DE 927. You must return the signed form and first payment to your EDD representative within 10 business days. **The installment agreement will not be in effect until the signed DE 927 is received.**

Additional Information

If you have entered into a valid installment agreement and an **audit assessment** is issued, you should be prepared to renegotiate the terms of the agreement. The exception to this general rule would be if the auditor applied the penalty under Section 1128 of the California Unemployment Insurance Code (**CUIC**) in the assessment. In most cases, you should be prepared to pay this assessment in full.

If you have either a significant improvement **or** deterioration in your financial circumstances during the repayment period, contact the EDD immediately. When you voluntarily provide updated financial information, the terms of the agreement can be renegotiated. If the EDD determines during a periodic review that your financial condition has improved and you did not notify us, the installment agreement may be voided immediately.

Please note that even if the installment agreement is approved, offsets of any state refunds and federal income tax refunds will be enforced during the payment term. Any payments received from these sources will be in addition to the installment payments.

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.