



CROCE, SANGUINETTI, & VANDER VEEN

CERTIFIED PUBLIC ACCOUNTANTS

Dear Client,

This letter contains the payroll tax rates, due dates, and other pertinent payroll information needed for the 2023 tax year. Please make sure to update your system to reflect the new wage limits and rates.

2023 Federal Payroll Tax Rates

New Federal Income Tax Withholding tables have been issued for 2023. This information is included in IRS Publication 15 (Circular E).

Table with 4 columns: Tax, FICA, MEDICARE, ADDITIONAL MEDICARE. Rows include Employee Wage Limit, Employer Wage Limit, Employer & Employee Tax Rate, etc.

For wages paid to each employee up to \$160,200, the combined FICA and Medicare rate is 7.65% (.0765). For wages paid to each employee in excess of \$160,200, only the Medicare rate of 1.45% (.0145) applies.

Table with 2 columns: Federal Unemployment Insurance (FUI) category, Rate. Rows include Wage Limit, Tax Rate plus additional Tax for credit reduction, Maximum Tax.

\*The FUI tax rate is 6.0% on the first \$7,000 of each employee's wages. Typically, an employer receives a tax credit of 5.4% if its state unemployment insurance (SUI) contributions are paid timely.

2023 California Payroll Tax Rates

New California Income Tax Withholding schedules have been issued for 2023. This information can be found in the California Employer's Guide (Publication DE 44).

Table with 4 columns: State Disability Insurance (SDI)/State Unemployment (SUI) & Employee Training Tax (ETT) category, SDI, SUI, ETT. Rows include Wage Limit, Tax Rate, Maximum Tax.

The SUI rate is assigned to employers based on experience. The Employment Development Department (EDD) sends Form DE 2088, Notice of Contribution Rates and Statement of UI Reserve Account, to all employers in December informing them of their SUI rate. The notice will also indicate whether the employer's ETT rate is 0.1 percent or zero.

## 2023 Federal Payroll Tax Requirements

### FEDERAL DEPOSIT REQUIREMENTS FOR 2023:

1. **Depositing Taxes:** Since January 1, 2011, all employers are required to make their federal tax deposits electronically via the Electronic Federal Tax Payment System (EFTPS). An employer may be subject to a 10% penalty if required to use EFTPS and fails to do so. When using EFTPS, be sure to indicate the type of tax and the tax period against which the deposit is to be applied:

**Type of Tax:** Form 941 or Form 943 for FICA, Medicare, and withheld income tax

**Tax Period:** The calendar quarter in which the payments are withheld, not the quarter in which the deposit is made

2. **In General:** An employer is either (1) a monthly depositor or (2) a semi-weekly depositor. The IRS will notify you of your deposit status only if there is a change in your deposit schedule. You are classified as a monthly or semi-weekly depositor based on the total taxes reported on Form 941 for the prior four quarters ending on June 30 of the preceding year (the look-back period). If you reported \$50,000 or less of employment taxes for the look-back period, you are a monthly depositor; if you reported more the \$50,000 of employment taxes during this look-back period, you are a semi-weekly depositor for the current year (but see the \$100,000 and \$2,500 deposit rules below).
3. **\$100,000 Next-Day Deposit Rule:** If you accumulate taxes of \$100,000 or more on any day in a deposit period, the taxes must be deposited by the close of the next business day. This rule applies to both monthly and semi-weekly depositors. The deposit period is a calendar month for a monthly depositor and Wednesday through Friday and Saturday through Tuesday for a semi-weekly depositor. Any monthly depositor who becomes subject to this \$100,000 next-day deposit rule immediately becomes a semi-weekly depositor for the remainder of 2023 and for 2024.
4. **Semi-weekly Depositor Rule:** Deposits of employment and other taxes withheld are due on Wednesday and/or Friday, depending on the day of the week that the payments are made:

Payment Days/Deposit Periods	Deposit Due Dates
Wednesday, Thursday and/or Friday	Following Wednesday
Saturday, Sunday, Monday and/or Tuesday	Following Friday
<b>Note: EFTPS payments must be scheduled at least one calendar day prior to the tax due date (before 5:00 p.m. PT).</b>	

If a quarter ends in the middle of a deposit period, any taxes relating to payments made for the quarter just ended must be deposited separately from any taxes relating to payments made for the new quarter.

5. **Monthly Depositor Rule:** The employment and other taxes withheld on payments made during a calendar month must be deposited by the 15th day of the following month.
6. **\$2,500 Quarterly Deposit Rule:** If you accumulate less than a \$2,500 tax liability during either the current quarter or the preceding quarter AND you were not subject to the \$100,000 next-day deposit rule during the current quarter, you are not required to make a deposit. You may pay the tax when you file your quarterly return.
7. **New Employers:** New employers are monthly depositors for the first year of their business (however, see the \$100,000 next-day deposit rule exception above).
8. **Deposits on Business Days Only:** If a deposit is required to be made on a day that is not a business day, the deposit is considered to have been made timely if it is made by the close of the next business day. In addition, a special rule is provided for semi-weekly depositors to allow them at least three business days to make a deposit.

## **FUI DEPOSIT REQUIREMENTS FOR 2023:**

1. **Depositing Taxes:** Since January 1, 2011, all employers are required to make their FUI tax deposits electronically via the Electronic Federal Tax Payment System (EFTPS). An employer may be subject to a 10% penalty if required to use EFTPS and fails to do so. When using EFTPS, be sure to indicate the type of tax and the tax period against which the FUI deposit is to be applied:

**Type of Tax:** Form 940

**Tax Period:** The fourth calendar quarter of the tax year

2. **In General:** At the end of any calendar quarter, if your cumulative undeposited FUI tax exceeds \$500, a deposit is due by the end of the month following the quarter end. Amounts of \$500 or less can be deposited or can be paid with annual Form 940 by January 31. If the due date is not a business day, the deposit is considered to have been made timely if it is made by the close of the next business day.

## **2023 California Payroll Tax Requirements**

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### **CALIFORNIA DEPOSIT REQUIREMENTS FOR 2023:**

Beginning January 1, 2018, all employers were required to electronically submit employment tax returns, wage reports, and payroll tax deposits to the Employment Development Department. Penalties are charged for not complying with this E-file and E-pay mandate. Register for “e-Services for Business” on the [edd.ca.gov](http://edd.ca.gov) website.

1. **Depositing Taxes:** Employer contributions of UI and ETT are due quarterly. California Personal Income Tax (PIT) and SDI withholdings are due based on each employer’s federal deposit schedule and the amount of accumulated PIT the employer has withheld. An employer will be subject to a penalty of 10% plus interest on late payroll tax payments.
2. **\$100,000 Next-Day Deposit Rule:** If at any time you accumulate \$100,000 or more in federal employment taxes AND have accumulated more than \$500 in PIT withholding, you are required to deposit all state withholding taxes (SDI and PIT) by the next business day. Once you make a next business day deposit, you become a semi-weekly depositor for the remainder of 2022 and 2023.
3. **Semi-weekly Deposits:** If you are a semi-weekly depositor for federal purposes AND have accumulated more than \$500 in PIT withholding during one or more payroll periods, you must make state deposits on the same dates as required for federal purposes.
4. **Monthly Deposits:** If you are a monthly depositor for federal purposes AND have accumulated more than \$350 in PIT withholding during one or more months of a quarter, you must make state deposits on the same dates as required for federal purposes.
5. **Quarterly Deposits:** If you are required to deposit quarterly for federal purposes AND have accumulated \$350 or more in PIT withholding, you must make state deposits by the 15th day of the following month.

## **2023 California Reporting Requirements**

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### **CALIFORNIA REPORTING REQUIREMENTS FOR 2023:**

1. **Quarterly Contribution Return and Report of Wages (Form DE 9), and Quarterly Contribution Return and Report of Wages (Continuation) (Form DE 9C):** Employers are required to file both a Quarterly Contribution Return and Report of Wages (Form DE 9) and the Quarterly Contribution Return and Report of Wages (Continuation) (Form DE 9C) each quarter.

Form DE 9 is filed quarterly to report UI and ETT employer contributions, along with SDI and PIT withholding. Form DE 9C is also filed quarterly to report detailed wage items for each worker.

2. **Report of New Employee(s) (DE 34):** All employers are required by law to report all new employees to the New Employee Registry (NER) within 20 days of their start-of-work date. Any employee who is newly hired, rehired, or returning to work from a furlough, separation, termination, or leave of absence without pay is considered to be a new employee. Report all new employees on Form DE 34. If you acquire an ongoing business and employ any workers from the acquired company, these employees are considered to be new employees and must also be reported to the EDD on Form DE 34.
3. **Report of Independent Contractor(s) (DE 542):** Any business or government entity that is required to file a federal Form 1099-MISC must also report specific information to the EDD regarding any independent contractor providing services to their business. Report all independent contractors on Form DE 542 within 20 days of either making payments totaling \$600 or more or entering into a contract for \$600 or more in any calendar year, whichever occurs first.

## Additional Important Payroll Information

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1. **California Minimum Wage:** Effective January 1, 2023, the California minimum wage rises to \$15.50 per hour for all employers, including those with 25 or fewer employees. Most employers in California are subject to both the federal and state minimum wage laws. The effect of this dual coverage is that when there are conflicting requirements in the law, the employer must follow the standard that is most beneficial to the employee. Thus, since California requires a higher minimum wage rate than the federal law, employers in California must pay the state minimum wage rate.
2. **Paid Sick Leave:** In 2015, the Healthy Workplaces/Healthy Families Act of 2014 (Paid Sick Leave act) became law in California. Under this law, any employee who on or after July 1, 2015 works in California for 30 or more days within a year, is entitled to a minimum of 3 days or 24 hours of paid sick leave. The mandate applies to part-time as well as to full-time employees and to all employees, regardless of whether they are paid a set wage, hourly, by commission, or on a piece-rate basis.

Under the original act, an employee accrued benefits at the rate of one hour per every 30 hours worked. Now, employers may use a different accrued method, as long as the accrual is on a regular basis so that an employee has no less than 24 hours of accrued sick leave or paid time off by the 120<sup>th</sup> calendar day of employment or each calendar year or 12-month period. Alternatively, an employer may provide the benefits up front at the beginning of a 12-month period (calendar year or other designated 12-month basis).

Employees may use the benefits once they have worked at least 90 days. Seasonal and temporary employees are covered as long as they work for the employer for 90 days, whether or not consecutive. Benefits may be used in hourly increments, although the employer may require that an employee take at least two hours. Employers who have a paid time off (PTO) program or that already provide at least three days of sick day benefits may not have to change their policies as long as their current plan meets the accrued requirements and sick days are available after 90 days of employment. Unused sick days must be carried over (the carryover can be capped at six days), but an employer is not required to pay more than three sick days per calendar year. By carrying unused sick days over, employees can use sick days at the beginning of the year.

3. **Independent contractor vs. employee:** The start of a new payroll year is a good time to review your 1099 contractors and ensure that their treatment as independent contractors is appropriate. Significant penalties and retroactive employment taxes can be incurred for incorrectly treating employees as independent contractors. One of the most common causes of an employment tax audit is a terminated “independent contractor” filing for unemployment benefits.

There is now a new test that can be used to define independent contractor status for wage order purposes. In *Dynamex Operations West, Inc. v. Superior Court of Los Angeles*, codified by AB5, the California Supreme Court adopted the ABC test to determine whether an individual is an employee or an independent contractor for purposes of California’s Wage Orders. Under the newly adopted ABC test, an individual is presumed to be an employee, unless the company can prove all of the following:

- That the worker is free from 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.
- That the worker performs work that is outside the usual course of the hiring entity's business; and
- That the worker is customarily engaged in an independently established trade, occupation or business of the same nature as the work performed.

If the hiring entity fails to show that the worker satisfied each of the three criteria, the worker is treated as an employee, not an independent contractor. Employers should consult with legal counsel and reevaluate whether workers currently classified as independent contractors should be reclassified as employees based on the ABC test.

4. **Due Date for filing Form W-2:** The due date for filing 2022 Form W-2 is now January 31, 2023, whether you file using paper forms or electronically. Extensions are no longer automatic, file form 8809 to request a 30-day extension.
5. Beginning in tax year 2020, businesses are required to report nonemployee compensation on a new Form 1099-NEC. Businesses will continue to report rents and all other income on Form 1099-MISC. Form 1099-NEC must be filed on or before January 31, 2023 using either paper or electronic filing. Form 1099-MISC must be filed by February 28, 2023 if you file on paper or March 31, 2023 if you file electronically.
6. In 2020, California began mandating employer participation in the CalSavers program for employers with more than 100 employees. Under the CalSavers program, private employers that do not already offer a retirement plan must enroll their employees in a CalSavers account unless:
  - The employees opt out; or
  - The employer has less than 5 employees.

Participation in this program became mandatory in 2020. The program was phased in over a three-year period as follows:

- Employers with more than 100 employees should have registered by September 30, 2020.
- Employers with more than 50 employees should have registered by June 30, 2021; and
- Employers with more than 5 employees should have registered by June 30, 2022.

If you have any questions regarding payroll tax or reporting requirements or would like to discuss your specific tax needs, please give us a call at (209) 938-1010.

Sincerely,

*Croce, Sanguinetti, & Vander Veen, Inc.*

CROCE, SANGUINETTI, & VANDER VEEN, INC.  
Certified Public Accountants