

STATE OF EMERGENCY OR DISASTER

REQUESTS FOR EXTENSION TO REPORT AND PAY

If the Governor declares a state of emergency, California employers directly affected by the emergency or disaster may request an extension of up to 60 days to file their state payroll reports and to deposit state payroll taxes with the Employment Development Department (EDD), without incurring penalty or interest charges. State payroll taxes include Unemployment Insurance (UI), Employment Training Tax (ETT), State Disability Insurance* (SDI), and Personal Income Tax (PIT).

The extension is granted under Section 1111.5 of the California Unemployment Insurance Code (CUIC). To request an extension, employers must send a letter to the EDD specifically requesting an extension of time under Section 1111.5 of the CUIC, along with the previously unfiled report(s) and/or payment(s). The letter must also provide detailed information as to why the report(s) and/or payment(s) could not be submitted in a timely manner.

Employers should mail the letter with the report(s) and/or payment(s) to the address specified on the corresponding form(s). If an employer has already been charged a late filing or payment penalty, the employer should send a written request for an extension to:

Employment Development Department
P.O. Box 826880
Sacramento, CA 94280-0001

RECONSTRUCTING PAYROLL RECORDS

If employer payroll records were lost or destroyed due to a disaster, it will be necessary to reconstruct the records and file any quarterly payroll tax reports due and not yet submitted. It will also be necessary to determine and remit any payroll taxes due. If information is not available to determine the exact wages paid, employers may make reasonable estimates based on the best information available. The EDD can provide employers with copies of previously filed reports which may serve as a basis for their estimates. For further information or to request copies of previously filed reports, call the Taxpayer Assistance Center at 888-745-3886.

* Includes Paid Family Leave (PFL)

DISASTER RELIEF PAYMENTS

Effective in tax years after September 11, 2001, *qualified disaster relief payments* (as defined in Section 139 of the Internal Revenue Code [IRC]) made by an employer are not subject to PIT withholding or reportable as PIT wages under Sections 13006, 13009(q), and 13009.5 of the CUIC. However, disaster relief payments paid by employers are subject to UI, ETT, and SDI unless excluded under Section 938 of the CUIC as payment resulting from the death of an employee.

A *qualified disaster relief payment* is defined by Section 139(b) of the IRC as any amount paid to or for the benefit of an individual:

- (1) to reimburse or pay reasonable and necessary personal, family, living, or funeral expenses incurred as a result of a qualified disaster,
- (2) to reimburse or pay reasonable and necessary expenses incurred for the repair or rehabilitation of a personal residence or repair or replacement of its contents to the extent that the need for such repair, rehabilitation, or replacement is attributable to a qualified disaster,
- (3) by a person engaged in the furnishing or sale of transportation as a common carrier by reason of the death or personal physical injuries incurred as a result of a qualified disaster, or
- (4) if such amount is paid by a federal, state, or local government, or agency or instrumentality thereof, in connection with a qualified disaster in order to promote the general welfare, but only to the extent any expense compensated by such payment (as indicated in items 1-4) is not compensated for by insurance or otherwise.

A *qualified disaster* is defined by Section 139(c) of the IRC as:

- (1) a disaster that results from a terroristic or military action (as defined by Section 692(c)(2) of the IRC),
- (2) a federally declared disaster (as defined by Section 165(h)(3)(C)(i) of the IRC),

- (3) a disaster which results from an accident involving a common carrier, or from any other event which is determined by the Secretary (of Treasury) to be of a catastrophic nature, or
- (4) with respect to amounts described in Section 139(b)(4) (see page 1), a disaster which is determined by an applicable federal, state, or local authority as determined by the Secretary (of Treasury) to warrant assistance from the federal, state, or local government or agency or instrumentality thereof.

ADDITIONAL INFORMATION

Additional information about emergencies and disasters can be found on the California Emergency Management Agency's website at www.calema.ca.gov.

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.

DISASTER MITIGATION PAYMENTS

Qualified disaster mitigation payments (as defined in Section 139 of the IRC) made by an employer before, on, or after April 15, 2005, are not subject to PIT withholding or reportable as PIT wages under Sections 13006, 13009(q), and 13009.5 of the CUIC. However, disaster mitigation payments paid by employers are subject to UI, ETT, and SDI.

A qualified disaster mitigation payment is defined by Section 139(g) of the IRC as any amount which is paid pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act or the National Flood Insurance Act to or for the benefit of the owner of any property for hazard mitigation with respect to such property. The payment does not include any amount received for the sale or disposition of any property.

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.