

Payroll Seminar Update

1. **QUESTION:** At the request of my employee, can I allow him or her to work through a meal period, WITH pay?

ANSWER: Yes, but some requirements must be met. A written agreement between employer and employee is required and can be revoked, in writing, at any time. An on-duty meal period that is counted as time worked is ONLY permitted when the nature of the work prevents relief from all duties. Therefore, the agreement between employee and employer can ONLY be written if the employee is performing duties that require continuous work. For example, your company does not turn telephones off for lunch and your receptionist is required to answer the calls OR your company has a machine where operations must be supervised and your employee is prevented from taking a lunch break.

NOTE: You are not allowed to add your employee's 10 minute rest periods to the meal period. Remember, rest periods must be paid breaks.

2. **QUESTION:** Am I required to distribute the Paid Family Leave (PFL) brochure AND post the PFL notice?

ANSWER: Yes, every employer is required to distribute the PFL brochure to ALL new employees and California law requires the PFL notice to be posted along with all other required postings.

3. **QUESTION:** If I have Non-English speaking employees am I required to post my state and federal posters in a different language?

ANSWER: Yes, every employer should post the required notices in a manner that is understood by all employees. If the required poster is not available in your employee's specific language, you can post the notice in English. In addition, you will still be held accountable for the translation of the posters to your Non-English speaking employees.

4. **QUESTION:** Is the EDD website, provided in the packet, a secure site for transmitting my employee's social security numbers and wages?

ANSWER: Yes. We recommend that you visit <http://eddservices.edd.ca.gov> to determine if this online service will benefit your business.

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5. **QUESTION:** Is there a revised I-9 (Employment Eligibility Verification) that I am required to have new employees fill out?

ANSWER: The United States Customs and Immigration (USCIS) recently announced a change in the "List A" documents that are acceptable to establish identity and employment eligibility (List A can be found on page 3 of the I-9).

A. The following are no longer acceptable documents:

- a. List Item #2 - Certificate of US Citizenship - INS Forms N-560 or N-561
- b. List Item #3 - Certificate of Naturalization - INS Forms N-550 or N-570
- c. List Item #5 - Form I-151 (Form I-551 Remains acceptable)
- d. List Item #8 - Unexpired Reentry Permit - INS Form I-327
- e. List Item #9 - Unexpired Refugee Travel Document - INS Form I-571

B. The following has been added as an acceptable document:

- a. Added to List Item #10 - Employment Authorization Document - Form I-766

The changes above are considered Interim Rules, but are effective immediately. The I-9 form will not be officially changed until the beginning of 2005, therefore, penalties will not be assessed until the official form has been issued. You can check for the updated version of the I-9 by visiting <http://uscis.gov>.

6. **QUESTION:** What do I do if an employee claims more than nine exemptions on form W-4 or if the employee has marked exempt?

ANSWER: For both situations, you are required to send a copy of the W-4 to the IRS quarterly with form 941 or annually with form 943 (for agricultural employers). You must submit the W-4 with EVERY 941 OR 943 until the employee is no longer working for you or the employee changes the exemption status reported. The IRS will send you further instructions if it is determined that you should not honor the W-4 form.

NOTE: If an employee indicates that he or she is EXEMPT and is paid less than \$200 per week you do not have to send the W-4 with your employment tax return. We recommend that you submit any W-4, with the above mentioned status, to the IRS regardless of how much the employee will be paid.