

ELECTION CAMPAIGN WORKERS

Pursuant to Section 636 of the California Unemployment Insurance Code (CUIC), services performed for a candidate for public office or for a committee in connection with an election campaign are excluded from employment for purposes of Unemployment Insurance (UI), Employment Training Tax (ETT), and State Disability Insurance (SDI).^{*} However, such services are considered to be in covered employment for Personal Income Tax (PIT) withholding and wage reporting purposes.

Services of a political nature that are performed for an employer during a period of time when these services are not directed toward an election are not excluded from employment.

Note: The treatment of these workers for federal tax purposes may differ. The Internal Revenue Service should be contacted regarding their requirements.

Who Is a Candidate for Public Office?

Generally, a candidate for public office is an individual who seeks nomination for or election at any primary, general, or special election conducted within this State. "Candidate" also includes any officeholder who is the subject of a recall election.

What Is a Committee?

A committee is any person or combination of persons who directly or indirectly receives contributions for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of one or more candidates, or the passage or defeat of any measure, including any committee or subcommittee of a political party, whether national, state or local, if the person or group of persons:

- (1) Receives contributions totaling \$1,000 or more in a calendar year; or
- (2) Makes independent expenditures totaling \$1,000 or more in a calendar year; or
- (3) Makes contributions totaling \$10,000 or more in a calendar year to or at the behest of candidates or committees.

^{*}Includes Paid Family Leave (PFL).

What Does "In Connection With an Election Campaign" Mean?

"In connection with an election campaign" means service directly related to a specific campaign, even if performed after the election, but in no case after the last payment for campaign expenses.

Workers who perform services for organizations in connection with raising funds, recruiting supporters, or attempting to influence legislation on an ongoing basis are not performing services in connection with an election campaign. For example, an organization formed with the broad purpose of preserving the environment may engage in a variety of these and similar activities. Services of employees working for such an organization are not excluded from subject employment because the services are not performed in connection with a specific campaign.

WHO IS AN EMPLOYEE?

Whether an individual is an employee for the purpose of Section 621(b) of the CUIC will be determined by the usual common law rules applicable in determining an employer-employee relationship. To determine whether one performs services for another as an employee, the most important factor is the right of the principal to control the manner and means of accomplishing a desired result. The right to control, whether or not exercised, is the most important factor in determining the relationship. The right to discharge a worker at will and without cause is strong evidence of the right to control. Other factors to take into consideration are:

- (1) Whether or not the one performing the services is engaged in a separately established occupation or business.
- (2) The kind of occupation, with reference to whether, in the locality, the work is usually done under the direction of a principal without supervision.
- (3) The skill required in performing the services and accomplishing the desired result.
- (4) Whether the principal or the person providing the services supplies the instrumentalities, tools, and the place of work for the person doing the work.

- (5) The length of time for which the services are performed to determine whether the performance is an isolated event or continuous in nature.
- (6) The method of payment, whether by the time, a piece rate, or by the job.
- (7) Whether or not the work is part of the regular business of the principal, or whether the work is not within the regular business of the principal.
- (8) Whether or not the parties believe they are creating the relationship of employer and employee.
- (9) The extent of actual control exercised by the principal over the manner and means of performing the services.
- (10) Whether the principal is or is not engaged in a business enterprise or whether the services being performed are for the benefit or convenience of the principal as an individual.

Another consideration relative to employment is whether or not the worker can make business decisions that would enable him or her to earn a profit or incur a financial loss. Investment of the worker's time does not show a risk of loss.

The numbered factors above are evidence of the right to control. These factors are described more fully in Section 4304-1 of Title 22, California Code of Regulations. A determination of whether an individual is an employee will depend upon a grouping of factors that are significant in relation to the service being performed, rather than depending on a single controlling factor.

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 *California Employer's Guide* (DE 44) and on the Employment Development Department's (EDD) Web site at http://www.edd.ca.gov/Office_Locator/.

The following EDD resources are also available to help determine the correct classification of the workers.

Employment Determination Guide (DE 38)

The guide asks a series of "Yes" or "No" questions regarding the treatment of workers to help determine if a worker is most likely an employee or an independent contractor and whether you need to seek additional guidance. To obtain this guide, access EDD's Web site at www.edd.ca.gov/pdf_pub_ctr/de38.pdf.

Determination of Employment Work Status for Purposes of California Employment Taxes and Personal Income Tax Withholding (DE 1870)

The form provides a series of questions regarding the working relationships between the principal and the workers. After the form has been completed and returned, EDD will send a written determination stating whether the workers are employees or independent contractors based on facts provided. To obtain this publication, access EDD's Web site at www.edd.ca.gov/pdf_pub_ctr/de1870.pdf.

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 non-technical 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.