

RICHARD W. POWELL
 CERTIFIED PUBLIC ACCOUNTANTS

Dear Client:

As we look forward to the new 2020 year, our office has prepared this guide as an overview of the 2020 payroll tax rates and the 2019 filing requirements for Forms W-2 and 1099. You may also access this information on our web site at www.rpowellcpa.net.

2020 TAX RATES AND WAGE LIMITS

Effective January 1, 2020, for employers having 26 or more employees, the California minimum wage increases to \$13.00/hour. For employers having 25 or fewer employees, the California minimum wage increases to \$12.00/hour.

In compliance with the federal and state laws, please update your payroll records for these changes starting with payroll paid on and after January 1, 2020.

<u>EMPLOYEE WITHHOLDING</u>	<u>WAGE LIMIT</u>	<u>RATE</u>	<u>MAXIMUM TAX LIMIT</u>
Social Security Tax (FICA)	\$137,700.00	6.20%	\$8,537.40
Medicare Tax	No Limit	1.45%	Unlimited
Add'l Medicare Tax*	More than \$200,000	.9%	Unlimited
State Disability Insurance (SDI)	\$122,909.00	1.0%	\$1,229.09
<u>EMPLOYER TAXES</u>			
Social Security Tax (FICA)	\$137,700.00	6.20%	\$8,537.40
Medicare Tax**	No Limit	1.45%	Unlimited
Federal Unemployment Tax (FUTA)	\$7,000.00	0.60%	\$ 42.00

Note regarding FUTA for 2019: For tax year 2019, there is only one credit reduction state (U.S. Virgin Islands). If you paid wages subject to the unemployment tax laws of the U.S. Virgin Islands, check the box on line 2, in Part 1 of the Form 940, and fill out Schedule A (form 940). See the instructions for line 9 before completing the Schedule A (Form 940).

State Unemployment Insurance (SUI) ***
 and Employment Training Tax (ETT) \$7,000.00 Rate Assigned by State

Out-of-State Employment Taxes Wage limits and contribution rates are assigned by the State and vary according to State.

* Employees who earn more than \$200,000 (\$250,000 for married couples filing joint income taxes or \$125,000 for married couples filing separate income taxes) are subject to an additional .9% as specified in the Affordable Care Act.

**The employer matches the employee's withholding on Medicare tax.

***New employers are assigned a 3.4% UI tax rate for a period of two to three years.

MONEY PAID BASIS FOR EMPLOYEE WAGES

Wages must be reported in the quarter and year in which they are **paid**, but not necessarily earned.

WHEN HIRING NEW EMPLOYEES

Eligibility for Employment – You must verify that each new employee is legally eligible to work in the U.S. All employees must give you a completed Immigration and Naturalization Service **Form I-9**, Employment Eligibility Verification Form. You can get the Form from U.S. Citizenship and Immigration Services (USCIS) offices. Contact the USCIS at 1-800-375-5283, or visit the USCIS Web Site at www.uscis.gov for further information.

Income Tax Withholding – Have each **new** employee complete Form W-4, Employee's Withholding Allowance Certificate.

Social Security Number – Record each new employee's name and number from his or her social security card. Any employee who does not have a number should apply for one. Forms are available at local IRS or SSA offices.

Registering New Employees with Employment Development Department – All California employers are required to report all new or rehired employees who work in California to the EDD within twenty (20) days after their start-of-work date. This information is used to assist state and county agencies in locating parents who are delinquent in their child support obligations. If an employee returns to work after a layoff or leave of absence, a new W-4 must be completed. If the employee was not formally terminated or removed from payroll records, the employee does not need to be reported as a new hire. Employers file this information on EDD Form DE 34, Report of New Employee(s). The following information must be reported on this form:

1. Business name, address, Federal Employer ID number, and EDD account number.
2. Employee's first name, middle initial, last name, social security number, home address, and start-of-work date.

To obtain a Form DE 34, you can either contact your nearest Employment Tax Office (ETO) (refer to the 2019 California Employer's Guide for an office near you) or you can go to the EDD Web Site, <http://www.edd.ca.gov>.

NEW EMPLOYEE NOTIFICATION REQUIREMENT

California employers must notify all employees that they may be eligible for the Earned Income Tax Credit within one week before or after, or at the same time, that the employer provides an annual wage summary (Form W-2) to the employee. Employers must notify employees either by handing directly to the employee or mailing to the employee's last known address:

- Instructions on how to obtain any notices available from the IRS and Franchise Tax Board including, but not limited to, the IRS Notice 797 or any successor notice or form;
- Any notice created by the employer, as long as it contains substantially the same language as the following:

“Based on your annual earnings, you may be eligible to receive the earned income tax credit from the federal government. The earned income tax credit is a refundable federal income tax credit for low-income working individuals and families. The earned income tax credit has no effect on certain welfare benefits. In most cases, earned income tax credit payments will not be used to determine eligibility for Medicaid, supplemental security income, food stamps, low-income housing or most temporary assistance for needy families payments. Even if you do not owe federal taxes, you must file a tax return to receive the earned income tax credit. Be sure to fill out the earned income tax credit form in the federal income tax return booklet. For information regarding your eligibility to receive the earned income tax credit, including information on how to obtain the IRS Notice 797 (PDF) or any other necessary forms and instructions, contact the Internal Revenue Service at 1-800-829-3676 or through its Web site at www.irs.gov.”

PAYROLL TAX DEPOSITS

SPECIAL PAYROLL AND INCOME TAX WITHHOLDING REQUIREMENTS

1. Household employees are exempt from Social Security and Medicare taxes on less than \$2,200 of cash wages but will be taxed on all wages if they exceed \$2,200 of wages in the year. Please contact our office or visit our web site at www.rpowellcpa.net to see the separate letter pertaining to household employees for more detailed information.
2. Federal income tax withholding on payments other than wages such as retirement plan distributions are made online at www.eftps.gov. Select that the payment is for Form 945. Form 945 is then filed annually to reconcile the deposits made to the year-end tax reports sent to the recipients. Please call our office if you need additional information.

LATE FILING AND LATE DEPOSITS PENALTIES FOR EDD PAYMENTS

The penalties for late filing and late deposits increased to 15 percent (15%) plus interest. In addition, penalties charged for not reporting employee wage information increased to \$20 per wage item.

SUPPLEMENTAL WAGE PAYMENTS

Income tax withholding on supplemental wages (bonuses, commissions, overtime pay, etc.) may be computed one of the following ways:

- A. If you pay supplemental wages at the same time as regular wages but do not specify the amount of each, the personal income tax to be withheld can be computed on the total of the supplemental and regular wages as if the total were a single payment for a regular payroll period.
- B. If you pay supplemental wages of \$1 million or less at a different time from regular wages (or combine them in a single payment and specify the amount of each), the income tax withholding method depends partly on whether you withhold income tax from your employee's regular wages:

- a. If you **withheld** income tax from an employee's regular wages, you can use one of the following methods for the supplemental wages:
 - i. Withhold at a flat rate –

Federal Income Tax	22%
State Personal Income Tax	6.6%, 10.23% for bonuses or stock options
 - ii. Add the supplemental and regular wages for the most recent payroll period this year. Then figure the income tax withholding as if the total were a single payment. Subtract the tax already withheld from the regular wages. Withhold the remaining tax from the supplemental wages.
- b. If you **did not withhold** income tax from the employee's regular wages, add the supplemental and regular wages for the most recent payroll period this year. Then figure the income tax withholdings as if the total were a single payment. Withhold the tax from the supplemental wages.

Supplemental wages are also subject to the regular Social Security, Medicare and FUTA taxes, and State Disability Insurance withholding requirements.

SOLE STOCKHOLDER/CORPORATE OFFICER STATE EXEMPTION

A corporate officer who is the sole stockholder in a corporation can elect to be exempt from paying contributions for state disability insurance. **To make this election, a Sole Shareholder/Corporate Officer Exclusion Statement, Form DE 459, must be filed with the Employment Development Department.**

However, this statement disclaims the corporate officer's right to any disability compensation benefits based on wages paid by the corporation. This statement is effective in the calendar quarter filed and remains in effect for not less than two complete calendar years and in all subsequent calendar quarters until withdrawn. Any changes in the ownership of the stock or status of the corporate officer may terminate this exemption. This exemption applies only to the SDI taxes and benefits administered by the State of California; it has no effect on the administration of federal unemployment insurance taxes.

EARNED INCOME CREDIT

Employees eligible for the earned income credit (EIC) may receive it on their tax returns. Advanced Earned Income Tax Credit payments were no longer permitted after 12/31/2010. Employers are required to notify employees not having income tax withheld that they may be eligible for a tax refund because of the EIC. For more information see Circular E – Employer's Tax Guide for 2019.

AGRICULTURE EMPLOYERS

Please refer to your federal payroll guidebook Circular A, Agricultural Employer's Tax Guide, found on the IRS Website, for the current rules regarding withholding of payroll taxes and payroll tax deposits. Please call our office if you have any questions.

CALENDAR OF PAYROLL FILING DATES:

DUE DATE

FORMS

January 31, 2020	Form W-2 Form 940 or 940EZ* Form 941 Form 943 Form 944	2019 Wage and Tax Statement Employer's 2019 Annual Federal Unemployment (FUTA) Tax Return Employer's 4 th Quarter Federal Tax Return Employer's 2019 Annual Tax Return for Agricultural Employees Employer's 2019 Annual Federal Tax Return (due if greater than \$500)
January 31, 2020	Form 945 Form DE 9 Form DE 9C Form 1099 FUTA Deposit Form 1096 Form W-3 Form 8027	Employer's 2019 Annual Return of Withheld Federal Income Tax 2019 4 th Quarter Wage and Withholding Report – Filed online at www.edd.ca.gov 2019 Annual Reconciliation Return – Filed online at www.edd.ca.gov Varies Deposits for Federal Unemployment Tax 2019 Annual Summary and Transmittal of U.S. Information Returns, with Copy A of all forms 1099 Transmittal of Wage and Tax Statements, with Copy A of all 2019 Forms W-2 Employer's 2019 Annual Information Return of Tip Income and Allocated Tips

*The FUTA tax rate is 6.0%, with a maximum state unemployment tax credit of 5.4%, for a net FUTA tax rate of 0.6%. For the 2019 tax year, the only state that is subject to credit reduction, is the U.S. Virgin Islands. The current FUTA tax credit for California employers is 5.4%, for a net FUTA tax rate of 0.6%. Employers who paid wages subject to the unemployment insurance laws of the U.S. Virgin Islands, should confirm with the U.S. Department of Labor the applicable FUTA tax credit rate, and review the instructions for Form 940, Schedule A.

April 30, 2020, July 31, 2020 & October 31, 2020	Form 941 Form DE 9 and DE9C FUTA Deposit	2020 1 st , 2 nd , and 3 rd Quarter Employer's Quarterly Federal Tax Return Quarterly Contribution Return and Report of Wages – Filed online at www.edd.ca.gov Deposits for Federal Unemployment (due if greater than \$500)
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TAX FILING REQUIREMENTS FOR FORM W-2

The Internal Revenue Service requires employers to file Forms W-2 for wages and certain fringe benefits paid to employees for the 2019 calendar year. The statements are to be given or mailed to employees by January 31, 2020. The government copies are now due by January 31, 2020, as well.

In preparing the Form W-2's, please review your records for any fringe benefits. Listed below are some common fringe benefits that are required to be included on the Form W-2.

1. Employee business expense reimbursements made to employees under an accountable plan that exceed the government per diem amount or the amount substantiated to the employer.
2. Employee business expense reimbursements made to employees under a non-accountable plan (see Employee Business Expense Reimbursements below).
3. Employee's share of Social Security or Medicare taxes on tips that were not collected from the employee.
4. Employer provided life insurance coverage on employee in excess of \$50,000 of coverage.
5. Employer provided dependent care benefits (child care).
6. Value of employer provided automobiles for the personal use portion.

If you have any questions regarding the taxability of any of the above items, or any other items, as to their inclusion on Form W-2, please contact our office.

EMPLOYEE BUSINESS EXPENSE REIMBURSEMENT ARRANGEMENTS

Payments or reimbursements made to employees for lodging, meals and incidental expenses, transportation and other employee business expenses will be included in the employees' gross income unless the employer maintains an accountable plan or qualified per diem arrangement.

An accountable plan is one in which your employees meet all three of the following rules:

1. They must have paid or incurred deductible expenses while performing services as your employees.
2. They must adequately account to you for these expenses within a reasonable period of time.
3. They must return any amounts in excess of expenses within a reasonable period of time.

A qualified per diem arrangement is one where the employer reimburses the employee based on standard rates, such as per diem travel, per diem meals and incidentals, or mileage reimbursements based on a fixed rate per mile. This type of plan includes payments made in advance to employees, provided they are in anticipation of the employee actually incurring the expenses. For the arrangement to qualify, the following conditions must be met:

- a. Substantiation by the employee is met if the numbers of days, miles, or other base upon which reimbursements are calculated, are reported to the employer. The employee is not required to submit receipts for lodging, meals, gas, etc. (nor is he/she required to keep them in his/her records).

- b. The per diem or mileage amounts are within the allowable limits of the simplified method established by the Regulations if they fall into the following ranges between October 1, 2019 – September 30, 2020:

	Daily Lodging Expense Rate	Daily Meals & Incidentals Rate	Daily Maximum Per Diem Rate
High-Cost Locality	\$297	\$71	\$368
Low-Cost Locality	\$200	\$60	\$260

Auto mileage rate (for 2019 year) 58.0 cents per mile

Auto mileage rate (for 2020 year) 58.5 cents per mile (Forecasted)

Standard amounts paid in excess of the allowable limits do not disqualify the plan. Rather, the excess is taxable to the employee. For example, a mileage reimbursement of 60 cents per mile (for 2019) would result in 2.0 cents per mile being taxable to the employee.

- c. The employee is required to return any advances or reimbursements not accounted for to the employer. (This does not include any excess standard amounts paid by the employer. In the example at “b” above, the employee receiving 2.0 cents per mile in excess of the 58 cents (for 2019) allowed by the Internal Revenue Service would not be required to return the excess.
- d. Standard per diem arrangements are not allowed where the employee is related to the employer (i.e.: a corporation and a shareholder who owns 10% or more).

There are numerous specific and detailed rules that should be analyzed for other arrangements that are variations of a standard per diem or mileage reimbursement. The important consideration for the employer, however, is to establish a qualified plan, in writing, so the employee will not be forced to report taxable income for all reimbursements or advances received.

W-2 AND PAYROLL TAX REPORTING

All payments made where a qualified plan or arrangement does not exist must be included on the employee’s W-2 in Box 1 along with gross wages and the nontaxable (i.e. substantiated) portion in Box 14. See the W-2 instructions for details. Such amounts are also subject to FICA and FUTA withholding.

The same rules apply to excess standard reimbursements (i.e.: the 2.0 cents per mile in the preceding example “b”), to amounts that were never substantiated to the employer, and amounts that were supposed to be repaid to the employer, but were not.

If your worker is an employee, the tax reporting is simple. The W-2 is reported as wages, and any unreimbursed employee business expenses that would otherwise be subject to the 2% floor are disallowed for federal purposes. The unreimbursed employee expenses may be allowed for state purposes.

WHO ARE YOUR EMPLOYEES?

If an employer-employee relationship exists, it does not matter what it is called. The employee may be called an agent or independent contractor. It also does not matter how payments are measured or paid, what they are called, or if the employee works full or part time. If you are considered an employer, you are responsible for calculating and withdrawing payroll taxes (FUTA, Medicare, etc.) from wages. There are severe penalties for not complying.

INDEPENDENT CONTRACTOR REPORTING

Any Business or government entity that is required to file a federal Form 1099 MISC must also report specific information to EDD regarding any independent contractor providing services to you or your business. This information will be used for the purpose of establishing, modifying, or enforcing child support obligations and other purposes as authorized by statute.

The federal government does not define the term “independent contractor.” For federal income tax purposes, the IRS’ general rule is an individual is an independent contractor if the payor has the right to control or direct only the result of the work, not *what* will be done or *how* it will be done. An independent contractor is an individual who is not an employee of a business/government entity for California purposes and who receives compensation for, or executes a contract for services performed for the business/government entity, either in or outside of California.

AB 5 (Ch. 19-296) codifies the California Supreme Court’s *Dynamex* ruling. (*Dynamex Operations West, Inc. v. Superior Court* (2018) 4 Cal.5th 903). Under AB 5, most workers are presumed to be an employee for purposes of the Labor Code, the Unemployment Insurance Code, and for most wage orders of the Industrial Welfare Commission unless a hiring entity satisfies a three-factor test, referred to as the ABC test. (Labor Code §2750.3):

- A. The worker is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact, commonly known as the *Borello* “control test” (*S.G. Borello & Sons, Inc. v. Dept. of Ind. Rel.* (1989) 48 Cal.3rd 342);
- B. The worker performs work that is outside the usual course of the hiring entity’s business;
- C. The worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed.

While applying the ABC test to workers will result in many more workers being classified as employees, the legislation provides for numerous exemptions to the application of the ABC test. The exemptions are quite extensive, and already additional bills have been introduced that would further expand on these exemptions. Please contact our office if you have any questions regarding this matter.

You must **report** independent contractor information to EDD **within 20 days** of either making payments totaling \$600 or more, or entering into a contract with an independent contractor in any calendar year, whichever is earlier. Report independent contractor information on the *Report of Independent Contractor(s)*, **Form DE 542**. The DE 542 can be faxed to (916) 319-4410 or mailed to EDD at the following address:

Employment Development Department
P.O. Box 997350, MIC 96
Sacramento, CA 95899-7350

Additional Independent Contractor reporting information and DE 542 Forms may be obtained by calling (1-888-745-3886). EDD's Web Site is www.edd.ca.gov for additional information.

TAX FILING REQUIREMENT FOR FORM 1099

The Internal Revenue Service requires that information and statements (Forms 1099) be filed by people who are engaged in a trade or business and make certain accumulated payments for services provided to their trade or business. For example, you must file **Form 1099-MISC**, Miscellaneous Income, to report payments of \$600 or more to persons not treated as employees (e.g., independent contractors) for services performed for your trade or business.

Now is the time to check your records and review the following guidelines to see if you are required to file any of these forms. The deadline for mailing or furnishing Forms 1099 to the recipients is the same as for Forms W-2, January 31, 2020.

If you have any questions regarding the information contained in this letter, or wish us to prepare any of the forms for you, please contact our office.

Very truly yours,

RICHARD W. POWELL
CERTIFIED PUBLIC ACCOUNTANTS