

## SETTLEMENTS PROGRAM

A settlement is a compromise on the dollar amount of a tax liability, consistent with the reasonable evaluation of the costs and risks associated with litigation of the issue(s).

Section 1236 of the California Unemployment Insurance Code (CUIC) allows the Employment Development Department (EDD) to settle certain civil employment tax disputes.

The Settlements Program allows an employer the opportunity to enter into a settlement agreement to avoid the cost of prolonged litigation associated with resolving a disputed employment tax matter.

### SETTLEMENTS PROCESS

Generally, we will only consider a settlement offer when the assessment or denial of claim for refund is under petition with the California Unemployment Insurance Appeals Board (CUIAB). If the case is still in process or involves fraud, intent to evade, and/or a criminal violation(s), the case is generally not eligible for settlement.

When reviewing an offer, we consider the risk of loss for the State and the cost of litigation balanced against the benefits of reaching a settlement agreement. Issues of fairness, financial hardship, and the survival of the business may be considered to establish a settlement amount, but cannot be used as the sole reason for entering into a settlement agreement. Upon approval of the settlement offer, the employer and EDD will enter into a settlement agreement. All settlement agreements are subject to approval by an administrative law judge, and some require approval by the CUIAB and/or the Attorney General.

### HOW TO APPLY

To apply for a settlement, you must submit a settlement offer. The settlement offer must be in writing and, at a minimum, must include all of the following information:

- Your EDD employer account number.
- The specific assessment or the denial of claim for refund for which you are offering the settlement, along with information such as the date of assessment or denial of claim for refund, amount of liability involved, and time period covered.
- The basis for your offer, including the amount and terms of your offer.
- An analysis of the risk of loss to the State or a reasonable estimate of the cost of litigation which appears excessive and the reason why your offer should be considered.
- The name, address, and telephone number of the individual authorized to negotiate your settlement agreement, if applicable.

If you believe you qualify, mail or fax your settlement offer to:

Employment Development Department  
Settlements Office, MIC 93  
PO Box 826880  
Sacramento, CA 94280-0001  
Fax: (916) 653-7986

If your offer meets the criteria for a settlement, EDD will contact you for final negotiation and execution. If your offer does not meet the criteria for a settlement agreement, you will receive a denial letter from the Settlements Office.

We engage in open and constructive discussions throughout the entire settlement process. If an agreement is not reached between the employer and EDD, all information disclosed during the negotiation process is considered confidential and cannot be used by EDD against the employer.

### **COVERAGE**

If the workers' status is the subject of any part of the litigation, you may be required to agree to start reporting the workers as employees and start withholding and paying the payroll taxes on those workers' wages. In addition, you may be required to agree not to contest the status of those workers who file an Unemployment Insurance or State Disability Insurance claim for benefits.

### **PUBLIC DISCLOSURE**

Section 1236 of the CUIA requires a public record for any settlement agreement that forgives more than \$500 in taxes and penalties. The public records are on file with EDD's Director in Sacramento, California.

### **WHO TO CONTACT**

If you have specific questions regarding EDD's Settlements Program, contact our Settlements Office at (916) 653-9130.

### **ADDITIONAL INFORMATION**

If your disputed employment tax matter is final or the sole issue is the inability to pay, it will not meet the criteria for a settlement. However, there may be other options available to you. For information on these options, call the telephone number listed on your most recent *Employer Account Statement* (DE 2176) or (888) 745-3886. If you are unable to resolve the issue and require further assistance, contact EDD's Taxpayer Advocate Office at (866) 594-4177 (toll-free) or (916) 654-8957.

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.