
Joint Enforcement Strike Force

On the Underground Economy

2018 REPORT

This report was prepared by the Tax Branch of the California Employment Development Department (EDD).

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For more information, please call 1-916-227-2730.

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June 30, 2019

The Honorable Members of the California State Legislature
California State Senate and Assembly
State Capitol
Sacramento, CA 95814

Dear Members of the California State Legislature:

Executive Order W-66-93 established the Joint Enforcement Strike Force (JESF) to combat the underground economy by pooling resources and sharing data among the state agencies charged with enforcing licensing, labor, and payroll tax laws. On January 1, 1995, Section 329 was added to the California Unemployment Insurance Code (CUIC), which placed the provisions of the Executive Order into law. This section contains a provision requiring the strike force to report to the Governor and the Legislature annually regarding its activities. This letter is being sent pursuant to Government Code Section 9795(a) that requires each legislative mandated report to include a summary of its contents not to exceed one-page in length, which is distributed to each member of the Legislature.

The JESF 2018 Report provides the annual summary of activities and outcomes from the JESF in accordance with Section 329(d) of the CUIC. This report includes the following contents:

- An overview of the JESF including information about strike force partners.
- Background information about the underground economy and the JESF's goals.
- Efforts made by the strike force to publicize its activities and to receive referrals from the public including web page view statistics.
- Informant contact statistics for the toll-free JESF hotline and other outlets.
- Narrative information about collaboration among the strike force partners and statistical results from collaborative efforts.
- Statistics and narratives about blatant violations and noncompliance with licensing, labor, and payroll tax laws identified, audited, investigated, or prosecuted through civil actions or criminal prosecution.

Printed copies of this report are available to any legislative member upon request. The report can also be viewed online at www.edd.ca.gov/About_EDD/EDD_Legislative_Reports.htm.

Sincerely,

/s/ PATRICK W. HENNING
Director

JOINT ENFORCEMENT STRIKE FORCE OVERVIEW AND MEMBERS

This legislatively mandated report provides the annual summary of activities and outcomes from the Joint Enforcement Strike Force (JESF) on the Underground Economy in accordance with Section 329(d) of the California Unemployment Insurance Code (CUIC). In October 1993, Executive Order W-66-93 established the JESF to combat the underground economy by pooling resources and sharing data among the state agencies charged with enforcing tax, labor, and licensing laws.

On January 1, 1995, Section 329 was added to the CUIC, which placed the provisions of the Executive Order into law. The Employment Development Department (EDD) is the designated lead agency of the JESF, and the EDD Director or designee serves as its chair. The JESF members include but are not limited to the following:

Employment Development Department (EDD)
Department of Consumer Affairs (DCA)
DCA – Contractors State License Board (CSLB)
DCA – Bureau of Automotive Repair (BAR)
DCA – Bureau of Security and Investigative Services (BSIS)
Department of Industrial Relations (DIR)
DIR - Division of Labor Standards Enforcement (DLSE)
DIR – Division of Occupational Safety and Health (DOSH) (Cal/OSHA)
California Department of Insurance (CDI)
Franchise Tax Board (FTB)
California Department of Tax and Fee Administration (CDTFA)
California Department of Justice
California Department of Alcoholic Beverage Control (ABC)
United States Department of Labor (USDOL)
United States Internal Revenue Service (IRS)

Attachment A contains descriptions of the JESF's participating entities.

THE UNDERGROUND ECONOMY AND JOINT ENFORCEMENT STRIKE FORCE INFORMATION

California Little Hoover Commission on the Underground Economy

The California Little Hoover Commission's March 2015 report provides the following information regarding the underground economy:

The underground economy robs the state of an estimated \$8.5 billion to \$10 billion in uncollected tax revenue, money that could fund education, law enforcement or long-overdue infrastructure investments or reduce taxes for the majority of Californians who play by the rules.

The term underground economy means different things to different people. Broadly defined, it includes any activities that individuals and businesses try to hide from government licensing, regulatory, tax, and law enforcement agencies. Entrepreneurs who cut corners by not paying taxes, not providing adequate insurance and skimming off their employees' paychecks are considered to be part of the underground economy.

California's well-being depends on the success of its businesses. To succeed, businesses need to compete on a level playing field. California has many rules and regulations by which its businesses must abide, and when some entrepreneurs do not play by those rules, it creates an unfair advantage.

When business owners cheat by illegally underpaying employees, for example, or not paying taxes – allowing them to undercut prices of law-abiding businesses – it hurts compliant businesses and California workers alike. They make employees work an hour or two without pay. They don't get the required licenses for their occupations or provide workers' compensation coverage. This business model, when allowed to prevail, nourishes a powerful downward economic spiral. It is a bane to the aboveboard businesses, particularly the small businesses that are the backbone of the California economy.

Employees working within this illegal business model, particularly those in labor intensive industries – people who clean buildings, wash cars, wait on customers, pack and ship goods in warehouses, harvest the food Californians eat – often suffer the greatest harm. Employers may short their paychecks. Or they may intentionally misclassify them as independent contractors, making them pay the employer's share of payroll taxes.

Joint Enforcement Strike Force

The JESF's goals are to help restore economic stability, to improve working conditions, and consumer and worker protections in the state. Specifically, the JESF works to:

- Eliminate unfair business competition.
- Protect workers by ensuring that they receive all compensation, benefits, and worker protections they are entitled to by law relating to their employment.
- Protect consumers by ensuring that all businesses are properly licensed and that they adhere to the state's consumer protection regulations.
- Reduce the burden on law-abiding citizens and businesses by ensuring that all businesses and individuals comply with the state's licensing, regulatory, and tax laws.
- Reduce the tax gap by increasing voluntary compliance with the state's tax laws to maximize the state's General and Special Funds.

Additional information about the JESF can be found on the JESF webpage at https://edd.ca.gov/Payroll_Taxes/Joint_Enforcement_Strike_Force.htm.

STRATEGIC APPROACH TO COMBATING THE UNDERGROUND ECONOMY

The JESF partners use a strategic approach to combat the underground economy which includes education and outreach, administrative enforcement, and criminal prosecution.

Education and Outreach

The JESF partners have a variety of methods for outreach and education accessible to employers, employees, tax professionals, business groups, and the general public to promote voluntary compliance. The education and outreach methods used to distribute information include publications, online and in-person seminars, community outreach, social media, and websites.

Seminars and Presentations

- The EDD conducts various in-person payroll tax seminars, available at no cost including co-presented joint seminars such as the EDD/IRS payroll tax, EDD/DIR labor law and payroll tax seminars, etc. The EDD's outreach efforts also include providing special presentations and participating in information booths at events sponsored by entities such as payroll associations, industry groups, non-profit organizations, and other governmental entities. In 2018, the EDD conducted more than 286 outreach events with over 12,000 attendees. The EDD continues to look for innovative ways to expand its education and outreach efforts. For example, the EDD utilizes social media such as Facebook and Twitter to reach more of the general public. In addition, the EDD is reaching out to Chambers of Commerce throughout the state to obtain assistance in its marketing efforts.
- In addition to its standard seminars, the EDD conducts and participates in industry focused events and partnering activities such as the following:
 - The EDD participated in 19 cannabis industry events statewide which included attendance at the CalCPA Education Foundation's Cannabis Business Symposium, the National Cannabis Industry Association's California Business Conference, and the Bureau of Cannabis Control's public licensing events. This was an increase from 2017 when the EDD participated in 15 cannabis events.
 - The EDD attended a DCA, Bureau of Barbering and Cosmetology Health and Safety Committee Meeting and EDD Director Patrick Henning explained how EDD uses the common law basis for worker status determinations and not the "ABC" test set forth in the California Supreme Court decision, *Dynamex Operations West, Inc. v. Superior Court of Los Angeles County*. The Supreme Court's ruling was limited to wage orders administered by the DIR.

Publications and Outreach Materials

- The JESF partners share publications when appropriate, e.g. the CSLB provides EDD publications about the requirement to report employees and payroll taxes to the EDD at their contractor testing centers and in mailings to newly licensed contractors.
- The following JESF publications are available on the EDD website and can be ordered, viewed online, downloaded, and/or printed.
 - *Joint Enforcement Strike Force Booklet* ([DE 663](#))
 - *Joint Enforcement Strike Force Informational Sheet* ([DE 664](#))
 - *Joint Enforcement Strike Force Brochure* ([DE 665](#))
- Legislation (Assembly Bill 2025) was passed requiring the Bureau of Barbering and Cosmetology to provide licensees and applicants materials in English, Korean, Spanish, and Vietnamese. In support of the legislation, the EDD recognized the need and dedicated resources to producing its publication, [DE 231C](#), *Information Sheet: Barbering and Cosmetology Industry*, in [Korean](#), [Spanish](#), and [Vietnamese](#) as well.
- The EDD includes articles about efforts to combat the underground economy in its *California Employer* newsletter. The *California Employer* newsletter, [third quarter of 2018 edition](#), included an article about fraud titled, *Fraud: A Serious Approach to a Serious Problem*.

Websites

- The EDD includes information on the underground economy on the following websites: www.edd.ca.gov/Payroll_Taxes/Underground_Economy_Operations.htm. It provides the viewer with data, access to prior reports, program and operation information, etc. The EDD website also has a page dedicated to [fraud and penalties](#) and another showing [fraud convictions](#). There is much interest in this type of information as evidenced with over 149,000 combined views to the fraud and penalties and fraud conviction pages for 2018.
- The [JESF webpage](#) provides links to JESF partner websites. Each of the JESF partners includes educational and outreach information on their website. For example, the CSLB provides information on its website warning consumers about the dangers of hiring unlicensed contractors. Publications on this and other topics can be printed or ordered online.

Other Collaborative Outreach Efforts

- The EDD provided assistance to the Bureau of Barbering and Cosmetology to educate its industry stakeholders such as attending town hall meetings. An EDD employment tax video presentation has been posted to the Bureau's website. In

addition, the EDD provided the Bureau with worker classification information for the *Understanding Your Workers' Rights and Responsibilities* booklet.

- Unlicensed contractors who prey on unsuspecting consumers frequently show up following disasters. The EDD joins the CSLB to place warning signs and inform disaster victims about the risks of hiring unlicensed contractors.
- The Small Business Employer Advisory Committee is a group of business professionals representing the small business community throughout California. The committee provides the EDD with recommendations on how to better serve California's small businesses and disseminates outreach information to their respective members. They have partnered with the EDD and provided input into helping combat the underground economy, looking out for consumers, workers, and businesses.

Future Education and Outreach

For 2019, the EDD is planning to maintain a comparable level of outreach at about 400 total events. The EDD is planning industry specific webinars with the IRS. The first three industries planned are construction, restaurants, and residential care facilities. The EDD has scheduled Spanish language outreach events statewide as well as Korean and Thai language events in Los Angeles. In addition, EDD payroll tax seminars will be offered throughout the state to the cannabis industry. The JESF partners will be invited to participate in these events to provide a comprehensive summary of state regulations.

Administrative Enforcement

The JESF partners use administrative enforcement activities such as site inspections, audits, and involuntary collection of amounts due to address noncompliance. The JESF partners share data and information to maximize enforcement results.

Information Sharing and Collaboration

Businesses that operate in the underground economy continually develop new schemes to avoid detection of their illegal activities. As these new schemes are identified by the JESF members, information regarding the schemes is shared with member agencies, business associations, and labor organizations. Memoranda of Understanding have been developed to facilitate the sharing of information and data between the JESF partners and to enhance collaboration and joint enforcement of tax, labor, and licensing laws.

- To help combat California's underground economy and protect workers' rights, the EDD and DIR have joined efforts through their respective enforcement programs. The EDD leads the JESF. The DIR leads the Labor Enforcement Task Force (LETF). The LETF mission is to combat the underground economy in order to ensure safe working conditions and proper payment of wages to workers; to create

an environment in which legitimate businesses can thrive; and to support the collection of all California taxes, fees, and penalties due from employers. The JESF/LETTF Collaborative Enforcement Partnership merges best practices and draws upon both programs' respective strengths through training, refinement of targeting methods, etc.

- There is an ongoing need for the JESF staff to be aware of the various types of schemes used in industries prone to underground economy activity. This knowledge transfer facilitates the development of detection and enforcement techniques necessary to deter and stop the illegal activities. Information is shared as follows:
 - On-the-job.
 - Informal ad-hoc joint management meetings.
 - Quarterly meetings with member agencies.

Joint statewide JESF/LETTF training sessions are periodically held based on operational needs. The last one was in May of 2018.

Informant Contacts

The JESF receives allegations of non-compliance from the IRS, USDOL, and other JESF partners as well as from the public.

Allegations of noncompliance with payroll tax, labor, and licensing laws may be reported by telephone to the EDD's Payroll Tax Fraud Hotline at 1-800-528-1783. Informants may also report noncompliance by the following methods:

- Completing a [Fraud Reporting Form](#)
 - online via the EDD website
 - via e-mail to ueo@edd.ca.gov
 - via correspondence by fax to 1-916-227-2772
- Completing and mailing an *Underground Economy Operations Lead Referral/Complaint Form*, available in English ([DE 660](#)) and Spanish ([DE 660/S/](#)).

The EDD receives allegations of noncompliance by several methods. The following table provides a breakdown of the number of allegations received by each of the methods in 2016, 2017, and 2018:

Method Received	Number of Allegations Received		
	2016	2017	2018
Telephone Call to Payroll Tax Fraud Hotline	1,112	1,641	1,764
Online Submission (EDD Website or Email)	2,121	1,668	1,058
Correspondence (Fax or Mail)	211	204	122
Total	3,444	3,513	2,944

Of the 2,944 overall contacts in 2018, there were 665 allegations that were screened to determine if there is enough information to conduct a site inspection, schedule an audit, or consider a criminal investigation. The rest of the 2,944 contacts were either misdirected or requesting general information.

Site Inspections

The EDD works with the JESF partner agencies to conduct joint on-site business inspections. This multiagency compliance approach presents a united effort to taxpayers and their representatives that both the federal and state agencies work together to enforce tax laws.

- The JESF targets industries known for high levels of noncompliance with payroll tax, labor, and licensing laws. The primary industries for site inspections in 2018 were construction, nail salon, restaurant, massage parlor, bar/nightclub, and automotive.
- During site inspections, task force members interview owners, managers, and workers to identify employers operating in the underground economy. The primary goal is to identify and bring into compliance individuals and businesses in the underground economy that are in violation of payroll tax, labor, and licensing laws.
- Site inspections are also used as an opportunity for education and outreach. Owners and managers of the businesses inspected are provided materials on how to comply with the laws and regulations affecting their industry as well as how to obtain additional information.
- Joint site inspections of businesses often result in: payroll tax assessments and citations or stop orders for unsafe working conditions, failure to have workers' compensation insurance, violations of labor laws, or failure to be properly licensed.
- The EDD holds regular strategic and working meetings with its partners to review the latest underground economy schemes, develop special operations, discuss impacted industries and available resources, etc. The JESF partner entities are invited to participate in inspections when there is a potential violation of the laws they administer. The table at the top of the following page shows the number of business inspections that partner entities participated in during calendar years 2016, 2017, and 2018.

Partner Entity	Calendar Year		
	2016	2017	2018
EDD	600	569	682
DLSE	193	155	177
CSLB	303	342	460
Local Police	79	44	30
District Attorney	74	40	63
ABC	25	8	18
CDTFA	1	1	0
BAR	9	2	4
BSIS	13	1	0
CDI	49	11	3
FTB	25	0	0
Cal/OSHA	19	3	2
Other	70	48	12

Special Operations

- In 2018, the JESF partners continued to receive numerous allegations that nail salons in California were out of compliance in the following ways: operating with unlicensed workers performing services requiring a DCA license; misclassifying workers as independent contractors; paying unreported cash wages, and operating without a valid workers' compensation insurance policy. The nail salons that were found likely to have compliance issues were inspected during one of several coordinated operations. Each of the operations consisted of two to three teams operating in a geographic area. The teams took the opportunities to educate salon owners and workers regarding California laws by providing educational materials in English, Korean, Spanish and Vietnamese. Below are the results from these operations.

Year	Nail Salon Inspections	Number Found With Unreported Workers and Wages	Number Referred to EDD Audit Program	Number Found With DIR Labor Law Violations	DIR Stop Orders Issued*	DIR Issued Citations
2017	23	16	16	18	18	\$256,200
2018	42	30	30	38	36	\$495,586

*The DIR Stop Orders were issued by the Labor Commissioner's Office to employers for failure to have a workers' compensation insurance policy.

- In 2017, the Contra Costa County District Attorney's Office initiated a letter campaign operation in the restaurant industry requiring them to provide proof of a valid workers' compensation insurance policy. The Contra Costa District Attorney's Office, DLSE, and EDD conducted inspections at 12 Contra Costa County restaurants in June and July of 2018. The inspections revealed 55 workers were

employed without workers' compensation insurance coverage. As a result of the operation, over \$200,000 in administrative fines were issued by the DLSE to the restaurants and eight of the businesses were referred for a payroll tax audit.

Payroll Tax Audits

For scenarios in which a site inspection is not possible, the EDD utilizes various databases, income tax return analysis, along with informant information, to conduct in-depth desk investigations of employers suspected of operating in the underground economy. When noncompliance is detected, the case is referred to the EDD's Audit Program.

The EDD's Audit Program follows up on JESF inspections and performs other audits as well based on additional criteria. The Audit Program issues assessments for payroll taxes due and any applicable penalties and interest to employers located in the state and to out-of-state employers with California workers. In total for 2018, this program which includes JESF cases, conducted 6,947 audits and investigations, resulting in assessments totaling \$203,979,673 and identified 125,031 misclassified workers or unreported employees. In addition to administrative enforcement, the EDD auditors educate business owners and their representatives regarding the California payroll tax requirements during examinations. They provide information on proper classification of workers, reporting and depositing requirements, and how to obtain additional information from the Department.

- The Questionable Employment Tax Practices (QETP) Program was initiated in 2007 as a collaborative effort between the EDD and IRS to exchange audit leads. In 2018, there were three audits alone which accounted for over \$1,000,000 in assessments and 604 unreported employees. The following table illustrates the results of the QETP Program for the last three years:

Calendar Year	2016	2017	2018
EDD Payroll Tax Audits	30	22	37
EDD Payroll Tax Assessments	\$448,150	\$943,509	\$2,127,091
Previously Unreported Employees	238	202	866

Employment Development Department

Cumulative Joint Enforcement Strike Force Results

Following are the EDD's cumulative results stemming from administrative activities specific to the JESF:

Calendar Year	2016	2017	2018
Joint Inspections	600	569	682
EDD Audit Referrals	658	510	595
EDD Payroll Tax Audits Completed	512	408	557
EDD Payroll Tax Assessments on Above Audits	\$21,185,695	\$18,120,024	\$31,104,828
Previously Unreported Employees on Above Audits	6,329	6,165	9,568

Results fluctuate year to year based on the complexity of cases and number of external lead referrals. In 2018, the EDD and CSLB increased the number of construction inspections in order to protect consumers from victimization following natural disasters. In addition, there were four cases in 2018 which accounted for close to \$12 million in tax assessments and over 1,600 unreported employees.

The following is information from the above cumulative results in which a fraud penalty was assessed:

Calendar Year	2016	2017	2018
EDD Payroll Tax Audits with Fraud Penalty Assessed (included in figures above)	12	7	14
EDD Payroll Tax Assessments on Fraud Audits (included in figures above)	\$2,148,204	\$4,443,031	\$1,159,245
Previously Unreported Employees on Fraud Audits (included in figures above)	278	183	158

In 2018, there were more cases where fraud could be established compared to last year, however the majority resulted in relatively small assessments.

Division of Labor Standards Enforcement

Following are the JESF inspection results by the DLSE by industry for the last three calendar years.

Calendar Year	Number of Inspections			Number of Citations		
	2016	2017	2018	2016	2017	2018
Automotive	6	8	4	6	12	6
Bar/Nightclub	*	*	4	*	*	3
Car Wash	16	1	3	24	1	7
Construction	22	2	10	23	5	6
Garment	1	0	0	1	0	0
Massage	*	*	20	*	*	27
Nail Salon	*	*	50	*	*	48
Other	74	97	29	101	129	27
Restaurant	58	31	44	56	29	42
Retail	16	16	10	12	33	4
Transportation	*	*	3	*	*	3
Total	193	155	177	223	209	173

*The results for this industry were included in the "Other" category for the years indicated with an asterisk.

Calendar Year	Total Dollar Amount of Penalties Assessed			Total Dollar Amount of Wages Assessed		
	2016	2017	2018	2016	2017	2018
Automotive	\$33,331	\$113,986	\$52,874	\$0	\$0	\$0
Bar/Night-club	*	*	\$30,882	*	*	\$0
Car Wash	\$161,520	\$10,000	\$212,643	\$0	\$0	\$14,150
Construction	\$77,300	\$41,250	\$34,700	\$1,346	\$36,076	\$0
Garment	\$1,900	\$0	\$0	\$0	\$0	\$0
Massage	*	*	\$722,977	\$179,326	*	\$86,312
Nail Salon	*	*	\$521,236	*	*	\$0
Other	\$814,328	\$1,082,514	\$390,520	\$357,482	\$120,225	\$0
Residential Care	*	*	*	\$796,312	*	*
Restaurant	\$803,421	\$659,191	\$1,219,856	\$542,888	\$64,422	\$184,487
Retail	\$202,796	\$228,155	\$31,750	\$6,146	\$167,214	\$0
Transportation	*	*	\$120,000	*	*	\$0
Total	\$2,094,596	\$2,135,096	\$3,337,438	\$1,883,500	\$387,937	\$284,949

*The results for this industry were included in the "Other" category for the years indicated with an asterisk.

Contractors State License Board

Stings and Sweeps

The CSLB performed 79 stings and 388 sweeps in 2018.

Calendar Year	2016	2017	2018
Stings	84	76	79
Sweeps	243	320	388

The sting operations targeted unlicensed repeat offenders and wanted criminals who work in the construction industry. The stings involved the CSLB's Statewide Investigative Fraud Team inviting the suspected unlicensed contractors and wanted criminals to homes to place bids on home improvement projects.

Stop Orders

A Stop Order is a legal demand to cease all employee labor at a job site due to a violation of state laws. When the CSLB issues a Stop Order, the contractor must immediately stop using employee labor until an appropriate workers' compensation insurance policy has been secured and written proof provided to the CSLB.

The number of stop orders served on construction employers is illustrated below.

Calendar Year	2016	2017	2018
Stop Orders Issued to Licensees	258	366	374
Stop Orders Issued to Unlicensed Operators	178	301	301
Total Stop Orders Issued	436	667	675
Workers Compensation Policies Obtained	165	241	284
Licenses Suspended	49	26	68

Legal Actions

Each month, the CSLB conducts stings and sweeps, and responds to leads which resulted in 1,728 legal actions for the calendar year 2018. As a result of the 691 licensee and non-licensee citations, the CSLB assessed \$809,000 in civil penalties.

Calendar Year	2016	2017	2018
Accusations	10	12	30
Administrative Licensee Citations	409	432	368
Administrative Non-Licensee Citations	347	329	323
Criminal Referrals – Licensee	90	170	156
Criminal Referrals – Non-Licensee	791	905	851
Total Legal Actions	1,647	1,848	1,728

- Construction site inspections or sweeps are also an effective way that the CSLB ensures contractor compliance with California’s licensing and workers’ compensation insurance requirements. Investigators with the CSLB’s Statewide Investigative Fraud Teams fan out throughout the year with investigators from partner agencies, showing up unannounced at active construction sites to check for appropriate licenses, permits, workers’ compensation insurance for employees, and adherence to safety rules.

Letters of Admonishment

- On July 1, 2018, the CSLB introduced a new corrective action for contracting violations: the Letter of Admonishment (LOA). The LOA was approved in concept by the Board at its December 2016 meeting, and its implementation was authorized by Senate Bill 486, sponsored by Senator Bill Monning in 2017. In terms of severity, the LOA is intended to fill the gap between an Advisory Notice (the lowest form of written corrective action) and a citation. The LOA is the first major addition to the CSLB’s corrective options since the licensee citation in 1979.
- The intent of the LOA is to enhance public protection by addressing less egregious violations with written documentation, expanded public disclosure, and an optional requirement for prompt corrective action. In accordance with the enabling legislation, an LOA can only be used in the case of a single, non-egregious violation by a licensed contractor. The LOA can include a requirement for specific corrective action by the respondent; and a citation can be issued if the specified corrective action is not completed. The impact of a citation is issuance of a civil penalty and public disclosure for five years. An LOA is publicly disclosed for one year after issuance (unlike Advisory Notices, which are not publicized). Recipients can contest an LOA, but the process is handled informally with an “Office Conference” conducted by the CSLB. There is no formal appeal process beyond the Office Conference.
- Between July 1 and December 31, 2018, a total of 36 LOAs were issued. The majority of LOAs were issued for violation of Section 7110 of the California Business and Professions Code, which is usually used to address a licensee’s failure to obtain a building permit. However, workers’ compensation and workmanship violations were also common. Of the 36 issued:
 - Seven of the LOAs included a Corrective Action Plan (CAP) (one was returned to the CSLB’s Investigation Center for legal action for non-compliance with the CAP).
 - Six licensees requested an office conference (four were affirmed and two were withdrawn).
 - Two were rescinded for other issues.

United States Department of Labor

Wage and Hour Division Investigations

The USDOL's Wage and Hour Division conducts investigations in the garment and recycling center industries. Back wages, liquidated damages, and civil penalties are identified as part of the investigations. Civil money penalties are computed as a result of willful or repeat violations.

The following two tables illustrate the results of these investigations in California for the last three calendar years.

Calendar Year	2016	2017	2018
Garment Industry Completed Investigations	265	149	153
Back Wages	\$3,604,675 (+\$116,290 liquidated damages)	\$1,950,076 (+\$127,887 liquidated damages)	\$1,373,608 (+\$75,010 liquidated damages)
Civil Money Penalties	\$292,077	\$66,941	\$6,362
Number of Employees Affected	2,306	1,609	686

Calendar Year	2016	2017	2018
Recycling Center Industry Completed Investigations	101	174	67
Back Wages	\$597,688 (+\$509,121 liquidated damages)	\$509,331 (+\$360,309 liquidated damages)	\$218,761 (+\$128,685 liquidated damages)
Number of Employees Affected	288	292	101

Collection Efforts

License Suspensions/Holds Requested

- The Business and Professions Code and CUIIC authorize the state agencies to suspend/hold a license needed to legally operate certain types of businesses in this state. This is a valuable collection tool for resolving delinquent tax liabilities and for compelling corrective action. There are three types of licenses that the EDD can request other state agencies to suspend/hold if the licensee is delinquent in paying amounts due to the EDD:
 - **Contractor License (CSLB Hold):** Once the CSLB receives the request from the EDD to place a license hold, the CSLB will search their database for all licenses with the same personnel of record and suspend those licenses as well.

The licenses remain suspended until the delinquency that led to the suspension has been resolved or arrangements have been made to pay it.

- **Liquor License (ABC Hold):** The EDD may request the ABC to place a hold on certain types of liquor licenses. A hold establishes a priority for the EDD to any monies received from the sale of the liquor license and prevents the transfer of a liquor license from the seller to a buyer until the conditions of the hold have been met.
- **Farm Labor Contractor License (FLC Hold):** The EDD is authorized to notify the Labor Commissioner (of the DLSE) in writing that an FLC is delinquent in payment of worker contributions. Once notified, the Labor Commissioner has the authority to refuse to issue or renew any license until the licensee has fully paid the amount of the delinquency.

The following table illustrates the ending inventory of license holds requested by the Employment Development Department for the past three calendar years.

Type of Hold	2016	2017	2018
CSLB	557	578	591
ABC	88	40	41
FLC	15	16	19

Contractors State License Board License Suspensions

The CSLB may suspend a license if the licensee is delinquent in paying amounts due to the CSLB or other state agencies. The table below summarizes amounts due to state agencies that were collected or resolved in calendar years 2016, 2017, and 2018 to avoid a license suspension or to have a suspended license reinstated.

Calendar Year	Amounts Collected or Resolved		
	2016	2017	2018
CSLB	\$132,782	\$123,507	\$138,182
EDD	\$13,707,896	\$14,000,400	\$12,912,299
DIR-Cal/OSHA	\$784,421	\$445,698	\$2,085,120
DIR-DLSE	\$661,066	\$1,639,923*	\$1,315,519
FTB	\$5,985,942	\$7,141,353	\$7,491,602
Totals	\$21,272,107	\$23,350,881*	\$23,942,722

* Corrections have been made to the previously reported 2017 DIR-DLSE and "Totals" amounts in the above table.

Blatant Violator Investigation Cases

Blatant violation cases detected by the JESF include the most flagrant cases where schemes were used by businesses to avoid payroll tax, labor, insurance, and licensing laws. There were seven construction, five service, and two retail businesses where the EDD found fraud or intent to evade payment of payroll taxes. All of them involved unreported cash pay. The following are two examples to illustrate the schemes:

- The EDD and DLSE conducted a site inspection of a retailer operating as a corporation. The business specializes in the sale of office furniture, including installation and removal. The business registered with the EDD in May of 2016. During the site inspection, the corporate officer was asked to provide a list of the employees. He provided the names of seven employees, however, the employer acknowledged he only reported three of the employees to the EDD. In addition, the corporate officer admitted that he paid workers unreported cash. The subsequent EDD audit revealed there were a total of eleven employees providing services to the business as salespersons, movers, and installers. Although the corporation registered with the EDD and reported employees in 2016, it was discovered the business actually began operating as a sole proprietorship in 2010. Several requests for business records were made but the business failed to provide them. The business didn't file returns or report employees for the period of April 2017 through March 2018, even though the business was in full operation. Since no records were provided, estimated assessments were issued for unreported wages paid to employees from 2010 through 2018. The employer's refusal to cooperate and failure to provide business records indicated intentional concealment of wages. A fraud penalty was charged under Section 1128 of the CUIA for intent to evade and failure to reflect all payments made to all the workers on Forms W-2. The employers (sole proprietor and corporation) were assessed a total of \$309,435 for unpaid payroll taxes, penalties, and interest.
- The EDD and CSLB conducted a site inspection of a licensed contractor operating as a corporation. The inspection was conducted at an active job-site where the employer was building a single family home. The inspection team found three workers on-site performing services as laborers. The employer had no workers' compensation insurance at the time of the inspection. The CSLB issued a stop order to the employer for failure to have a valid workers' compensation insurance policy. Interviews of the workers present revealed some had been working for the employer for up to six years. The EDD records indicated the employer hadn't registered with or reported wages to the EDD. The subsequent EDD audit revealed the employer has an active Class B contractor license. The employer does general construction, specializing in remodeling kitchens, living rooms, bathrooms, stairs, and the exterior of residential properties. In interviews with the workers, one stated the employer paid him in cash without withholdings while others stated they were paid by checks that included pay stubs that listed their hours and tax deductions. The workers indicated the employer treated them as acknowledged employees. However, the audit revealed the payroll tax withholdings and deductions were never remitted to the

EDD. The audit also revealed the employer did not issue Forms 1099 or W-2 to any of the workers. Requests for records were made. However, only limited records were provided by the employer. The audit covered the period of 2010 through 2018. A fraud penalty was charged under Section 1128 of the CUIA for intent to evade and failure to reflect all payments made to all the workers on Forms W-2. The corporation was assessed \$272,468 for unpaid payroll taxes, penalties, and interest.

Fictitious Employers

The EDD created a Fictitious Employer Task Force. Its goals are to identify potential fictitious employer schemes, increase detection of fraud schemes, and reduce fraudulent UI and DI benefit claims and income tax refunds. As part of the JESF, the EDD also works with the FTB and other partners to identify and address fictitious employer schemes created to perpetrate fraud.

Criminal Prosecutions

The JESF partners pursue criminal prosecution when individuals knowingly and willfully evade tax, labor, and licensing laws. Criminal conviction comes with the very real possibility of jail time for the perpetrator as well as the requirement to pay restitution.

The EDD's Tax Branch, Investigation Division (ID), and local District Attorneys leverage resources, share best practices, and work together to combat the underground economy. The ID has a specialized law enforcement unit that investigates criminal violations of the CUIA, the California Penal Code (PC), and the United States Code for federal prosecution. They conduct criminal investigations involving employer collusion in the underground economy, employer failure to register and report wages paid to employees, and collaborate on workers' compensation insurance investigations related to state payroll tax violations. The EDD works with prosecutors and local District Attorneys to convict individuals who commit employment tax fraud. The conviction itself and the collection of the tax liabilities play an integral part in deterring the underground economy.

The cases that JESF member agencies worked together with the ID to prosecute are posted to the EDD's [prosecuting fraud](#) web page.

Criminal Tax Enforcement Program Results

The following are the EDD's Criminal Tax Enforcement Program results for the calendar years 2016, 2017, and 2018:

Calendar Year	2016		2017		2018	
	# of Cases	Amount of Tax Liability	# of Cases	Amount of Tax Liability	# of Cases	Amount of Tax Liability
Cases Under Investigation	139	\$93,844,110	144	\$97,305,930	173	\$104,075,363
EDD Criminal Complaints Filed	25	\$11,499,801	10	\$1,867,242	19	\$2,363,839
EDD Criminal Prosecutions Completed	7	\$1,667,143	22	\$4,683,279	33	\$46,851,681

The increase in criminal complaint filings and completed criminal prosecutions is a direct result of more complex tax evasion schemes identified and the number of responsible parties associated with the schemes.

Criminal Restitution Cases

When the court orders restitution to the EDD as part of the sentencing during criminal prosecutions, the EDD monitors these cases to ensure that the restitution is made. The following table illustrates data for criminal restitution cases for the calendar years 2016, 2017, and 2018:

Calendar Year	2016	2017	2018
Restitution Cases Monitored**	83*	82*	119
Beginning Restitution Accounts Receivable	\$16,698,122	\$19,804,662	\$20,927,771
Restitution Amounts Ordered	\$3,434,674	\$3,582,182	\$3,741,415
Payments Received During the Year	\$328,134*	\$1,558,197*	\$1,192,160
Ending Restitution Accounts Receivable	\$19,804,662	\$20,927,771	\$23,442,933

*Figures corrected from what was previously reported.

**Inventory at the end of the calendar year.

DESCRIPTIONS OF JOINT ENFORCEMENT STRIKE FORCE MEMBERS' PARTICIPATING ENTITIES

The **EDD – Tax Branch** works with employers to collect California's payroll taxes and data to support the employment security, child support, and personal income tax programs. The Tax Branch ensures the integrity of the employment tax program by collaborating with our customers to provide efficient, responsive, and innovative services. The Tax Branch is responsible for coordinating the EDD's efforts at combating the underground economy and is also responsible for leading and coordinating the activities of the JESF as a whole. The **EDD – Investigation Division (ID) Criminal Tax Enforcement Program** conducts criminal investigations at the county, state, and federal levels and seeks prosecutions of employers who commit payroll tax fraud against the EDD. Tax fraud includes employer failure to register with the EDD as an employing unit, failure to report or underreporting wages paid to employees, and failure to remit tax contributions to the EDD. The program also seeks restitution that includes recovery of benefit overpayments, tax liabilities, penalties, interest, and investigation costs. Court ordered restitution, imprisonment, and probation serve as fraud deterrents.

The **Department of Consumer Affairs (DCA)** protects and serves California consumers and ensures a competitive and fair marketplace. The DCA helps consumers learn how to protect themselves from unscrupulous and unqualified individuals. The DCA protects professionals from unfair competition by identifying unlicensed practitioners.

The **DCA – Contractors State License Board (CSLB)** protects consumers by licensing and regulating California's construction industry. There are approximately 290,000 licensed contractors in the state, in 44 different licensing classifications. In addition to consumer education on contractor and construction law, CSLB activities include: administer prospective licensee examinations; issue licenses; investigate complaints against licensed and unlicensed contractors; issue citations; suspend or revoke licenses; and seek administrative, criminal, and civil sanctions against violators. The Statewide Investigative Fraud Team is set up to monitor and combat illegal activity. They have teams throughout the state that conduct sting operations on a regular basis and sweep construction sites. They also conduct joint operations and sweeps with other state agencies dedicated to combatting the underground activity.

The **DCA – Bureau of Automotive Repair (BAR)** protects consumers through licensing and regulating the automotive repair and Smog Check industry. BAR investigates violations of the Automotive Repair Act and related laws and regulations governing automotive repair and the Smog Check Program. In addition, BAR mediates consumer complaints that arise from automotive repair and Smog Check service transactions, resulting in millions of dollars of rework, refunds, and adjustments for consumers each year.

The **DCA – Bureau of Security and Investigative Services (BSIS)** protects consumers by licensing and regulating the following industries: alarm company operators and alarm company employees, locksmith companies and locksmith company employees, private investigators, private patrol operators and security guards, proprietary private security employers and officers, reposessor agencies and reposessor agency employees, and training facilities and training instructors. As part of its mission, the BSIS actively investigates complaints against its licensees and works to punish unlicensed business operations. This includes the suspension and revocation of licenses and seeking administrative, criminal, and civil sanctions against violators. Undercover sting and sweep operations are conducted on an ongoing basis throughout California. The BSIS also educates consumers, administers examinations to validate prospective licensees, and issues licenses and permits.

The **Department of Industrial Relations (DIR) - Division of Labor Standards Enforcement's (DLSE), Bureau of Field Enforcement** is responsible for the investigation and enforcement of statutes covering workers' compensation insurance coverage, child labor, cash pay, unlicensed contractors, Industrial Welfare Commission orders, and group claims involving minimum wage and overtime claims. The Bureau of Field Enforcement also handles criminal investigations involving these group claims.

The **DIR – Division of Occupational Safety and Health (DOSH) (Cal/OSHA) Enforcement Branch**, has the power, jurisdiction, and supervision over every employment situation and place of employment in California, which is necessary to adequately enforce and administer all occupational safety and health standards and regulations. They investigate and inspect California workplaces in response to a report of an industrial accident, injury, or illness, a complaint about an occupational safety and health hazard, or as part of an inspection program targeting industries, which have a high rate of occupational hazards, fatalities, injuries, or illnesses.

The **California Department of Insurance (CDI)** ensures that consumers are protected; the insurance marketplace is fostered to be vibrant and stable; the regulatory process is maintained as open and equitable; and the law is enforced fairly and impartially. The **Fraud Division** is charged with investigating insurance fraud, which includes the crimes of intentional misrepresentation of payroll and employee staffing in order to obtain lower rates for workers' compensation insurance. Studies suggest that the aggressive anti-fraud campaign by the CDI, the district attorneys, the insurance industry, and California employers continue to play a substantial role in reducing crime and help lower workers' compensation insurance premiums for employers statewide.

The **Franchise Tax Board's (FTB)** primary function is to administer the California Revenue and Taxation Code (R&TC). Elected officials determine the tax policy for raising revenue. Under the direction of the FTB's Chief Law Enforcement Officer, the **Criminal Investigation Bureau (CIB)** enforces the criminal provisions of the R&TC. The CIB's principal mission is to identify, investigate, prosecute, and deter tax evasion and fraud, and encourage compliance with California income tax laws while maintaining the public's trust through publicity. Special agents with full peace officer powers

ATTACHMENT A (Continued)

investigate alleged criminal violations of the R&TC, principally income tax fraud and evasion, and assist in prosecuting non-compliant individuals. The special agents' efforts are supported by forensic auditors, collectors, analysts, and support staff; basically a micro-organization all in one bureau. The CIB also relies on a strong collaborative enterprise to accomplish their mission.

The **California Department of Tax and Fee Administration (CDTFA)** administers sales and use tax, special tax, and fee programs. These tax and fee programs were administered by the Board of Equalization (BOE) prior to July 1, 2017. The CDTFA's **Investigations Division** plans, organizes, directs, and oversees all criminal investigative activities for the various programs administered by the CDTFA. Its goals are to identify tax evasion and new fraud schemes, and actively investigate and assist in the prosecution of individuals who are violating the laws administered by the CDTFA.

The **Department of Justice's** Attorney General works to protect California's workers, legitimate businesses, and taxpayers through the **Underground Economy Unit**. The Underground Economy Unit brings civil and criminal actions against persons engaged in the underground economy. It has used California laws to obtain restitution of unpaid wages, civil penalties, and injunctions to bring businesses into compliance with applicable labor, tax, and licensing laws. These enforcement efforts deter underground economy violations, recapture lost revenues, and protect workers and legitimate businesses from illegal and predatory enterprises. The Underground Economy Unit has prosecuted cases involving: wage, tax, and insurance issues including the theft of wages, unpaid overtime, denial of breaks, payroll tax evasion, and misclassification of employees as independent contractors; patterns of safety violations leading to fatal workplace injuries; workers' compensation insurance premium fraud; and the illegal avoidance of workers' compensation coverage for employees.

The **California Department of Alcoholic Beverage Control's (ABC)** agents are peace officers under Section 830.2 of the California Penal Code (PC) and are empowered to investigate and make arrests for violations of the Business and Professions Code that occur on or about licensed premises. Agents are further empowered to enforce any penal provisions of the law in the state. Licensees who violate state laws or local ordinances are subject to disciplinary action and may have their licenses suspended or revoked. These licensees are entitled to a hearing before an Administrative Law Judge and an appellate process to the State Supreme Court.

The **United States Department of Labor's (USDOL)** mission is to foster, promote, and develop the welfare of the wage earners, job seekers, and retirees of the United States; improve working conditions; advance opportunities for profitable employment; and assure work-related benefits and rights. The **Fair Labor Standards Act** prescribes standards for wages and overtime pay, which affect most private and public employment. The act is administered by the **Wage and Hour Division**. It requires employers to pay covered employees, who are not otherwise exempt, at least the federal minimum wage and overtime pay of one and one-half times the regular rate of pay. For non-agricultural operations, it restricts the hours that children under age 16 can

ATTACHMENT A (Continued)

work and forbids the employment of children under age 18 in certain jobs deemed too dangerous. For agricultural operations, it prohibits the employment of children under age 16 during school hours and in certain jobs deemed too dangerous. The Wage and Hour Division also enforces the labor standards provisions of the **Immigration and Nationality Act** that apply to aliens authorized to work in the United States under certain non-immigrant visa programs (H-1B, H-1B1, H-1C, H2A).

The **United States Internal Revenue Service's (IRS)** mission is to provide America's taxpayers quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness. In fiscal year 2016, the IRS collected \$3.3 trillion in taxes (gross tax receipts before tax refunds of \$426 billion) and processed over 244 million tax returns and other forms. The IRS provides the EDD with leads that are used for various JESF activities, including investigating employers with unreported wages and/or misclassified workers.

ATTACHMENT B

ACRONYMS

ABC	California Department of Alcoholic Beverage Control
BAR	Bureau of Automotive Repair
BOE	Board of Equalization
BSIS	Bureau of Security and Investigative Services
Cal/OSHA	Division of Occupational Safety and Health
CDI	California Department of Insurance
CDTFA	California Department of Tax and Fee Administration
CIB	Criminal Investigation Bureau
CSLB	Contractors State License Board
CUIC	California Unemployment Insurance Code
DCA	Department of Consumer Affairs
DIR	Department of Industrial Relations
DLSE	Division of Labor Standards Enforcement
DOSH	(Department of Industrial Relations) Division of Occupational Safety and Health
EDD	Employment Development Department
FLC	Farm Labor Contractor
FTB	Franchise Tax Board
ID	(Employment Development Department), Investigation Division
IRS	Internal Revenue Service
JESF	Joint Enforcement Strike Force
LETF	Labor Enforcement Task Force
PC	California Penal Code
QETP	Questionable Employment Tax Practices
UI	Unemployment Insurance
USDOL	United States Department of Labor



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