



Setting Up Business in California: A Guide for Investors

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Introduction

The *Setting Up Business in California: A Guide for Investors, July 2009* provides an updated version from September 2008.

On November 29, 2005 Governor Schwarzenegger established the California Economic Development Partnership, an Interagency Cabinet Team, to coordinate all of the State government economic development activities. The publication of *Setting Up Business in California: A Guide for Investors* was a part of the *California Business Portal* (www.calbusiness.ca.gov/), one of a variety of initiatives completed by the California Economic Development Partnership.

The objective of *Setting Up Business in California: A Guide for Investors, July 2009* is to:

- Outline and briefly describe the general procedures for establishing a business in California;
- Provide links to documents that may need to be filed to legally setup and operate a business in California; and,
- Serve as a resource guide to government entities and affiliated agencies and organizations that a business may contact in the establishment process.

Business investors should contact appropriate sources directly or the Internet before action is taken to file or register, as fee amounts, forms and registration requirements may change.

California Business Investment Services

California Business Investment Services (CalBIS), in the California Labor & Workforce Development Agency, serves as the principal state office responsible for promoting and advancing domestic and foreign investment in California.

CalBIS provides confidential consultation to employers, corporate real estate executives, and site location consultants considering California for new business investment and expansion.

CalBIS' professional project managers provide tailored site selection services free of charge.

Contact CalBIS at:

CalBIS
801 K Street, Suite 2100
Sacramento, CA 95814
Tel: (916) 322-0000
Fax: (916) 322-0614
E-mail: CalBIS@labor.ca.gov
Website: <http://www.labor.ca.gov/CalBIS>

Part 1: Information for Foreign Investors

1.1 Obtaining a Visa

In preparing for a journey to California, the foreign investor will need to obtain a United States visa. U.S. visa considerations require careful planning well in advance of travel because processing times can be lengthy. The State of California is not involved in the issuance of visas. Necessary forms and filing procedures are supplied by the in-country U.S. Embassy. Address and contact information for U.S. Embassies around the world can be found on the Internet at the website:

http://travel.state.gov/travel/tips/embassies/embassies_1214.html.

It is highly recommended that a California-based immigration attorney be consulted to clarify which type of visa may be most appropriate for the individual and the company. The immigration attorney should be one located in the same county where the foreign investor will reside. Immigration attorneys are generally listed in the Yellow Pages of the local telephone directory under “attorneys, immigration.” Another resource is:

American Immigration Lawyers Association
Suite 300, 1331 G Street, NW
Washington, DC 20005
Tel: (202) 507-7600
Fax: (202) 783-7853
Website: <http://www.aila.org>

The threshold question for employees to be transferred to the United States is whether they are classified as *nonimmigrants* or *immigrants*. Nonimmigrants come to the United States temporarily to carry on activities in accordance with the terms of a nonimmigrant visa. Immigrants enter the United States under an immigrant visa and reside here indefinitely in lawful permanent resident status (evidenced by a “green card”). Information regarding the different visa types is available online from the U.S. Department of State at: http://travel.state.gov/visa/temp/types/types_1286.html.

Changes introduced shortly after September 11, 2001, involve extensive and ongoing review of visa issuing practices as they relate to our national security. Visa applications are now subject to a greater degree of scrutiny than in the past. It is important to apply for your visa well in advance of your travel departure date.

The following is a summary of the requirements of certain nonimmigrant and immigrant visas. Depending on the persons involved and the length of their projected stay in the United States, visa requirements vary.

NONIMMIGRANT VISAS

Temporary Visitor for Business (B-1)

B-1 business visas are available to persons coming to the United States temporarily to conduct business on behalf of their foreign employer. They may not engage in local labor for hire, must be compensated by their foreign employer (expenses are permitted) and must maintain a permanent residence overseas which they have no intention of abandoning.

B-1 visa holders may be admitted for an initial period of up to one year, and may be granted extensions in six-month increments. Under a special program for nationals of certain countries, the Visa Waiver Program allows business visitors to apply for admission to the United States without a visa for up to 90 days, with certain restrictions applied. Visit the [Visa Waiver Program](#) to learn more, and find out if you meet the visa waiver requirements.

The federal government has established a Business Visa Center, at http://travel.state.gov/visa/temp/types/types_2664.html, to assist with obtaining B-1 visas.

NOTE: Representatives of the foreign press, radio, film, journalists or other information media, engaging in that vocation while in the U.S., require a nonimmigrant Media (I) visa and cannot travel to the U.S. using a visitor visa and cannot travel on the visa waiver program, seeking admission by the DHS immigration inspector, at the U.S. at the port of entry.

Treaty Trader and Treaty Investor (E-1/E-2)

Treaties between the United States and many countries allow foreign nationals to come to the United States to conduct trade or to manage substantial investments (no fixed dollar amount). Those qualifying for the E-1 (Trader) or E-2 (Investor) visas can pursue long-term business objectives using these practical visas. The list of qualifying countries changes as new trade treaties are ratified by the U.S. Congress. More information may be obtained through the U.S. Department of State at http://travel.state.gov/visa/temp/types/types_1273.html.

A person may be issued an E-1 Treaty Trader visa if:

- The individual or the firm has the nationality of the treaty country (at least half of the company must be owned by nationals of the treaty country);
- The individual is either the principal trader, who is coming to the United States to engage in substantial trade or, an executive, manager or employee with special skills essential to the company.

Countries with treaties for E-1 visas include:

Argentina, Australia, Austria, Belgium, Bolivia, Bosnia-Herzegovina, Brunei, Canada, Colombia, Costa Rica, Croatia, Denmark, Estonia, Ethiopia, Finland, France, Germany, Greece, Honduras, Iran, Ireland, Israel, Italy, Japan, Korea, Latvia, Liberia, Luxembourg, Mexico, Netherlands, Norway, Oman, Pakistan, Paraguay, Philippines, Slovenia, Spain, Surinam, Sweden, Switzerland, Taiwan, Thailand, Togo, Turkey, United Kingdom, Yugoslavia

A person may be issued an E-2 Treaty Investor visa if:

- The individual or the firm has the nationality of the treaty country (at least half of the company must be owned by nationals of the treaty country).
- The individual or the company has made or is in the process of making a substantial investment in a business in the United States;
- The individual is either the principal investor, who will direct and develop the enterprise, or an executive, manager or employee with special skills essential to the company; or,
- The investment is not the individual's sole income source.

Countries with treaties for E-2 visas include:

Argentina, Australia, Austria, Bangladesh, Belgium, Bosnia-Herzegovina, Bulgaria, Cameroon, Canada, Colombia, Congo, Costa Rica, Croatia, Czech Republic, Egypt, Ethiopia, Finland, France, Germany, Grenada, Honduras, Iran, Italy, Japan, Kazakhstan, Korea, Kyrgyzstan, Liberia, Luxembourg, Mexico, Moldova, Morocco, Netherlands, Norway, Oman, Pakistan, Panama, Paraguay, Philippines, Poland, Romania, Senegal, Slovak Republic, Slovenia, Spain, Sri Lanka, Surinam, Sweden, Switzerland, Taiwan, Thailand, Togo, Tunisia, Turkey, United Kingdom, Yugoslavia, Zaire

Investors from qualifying countries may apply for an E2 visa in order to 'Direct and Develop' their investment. They may also apply for E2 visas for key managerial and specialist employees. In contrast to the L1 visa, there is no requirement that such employees have worked for the Investor for at least one year in the last three, nor is it necessary for the Investor to continue operations outside the USA while the Investor or his/her employees are in the USA.

E visas are typically valid for one to five years with renewals from the appropriate Immigration Regional Service Center.

Australian in Specialty Occupation (E-3)

The E-3 is a new visa for Australian nationals to work in specialty occupations in the U.S. It has many advantages over the other types of working visas, including the ability for spouses of E-3 recipients to apply for work authorization. The new E-3 visa

classification currently applies only to nationals of Australia as well as their spouses and children.

Intracompany Transfer (L-1)

This visa classification is available for an employee of a company. Only those companies that exactly meet the U.S. Immigration and Naturalization Service (INS) definitions of a parent, branch, subsidiary or affiliate qualify to petition for an L-1 intra-company transferee visa.

There are provisions to allow a new office to open in the United States provided that evidence is submitted to the INS to prove that the new office has a suitable place to do business, a qualifying business structure, and that the employer has the ability to pay the employee and to begin doing business in the United States.

A key qualification for all employees is employment abroad by a qualifying foreign employer for one continuous year within the last three years preceding the time of the employee's application for admission into the United States. Intracompany transferees are executives, managers and employees with specialized knowledge.

IMMIGRANT VISAS

Employment-based Immigrant Investor Visa (EB-5)

Of the various types of employment-based permanent resident visas, the employment-based fifth preference visa (EB-5) is available to foreign investors who wish to make a capital investment in a commercial enterprise and obtain permanent residence in the United States. The amount of the investment must be at least one million dollars, unless the investment is to be in a targeted employment area, in which case the investment need only be five hundred thousand dollars. In all cases, the investment must also create full-time employment for at least 10 U.S. citizens or other legal residents, not including the investor or members of the investor's family. The California Business Transportation and Housing has created an informative outline of obtaining an EB-5 Investor Visa at <http://www.business.ca.gov/page.asp?o=cabth&s=econdev&p=390346>.

References

A list of the different types of Nonimmigrant Visas and additional information is available from the U.S. Department of State at: http://travel.state.gov/visa/temp/temp_1305.html.

The U.S. Department of State also provides additional information on Immigrant Visas at: http://travel.state.gov/visa/immigrants/immigrants_1340.html.

Additional information on the employment-based Immigrant Investor Visa is available at: http://travel.state.gov/visa/immigrants/types/types_1323.html.

Part 2: Registering a Business in California

2.1 Defining and Registering Business Entities

This section highlights the principal differences between format and registration requirements in California of the following types of business entities:

- Sole Proprietorship
- General Partnership
- Limited Partnership
- Limited Liability Partnership
- Limited Liability Company
- Corporation

All business registration is made with the California Secretary of State (hereafter referred to simply as the Secretary of State). Information on the types of business entities is available on the Internet at <http://www.ss.ca.gov/business/filings.htm>.

Numerous references are available to guide the entrepreneur in forming a *new* business in California. A good source for business start-up is:

California Chamber of Commerce
1215 K Street, Suite 1400
Sacramento, CA 95814
Tel: (916) 444-6670
Membership: (800) 649-4921
Fax: (916) 325-1272
Website: <http://www.calchamber.com/>

The California Economic Development Partnership's California Business Portal, www.calbusiness.ca.gov, provides access to many resources for entrepreneurs and existing businesses.

The California Taxes Information Center provides information on the types of business entities and the associated business taxes, accessible at: http://www.taxes.ca.gov/Income_Tax/incbus.shtml

The focus of the following text is to present the general format of California business entities and the registration process of *existing* foreign firms to conduct business in California.

SOLE PROPRIETORSHIP

General Format

A sole proprietorship is set up to allow an individual to own and operate a business by him/herself. A sole proprietor has total control, receives all profits from and is responsible for taxes and liabilities of the business. If a sole proprietorship is formed with a name other than the individual's name (example: John Smith's Fishing Shop), a Fictitious Business Name Statement must be filed with the county where the principal place of business is located. To determine the applicable county agency where fictitious business names are filed, please refer to the list of California counties provided on the [California State Association of Counties](#) website. No formation documents are required to be filed with the Secretary of State. Other state filings may be required depending on the type of business.

GENERAL PARTNERSHIP

General Format

A general partnership must have two or more persons engaged in a business for profit. The business is not a separately taxed entity; rather, it is a conduit where the profit or loss flows through to the partners. The partners report their share of the partnership profit or loss on their individual income tax returns. All partners enter into partnership by either oral or written agreement that must cover all terms of the parties' business relationship. Partnerships are quite flexible; a great variety of control and management structures are available by agreement.

Partners are jointly and severally liable for all legal and financial obligations of the partnership and for all wrongful acts of any partner acting in the ordinary course of partnership business. Partnership income is taxed as personal income to the partners.

Registration Procedure

A *Statement of Partnership Authority* (GP-1) may be filed with the Secretary of State at the option of the business entity. This document specifies the authority, or limitations on the authority, of some or all of the partners to enter into transactions on behalf of the partnership and any other matter.

Upon receipt, the Secretary of State's Office will review the statement for statutory compliance. Once the document is filed, the Secretary of State will return a file-stamped copy of the GP-1, and a *Certificate of Registration* to the general partnership.

Change or Dissolution

If the business filed a *Statement of Partnership Authority* (GP-1) with the Secretary of State, the business should file a *Statement of Dissociation* (Secretary of State form GP-3) to document the partner or partners that have dissociated with the partnership. If the partnership amends or cancels a partnership statement previously filed with the Secretary of State, the firm should note the details on a *Statement of Amendment/Cancellation* (GP-

7) and file it with the Secretary of State. To terminate the partnership, the firm should complete a *Statement of Dissolution (GP-4)* and file it with the Secretary of State. This will remove the company from Secretary of State records as an active entity for tax purposes.

For additional information about registering general partnerships, contact:

Secretary of State
Document Filing Support Unit
P.O. Box 944225
Sacramento, CA 94244-2250
Tel: (916) 657-5448
Website: <http://www.ss.ca.gov/business/gp/gp.htm>

Forms and References

Statement of Partnership Authority (GP-1)

Website: <http://www.ss.ca.gov/business/gp/forms/gp-1.pdf>

Statement of Dissociation (GP-3)

Website: <http://www.ss.ca.gov/business/gp/forms/gp-3.pdf>

Statement of Amendment/Cancellation (GP-7)

Website: <http://www.ss.ca.gov/business/gp/forms/gp-7.pdf>

Statement of Dissolution (GP-4)

Website: <http://www.ss.ca.gov/business/gp/forms/gp-4.pdf>

LIMITED PARTNERSHIP

General format

Limited partnerships are formed by two or more people, with at least one person acting as the general partner who has management authority and personal liability, and at least one person in the role of limited partner who is a passive investor with no management authority. All partners – both general and limited – must enter into limited partnership by either oral or written agreement.

Limited partnerships are managed and controlled by general partners; general partners have authority to bind the partnership. Limited partners normally do not participate in managing the business.

The general partners are liable for partnership obligations to the same extent as partners of general partnerships. Limited partners, however, are generally not liable for partnership obligations; their only risk is their agreed capital contribution, or as provided in the partnership agreement. However, if limited partners participate in the management of the partnership business, they may lose their protected limited partner status and become liable for all risk.

All limited partnerships are required to file with the Secretary of State's office.

A foreign limited partnership is a partnership formed under the laws of any state other than this state or under the laws of a foreign country and having one or more general partners and one or more limited partners.

Registration Procedure for Domestic Businesses

A limited partnership must complete and file a *Certificate of Limited Partnership* (Secretary of State Form LP-1).

Registration Procedure for Foreign Businesses

A foreign-owned limited partnership must complete and file a *Foreign Limited Partnership Application for Registration* (Secretary of State Form LP-5). The *Foreign Limited Partnership Application for Registration* identifies the principal executive office and the agent of record in California. Upon receipt, the Secretary of State's Office will review the *Foreign Limited Partnership Application for Registration* for statutory compliance. Once the document is filed, the Secretary of State will return a file-stamped copy of the LP-5, plus a *Certificate of Registration* to the limited partnership.

Limited partnerships are required to pay an annual franchise tax in order to conduct business in California. State and federal tax liability on taxable income is passed through to the partners (see Section 6 of this booklet, *Registering for Business Taxes*).

Change or Dissolution

Change or dissolution occurs in accordance with specifications in the partnership agreement, and as provided in the relevant code provisions for the limited partnership.

To register a change in the limited partnership, the company must complete the *Amendment to Certificate of Limited Partnerships* (Secretary of State Form LP-2). Foreign firms must complete the *Foreign Limited Partnership Amendment to Application for Registration* (Secretary of State Form LP-6) and submit it to the Secretary of State with a required filing fee.

To register cancellation or dissolution of the limited partnership, the company must complete *Limited Partnership Certificate of Cancellation* (Secretary of State Form LP-4/7) and submit it to the Secretary of State. There is no filing fee.

For additional information regarding limited partnerships, contact:

Secretary of State
Document Filing Support Unit
P.O. Box 944225
Sacramento, CA 94244-2250
Tel: (916) 657-5448
Website: <http://www.ss.ca.gov/business/lp/lp.htm>

Forms and References

Certificate of Limited Partnership (LP-1)

Website: <http://www.ss.ca.gov/business/lp/forms/lp-1.pdf>

Foreign Limited Partnership Application for Registration (LP-5)

Website: <http://www.ss.ca.gov/business/lp/forms/lp-5.pdf>

Foreign Limited Partnership Amendment to Application for Registration (LP-6)

Website: <http://www.ss.ca.gov/business/lp/forms/lp-6.pdf>

Limited Partnership Certificate of Cancellation (LP-4/7)

Website: <http://www.ss.ca.gov/business/lp/forms/lp-4.pdf>

LIMITED LIABILITY PARTNERSHIP (LLP)

General Format

In a limited liability partnership, the partners enjoy some protection against personal liability. Each partner must be a person licensed under California laws to engage in the practice of public accountancy, law or architecture. The LLP is not a separate entity for income tax purposes; profits and losses are passed through to the partners and reported on each individual's tax return.

A registered limited liability partnership must either a) maintain a malpractice liability insurance policy against claims of at least \$100,000 multiplied by the number of licensed practitioners in the LLP, and not less than \$500,000; or alternately, b) satisfy this requirement by confirming in writing that as of the most recently completed fiscal year, the LLP had a net worth of at least \$10 million for an LLP providing accountancy services, \$15 million for an LLP providing legal services, or \$10 million for an LLP providing architectural services.

Like a general partnership, all partners have equal rights in the management of an LLP unless otherwise agreed. Partnerships are quite flexible; a great variety of control and management structures are available by agreement.

Each partner is responsible for liabilities imposed by law arising out of his or her own acts and omissions. In addition, each partner is responsible for debts and liabilities as defined in the LLP agreement.

Registration Procedure

Firms must complete the *Registered Limited Liability Partnership Registration* (Secretary of State Form LLP-1) and submit it to the Secretary of State along with a filing fee. In addition, if the LLP chooses to satisfy the malpractice liability requirement by confirming the minimum net worth, the LLP must also complete and file a *Limited Liability Partnership Alternative Security Provision* transmittal form (Secretary of State Form LLP-3) with the Secretary of State. Upon receipt, the Secretary of State's Office will review the registration form for statutory compliance. Once the document is filed, the

Secretary of State will return a file-stamped copy of the LLP-1, plus a *Certificate of Registration* to the limited liability partnership.

Change or Dissolution

To register a change in the LLP, one or more authorized partners must complete and submit a *Limited Liability Partnership Amendment to Registration* (Secretary of State Form LLP-2) along with a filing fee to the Secretary of State. To register cancellation or dissolution of the LLP, one or more authorized partners must complete a *Notice of Change of Status* (Secretary of State Form LLP-4) and submit it with a filing fee.

NOTE: On September 29, 2006, the Governor of California signed Assembly Bill 2341, eliminating the need for a tax clearance certificate. This legislation streamlined the process for dissolving, or canceling the existence of business entities. Before this law was enacted, certain business entities, i.e., foreign corporations had to meet requirements of the Franchise Tax Board, before the Secretary of State (SOS) would grant the business's request to terminate. Passage of AB 2341 remedies this situation. For more information, refer to *Eliminating the Need for a Tax Clearance Certificate* later in this section.

For additional information regarding registration of limited liability partnerships, contact:

Secretary of State
Document Filing Support Unit
P.O. Box 944225
Sacramento, CA 94244-2250
Tel: (916) 657-5448
Website: <http://www.ss.ca.gov/business/llp/llp.htm>

Forms and References

Registered Limited Liability Partnership Registration (LLP-1)

Website: <http://www.ss.ca.gov/business/llp/forms/llp-1.pdf>

Limited Liability Partnership Alternative Security Provision (LLP-3)

Website: <http://www.ss.ca.gov/business/llp/forms/llp-3.pdf>

Limited Liability Partnership Amendment to Registration (LLP-2)

Website: <http://www.ss.ca.gov/business/llp/forms/llp-2.pdf>

Limited Liability Partnership Notice of Change of Status (LLP-4)

Website: <http://www.ss.ca.gov/business/llp/forms/llp-4.pdf>

LIMITED LIABILITY COMPANY (LLC)

General Format

A limited liability company is a hybrid business entity. It has a separate legal existence and generally offers liability protection to its owners (called members). All members must enter into an operating agreement by either oral or written agreement.

It can be classified as either a partnership or a corporation for tax purposes. The Franchise Tax Board will automatically classify the LLC with two or more members as a partnership unless the company elects to be taxed as a corporation. If the LLC is classified as a partnership, the profit or loss flows through to the owners/members; the LLC is subject to an annual minimum state tax plus an annual fee based on total income.

Alternately, if it is classified as a corporation, it is treated like any other corporation and is required to pay tax on its net income, including the applicable minimum state tax.

An LLC may be managed by managers who are not members, if provided for in the articles of the organization. However, if the LLC is managed by managers, they alone have authority to bind the LLC; members and directors have no authority in these matters. Otherwise, the LLC is managed by its members. In this case, every member is an agent of the LLC and has the power to bind the LLC and the right to vote on merger or dissolution. Members and managers of the LLC have the same degree of limited liability as a shareholder of a corporation.

Registration Procedure for Domestic Companies

A domestic limited liability company registers as an LLC by completing the *Articles of Incorporation* (Secretary of State Form LLC-1) and submitting it to the Secretary of State along with a filing fee. This form identifies the principal executive office, the principal office in California and the agent for service of process.

Registration Procedure for Foreign Companies

The foreign limited liability company registers as an LLC by completing a *Limited Liability Company Application for Registration* form (Secretary of State Form LLC-5) and submitting it to the Secretary of State along with a filing fee. This form identifies the principal executive office, the principal office in California and the agent for service of process.

The *Limited Liability Company Application for Registration* must be accompanied by an official certificate that verifies the limited liability company exists in good standing with the country or state of its formation. This certificate must be obtained from the appropriate office in which the original LLC was registered and presented with an English translation where applicable. The certificate must have been issued within six months prior to submittal to the Secretary of State. The Secretary of State's Office will review the *Limited Liability Company Application for Registration* for statutory

compliance, and then return a file-stamped copy of the LLC-5 along with a *Certificate of Registration* to the limited liability company.

Foreign limited liability companies registered in California must file an annual *Statement of Information*. Forms are mailed to the LLC from the Secretary of State to the last address of record approximately three months prior to the due date.

Changes or Amendments

To register any change in a domestic LLC, a *Certificate of Amendment to the Articles of Incorporation* (Secretary of State Form LLC-2) must be filed and a \$30 fee submitted. To register any change in a foreign LLC, one or more authorized persons must complete a *Limited Liability Company Application for Registration Certificate of Amendment* (Secretary of State Form LLC-6) and submit it to the Secretary of State along with the \$30 filing fee.

Cancellation or Dissolution

To register cancellation or dissolution of a foreign or domestic LLC, one or more authorized persons must complete a *Limited Liability Company Certificate of Cancellation* (Secretary of State Form LLC-4/7) and submit it to the Secretary of State. There is no filing fee for this form.

NOTE: On September 29, 2006, the Governor of California signed Assembly Bill 2341, eliminating the need for a tax clearance certificate. This legislation streamlined the process for dissolving, or canceling the existence of business entities. Before this law was enacted, certain business entities, i.e., foreign corporations had to meet requirements of the Franchise Tax Board, before the Secretary of State (SOS) would grant the business's request to terminate. Passage of AB 2341 remedies this situation. For more information, refer to *Eliminating the Need for a Tax Clearance Certificate* later in this section. For additional information regarding registration of limited liability companies, contact:

Secretary of State
Document Filing Support Unit
P.O. Box 944225
Sacramento, CA 94244-2250
Tel: (916) 657-5448
Website: <http://www.sos.ca.gov/business/be/faqs/htm>

Forms and References

Articles of Organization (LLC-1)

Website: <http://www.ss.ca.gov/business/llc/forms/llc-1.pdf>

Limited Liability Company Certificate of Amendment (LLC-2)

Website: <http://www.ss.ca.gov/business/llc/forms/llc-2.pdf>

Limited Liability Company Application for Registration (for foreign companies) (LLC-5)

Website: <http://www.ss.ca.gov/business/llc/forms/llc-5.pdf>

Limited Liability Company Application for Registration Certificate of Amendment (for foreign companies) (LLC-6)

Website: <http://www.ss.ca.gov/business/llc/forms/llc-6.pdf>

Limited Liability Company Certificate of Cancellation (LLC-4/7)

Website: http://www.ss.ca.gov/business/llc/forms/llc-3_4-7_4-8.pdf

Request for Tax Clearance Certificate (FTB 3555L)

Website: <http://www.ftb.ca.gov/forms/index.html>. Under the subheading “Get Forms and Publications”, select the current tax filing year and select “Forms” on the pull-down list, then find the link for FTB 3555L.

CORPORATION

General Format

A corporation is a separate legal entity owned by shareholders who enjoy protection from personal liability. Corporations are taxed annually on their earnings; corporate shareholders pay individual income tax on these earnings when they are distributed as dividends.

A corporation is managed by or under the direction of a board of directors, which generally determines corporate policy. Officers manage the day-to-day affairs of the corporation. Shareholders do not participate in day-to-day management activities. Management structure can be altered by committees of board members and shareholder agreements. Shareholders generally are not personally liable for obligations of the corporation.

Registration Procedure for Domestic Corporations

Domestic stock companies must complete the *Articles of Incorporation* and pay a fee to the Secretary of State. There are three versions of the Articles of Incorporation: general stock corporation, professional corporation and close corporation.

Registration Procedure for Non-Profit Corporations

Non-profit companies must file *Articles of Incorporation* and submit a fee to the Secretary of State. There are two versions of the Articles: one for *Public Benefit, Mutual Benefit or Religious Corporations* and one for *Common Interest Development Corporations*.

Registration Procedure for Foreign Corporations

A foreign corporation must complete a *Statement and Designation by Foreign Corporation* (Secretary of State Form S&DC-General) and submit it to the Secretary of State along with the filing fee. This form identifies the company name and place of incorporation, principal executive office, address of the principal California office, and an agent for service of process.

Along with the completed *Statement and Designation by Foreign Corporation* form, a foreign corporation must include an official certificate that verifies the corporation exists in good standing with the country or state of its incorporation. This certificate must be obtained from the appropriate office in which the corporation's original articles were filed and presented with an English translation where applicable. The certificate must have been issued within the six months prior to submittal to the Secretary of State.

Upon receiving the *Statement and Designation by Foreign Corporation* (accompanied by the certificate), the Secretary of State's office will review the statement for compliance with the law, and then issue a file-stamped copy of the S&DC General form plus a *Certificate of Qualification* to the corporation.

Foreign corporations qualified to transact business in California must file a *Statement by Foreign Corporation* with the Secretary of State's Office on the first anniversary and every year thereafter. Forms are mailed to the corporation from the Secretary of State's Office to the last address of record.

Change or Dissolution

To amend (change, add or delete) provisions contained in the Articles of Incorporation, it is necessary to prepare and file with the Secretary of State a *Certificate of Amendment of Articles of Incorporation* along with a filing fee.

To change the name of a qualified foreign corporation, the company must complete and submit an *Amended Statement by Foreign Corporation* (no form number) to the Secretary of State along with the filing fee.

Upon dissolution of the corporation, the company must complete and submit a *Certificate of Surrender of Right to Transact Intrastate Business* (no form number) to the Secretary of State to withdraw the corporation from California records with no filing fee required.

For additional information regarding qualification and statement filing for corporations, contact:

Secretary of State
Document Filing Support Unit
P.O. Box 944225
Sacramento, CA 94244-2250
Tel: (916) 657-5448
Website: <http://www.ss.ca.gov/business/corp/corporate.htm>

Forms and References

Articles of Incorporation – General Stock

Website: http://www.ss.ca.gov/business/corp/pdf/articles/corp_artsgen.pdf

Articles of Incorporation – Professional Corporation

Website: http://www.ss.ca.gov/business/corp/pdf/articles/corp_artsprof.pdf

Articles of Incorporation – Close Corporation

Website: http://www.ss.ca.gov/business/corp/pdf/articles/corp_artsclose.pdf

Articles of Incorporation – Non-profit Public Benefit

Website: http://www.ss.ca.gov/business/corp/pdf/articles/corp_artsnp.pdf

Articles of Incorporation – Non-profit Common Interest Development

Website: http://www.ss.ca.gov/business/corp/pdf/articles/corp_artsnid.pdf

Statement and Designation by Foreign Corporation (S&DC-General)

Website: http://www.ss.ca.gov/business/corp/pdf/foreign/corp_s&dcgen.pdf

Amended Statement by Foreign Corporation

Website: http://www.ss.ca.gov/business/corp/pdf/foreign/corp_asdc.pdf

Foreign Corporation Surrender of Right to Transact Intrastate Business

Website: http://www.ss.ca.gov/business/corp/pdf/foreign/corp_surr.pdf

A complete list of forms for registering all types of business entities is available at:

http://www.ss.ca.gov/business/bpd_forms.htm#be.

ELIMINATING THE NEED FOR A TAX CLEARANCE CERTIFICATE

On September 29, 2006, the Governor of California signed Assembly Bill 2341, eliminating the need for a tax clearance certificate. This legislation streamlined the process for dissolving, or canceling the existence of business entities. Before this law was enacted, certain business entities, i.e., foreign corporations had to meet requirements of the Franchise Tax Board, before the Secretary of State (SOS) would grant the business's request to terminate. Passage of AB 2341 remedies this situation.

Entities affected by this law include Corporations, Limited Liability Companies, Limited Liability Partnerships, Limited Partnerships, Not-for-Profit Corporations and exempt entities.

The effective date for the new law is September 29, 2006, and it is operative for taxable years beginning on or after January 1, 2006.

For information on specific provisions of this law and how a business entity terminates its existence in California under the new law, refer to the California Franchise Tax Board's website at: http://www.ftb.ca.gov/professionals/taxnews/1106/1106_4.html.

2.2 Registering a Fictitious Business Name

A *fictitious business name statement* (D.b.a. or “doing business as”) must be registered with the county clerk of the county of the registrant's principal place of business if the business is any of the following:

- Sole proprietorship doing business under a name not containing the owner's surname, such as Smith Accounting Services;
- Partnership; or,
- Corporation doing business under a name other than its legal name

Fictitious business names are not filed with the Secretary of State's Office. There is no provision in California for registration, in a central registry at the state level, of fictitious business names. You must contact the city and/or county clerk and/or recorder where the principal place of business is located for information regarding filing or registering fictitious business names.

NOTE: Even though a proposed corporate name has been checked and/or reserved, stationery, signs, corporate seals, etc., should not be ordered until you receive notification of filing from the Secretary of State's Office, because the corporation is not created or qualified until appropriate documents have been filed with the Secretary of State's office.

The statement must be filed within 40 days of the commencement of business or before the statement on file expires. Along with the original, the county may require several copies of the statement for filing. The county clerk will certify and return all copies to the registrant, keeping the original. Within 30 days after filing a fictitious business name statement, the registrant must publish the statement in a newspaper of general circulation in the county of its principal place of business. The notice must appear once a week for four successive weeks. Within 30 days of the last publishing date, the registrant must file an affidavit of publication with the county clerk's office.

The fee to file a fictitious business name statement varies depending on the county or city where it is filed. Inquiries should be directed to the county clerk's office in which the business will be located.

2.3 Filing for Local Licenses and Permits

Most cities and counties require a license to do business in the respective areas. Various permits may be required for parking and building occupancy. Fire safety regulations will be taken care of by the building owners in most cases.

Businesses within the incorporated area of a particular city should contact the business licensing section of that city government for specific rules and regulations. Businesses operating in more than one city or county may be required to have more than one business license. The business license fee varies with location; it may be a flat rate, percentage of gross sales, or a combination of factors.

In addition, companies may be subject to local personal property taxes and be required to register with the county assessor's office. Other local taxes, such as hotel occupancy, may require deposits and special permits. Information on specific requirements should be requested from local city or county clerk's offices.

County government levies and administers property taxes. The State Board of Equalization performs an oversight role relative to county assessors' activities. Property tax is levied on 100 percent of assessed valuation. The tax rate is 1 percent plus a component representing bonded indebtedness for the district in which the property is located on the lien date. The average property tax rate in California is 1.1 percent, but varies on a parcel basis.

Real property is appraised upon change of ownership or new construction, and then adjusted annually at the lower of 2 percent of the rate of inflation as measured by the Consumer Price Index. Assessed values on real property may be reduced if the value is higher than the current market value.

Business personal property, including machinery, equipment, and fixtures is taxed at the same rate as real property, but is not subject to any special assessments. Unlike real property, business personal property is reappraised annually. Business owners must file a property statement with the county assessor each year detailing market value.

Finish goods and raw materials are not subject to property tax. Only finished goods held for us are assessed.

Additional information on business licenses and permits is available through the California Business Portal at: <http://www.calbusiness.ca.gov/cedpeybplr.asp>.

If you would like additional information on Property Taxes please visit: <http://www.boe.ca.gov/proptaxes/proptax.htm>

2.4 Registering a Company's Trademark and Service Mark

A company may register its trademark or service mark with the Secretary of State by filing the completed form, *Registration of Trademark and Service Mark* (Secretary of State form LP/TM 100) along with a fee of \$70. The regulations governing the registration of these are rather complex; a company should obtain specific instructions directly from the Secretary of State.

For additional information about registering a trademark or service mark, contact:

Secretary of State
Trademarks/Service Marks
P.O. Box 942877
Sacramento, CA 94277-0001
Tel: (916) 653-3984
Website: <http://www.sos.ca.gov/business/ts>

Forms and References

Registration of Trademark and Service Mark (LP/TM 100)
Website: <http://www.ss.ca.gov/business/ts/forms/tm-100.pdf>

2.5 Registering For Business Taxes

Because of the complexity of tax laws and their strict enforcement, it is strongly recommended that companies acquire specific assistance from a certified public accountant or tax attorney regarding tax questions and tax return preparation. You can find more information about this at <http://www.boe.ca.gov/infor/reg.htm> or accountants or tax attorneys may be found in the local telephone Yellow Pages under “accountants” or “attorneys, taxation law.”

STATE OF CALIFORNIA BUSINESS TAX INFORMATION

A business operating in California may be liable for taxes based on the company’s annual income. Such taxes are paid to the Franchise Tax Board (FTB).

A business that registers with the Secretary of State has completed the necessary procedure to register for purposes of annual taxes payable to the FTB. The Secretary of State communicates the registration of the business with the Franchise Tax Board, which in turn sends the company the appropriate forms to file annual taxes.

Sole proprietorships and general partnerships are not subject to a tax, but the owner of a sole proprietorship and the partners of a general partnership pay annual state taxes on their business income at the rate applicable to the owner or partner.

Limited partnerships and limited liability partnerships must pay an annual \$800 tax if they conduct business in California, are organized in California, or have registered with the Secretary of State. Tax on income derived from a limited partnership or limited liability partnership is paid by the partner at the rate applicable to the partner.

Limited liability companies classified as partnerships are subject to an annual tax, plus a fee based on total income. LLCs classified as corporations follow corporation rules to pay their annual state tax.

Corporations doing business in California are required to prepay their annual franchise tax. Payments for the first taxable year are made to the Secretary of State which in turn transmits the amount to the FTB; subsequent annual payments of franchise tax are made to the FTB. The amount of tax payable to the FTB is measured by the income of the preceding income year derived from business done in California, with a minimum payment.

A recent law provides that every corporation incorporating or qualifying to do business in California on or after January 1, 2000, will not be subject to the *minimum* franchise tax for its first and second taxable years. This exemption from the minimum franchise tax is not applicable to any corporation that reorganizes solely for the purpose of avoiding payment of its minimum franchise tax. Additionally, this new law applies only to corporations, and not any other form of business.

The California Franchise Tax Board offers information on required taxes for each type of business structure at: http://www.taxes.ca.gov/Income_Tax/incbus.shtml

The California Business Portal also offers tax information and links to key State and federal agencies at <http://www.calbusiness.ca.gov/cedpeybtii.asp>.

Partnership tax details are explained in:

Form 565 Booklet – Partnership Tax Booklet
Franchise Tax Board
P.O. Box 942857
Sacramento, CA 94257-0500
Toll-free in the United States: (800) 852-5711
Tel: (916) 845-6500
Website: http://www.ftb.ca.gov/forms/07_forms/07_565bk.pdf

Limited liability company tax details are explained in:

Form 568 – California Limited Liability Company Tax Booklet
Website: http://www.ftb.ca.gov/forms/2008/08_568.pdf

Corporation tax details are explained in:

Guide for Corporations Starting Business in California (FTB publication 1060)
Franchise Tax Board
Website: <http://www.ftb.ca.gov/forms/misc/1060.pdf>

The Questions Taxpayers Ask Most Often
Franchise Tax Board
Website: <http://www.ftb.ca.gov/forms/misc/1083.pdf>

U.S. FEDERAL GOVERNMENT BUSINESS TAX INFORMATION

A business operating in the United States is also liable for federal corporate tax. The company must register for an Employer Identification Number (EIN). The EIN is used for filing federal income and payroll taxes, as well as withholding income taxes for employees.

The only business that does not need an EIN is a sole proprietor who has no employees and who files no excise or pension tax returns. In this instance, the sole proprietor uses his or her social security number instead of an EIN as the taxpayer identification number. A sole proprietor who has employees and who files excise or pension tax returns may have only one EIN regardless of how many different businesses are owned.

To obtain an EIN, the business must complete an *Application for Employer Identification Number* (Form SS-4), and for a business located in California, file it with:

Internal Revenue Service
Entity Control
Fresno, CA 93888

You can apply online at:

<http://www.irc.gov/businesses/small/article/0,id=102767,00.html>

A business may also apply for an EIN by telephone. Form SS-4 contains instructions on how to file for an EIN by telephone. It may take four weeks to receive an EIN by mail; however, an EIN can be assigned immediately when applied for by telephone.

Additional information about the EIN or other IRS matters can be obtained from:

Internal Revenue Service
Toll-free telephone within the United States: (800) 829-4933
Telephone at Washington, D.C. headquarters: (202) 874-1460

Several publications on specific IRS tax topics for businesses and corporations can be found on the Internet at: <http://www.irs.gov/businesses/index.html>
<http://www.irs.gov/businesses/corporations/index.html>

For assistance internationally, contact an **IRS Overseas Assistance Center** at one of the following locations:

City	Address	Phone/FAX
Frankfurt	IRS U. S. Consulate Frankfurt Geissener Str. 30 60435 Frankfurt am Main	Tel: [49] (69) 7535-3834 FAX: [49] (69) 7535-3803 M-F 8 a.m. - 4 p.m. (Closed U.S. and German Holidays)
London	Internal Revenue Service United States Embassy 24/31 Grosvenor Square London W1A 1AE United Kingdom	Walk-In assistance Tuesday through Thursday 9:00 a.m. to 4:00 p.m. Phone Service 9 a.m. to Noon. Monday through Friday Tel: [44] (207) 894-0476 FAX: [44] (207) 495-4224
Paris	United States Embassy/IRS 2 Avenue Gabriel 75382 Paris Cedex 08, France	Walk-In assistance 9:00 a.m.- noon Phone service: M-F 1:30 p.m. - 3:30 p.m. Tel. [33] (01) 4312-2555 Fax: [33] (01) 4312-2303

Taxpayers located outside the U.S. may also contact the IRS by mail at:

Internal Revenue Service
P.O. Box 920
Bensalem, PA 19020

Or you may telephone or FAX the Philadelphia Service Center office at:

Tel: 215-516-2000 (not toll-free)
Fax: 215-516-2555

Residents of Puerto Rico and the U.S. Virgin Islands may contact the IRS toll free at 1-800-829-1040.

International Taxpayer Advocate, Worldwide (Puerto Rico office):

Tel: *Spanish* – (787) 622-8930 or *English* – (787) 622-8940
FAX: (787) 622-8933

Forms and References

Application for Employer Identification Number (Form SS-4)

Website: <http://www.irs.gov/pub/irs-pdf/fss4.pdf>

Understanding your EIN

Website: <http://www.irs.gov/pub/irs-utl/p1635.pdf>

Residents of Puerto Rico and the U.S. Virgin Islands may contact the IRS toll free at 1-800-829-1040.

Part 3: Operating a Business

3.1 Getting Loans and Financial Assistance

COMMERCIAL FINANCIAL INSTITUTIONS

The best chances for obtaining commercial loans are through in-country financial institutions or their overseas branch offices or affiliates with which a business already has an account and/or relationship. CalBIS does not provide guidance on obtaining commercial loans; however, CalBIS can assist companies in identifying California offices of foreign financial institutions.

VENTURE CAPITAL

The benefits, risks, sources and guides to obtaining venture capital are widely documented. For starters, a great amount of information can be found at a local bookstore about the possibilities, application processes, and publications that list sources of venture capital. CalBIS does not provide guidance on obtaining venture capital.

GOVERNMENT SOURCES

Several state-sponsored financial assistance programs are available to firms locating, expanding or modernizing facilities in California. The types of assistance available can be grouped into three broad categories:

- Business financing;
- Environmental loans; and,
- Public infrastructure financing.

Business financing is provided directly to companies in order to undertake various projects. Each program has its own specific requirements for qualification and terms for approval. Financing is available in the form of industrial development bonds, small business loan guarantees and export finance loan guarantees, among others.

Environmental loans reflect California's commitment to the preservation of the environment. The state has implemented various loan programs to help companies clean up the environment and implement environmentally friendly programs. The loan proceeds are used for such things as replacing or upgrading underground petroleum tanks, reducing hazardous waste and recycling.

Public infrastructure financing provides financial assistance to cities and counties for public infrastructure projects. Although not directly available to individual businesses, cities and counties can obtain public infrastructure financing that benefits qualified businesses locating in their areas.

The California Business Portal provides links to a number of public and private resources at: <http://www.calbusiness.ca.gov/cedpgybfaind.asp>.

CALIFORNIA SMALL BUSINESS LOAN GUARANTEE

The Small Business Loan Guarantee Program allows a business to not only acquire a loan it could not otherwise obtain, but to establish a favorable credit history with a lender so that the business may obtain future financing on its own.

Eligible Applicants: Any small business as defined by the U.S Small Business Administration (typically businesses that employ one hundred people or less).

Eligible Uses: Proceeds must be used primarily in California and for any standard business purpose beneficial to the applicant's business, such as expansion into new facilities or purchase of new equipment.

Guarantee Amount: Guarantees can cover up to 90 percent of the loan amount, with the guaranteed portion of the loan not exceeding \$500,000. The guaranteed percentage varies and subject to negotiation between the Financial Development Corporation (FDC) and the lender.

Loan Information: The term of the loan guarantee may extend up to seven years.

- Interest rates are negotiated between the borrower and the lender. The FDC may charge a guarantee fee of up to 2 percent for guarantee amounts up to \$150,000, and 3 percent for guarantee amounts over \$150,000, plus a documentation fee.
- Processing time takes three to five weeks, depending on how quickly the applicant provides the necessary information and documentation, and on the lender's responsiveness.
- Collateral is generally required, but each transaction is tailored to meet the borrower's financial situation.

If you would like further assistance in regards to the California Small Business Loan Guarantee, visit the website at <http://www.calbusiness.ca.gov/cedpgybfasblgp.asp>

3.2 Opening a Bank Account

To open a bank account in California, a company or individual might want to consider opening an account at a bank in the home country that has affiliated branches in California. Although new California accounts will most likely require the same documentation whether affiliated with a foreign bank or not, having an account at the same bank in the home country may facilitate the process of opening an account in California.

To open a *company* bank account, the company must first register to conduct business in California and obtain file-stamped copies of the registration papers (see Part 2 of this

document, *Defining and Registering Business Entities*). Once registered, an authorized company representative would go to see a new accounts officer at the bank where the company wishes to open an account. Documents required to open an account for a firm include all three categories of the following:

- Fictitious business name statement, where applicable (See Part 2 of this document, *Registering a Fictitious Business Name*);
- Employer Identification Number (EIN) (See section 6 of this booklet, *Registering for Business Taxes, U.S. Federal Government*); and,
- File-stamped copies plus copy certification from the Secretary of State validating that the company is registered to conduct business in California.

Note: Certificates of Registration or Qualification may also be included.

To open an *individual* account in California, the new accounts officer will ask for a taxpayer identification number. This will be either a Social Security Number (SSN) or an Individual Taxpayer Identification Number (ITIN). These can be obtained free of charge from the Social Security Administration.

Lawfully admitted aliens with Immigration and Naturalization Service (INS) permission to work in the United States will need a Social Security Number (SSN). The Social Security Administration (SSA) has a new process for non-citizens to apply for Social Security number (SSN) cards as part of the immigration process. Now, people age 18 and older applying for immigrant visas with the U.S. Department of State can also apply for SSN cards at the same time.

If the individual requested a Social Security number card as part of the visa application and is age 18 or older when arrived in the United States, the information needed to issue a card will be shared with the U.S. Department of State and the U.S. Department of Homeland Security. The individual does not need to fill out a special application or go to a Social Security office. The Social Security Administration will assign the individual a number and mail the Social Security card to the U.S. mailing address where the Department of Homeland Security will send the individual's Permanent Resident card. The card should be received within 3 weeks. If the individual does not receive it, and/or the mailing address has changed, call the Social Security Administration. The Administration will provide the Department of Homeland Security and the Department of State with the number assigned to that individual.

If the individual did not request a Social Security number card as part of the visa application or is under age 18 when arriving in the United States, the individual must apply for a card at a Social Security office and should call to find out where to apply once a permanent address is established. When visiting a Social Security office to apply for a Social Security card, the individual will need his or her passport or travel document, Permanent Resident Card (Form I-551), if received, and a birth certificate for each family member applying for a number. A Social Security representative will help the individual complete the application.

Complete instructions are available on the Social Security Administration's website at: <http://www.socialsecurity.gov/ssnvisa/>.

Those who do not meet the requirements to obtain a SSN may apply for an Individual Taxpayer Identification Number (ITIN) by completing the *Application for IRS Individual Taxpayer Identification Number* (Form W-7) and submitting it to the nearest SSA office.

For additional information or to obtain or submit forms, consult the SSA:

Social Security Administration
Toll-free telephone within the United States: (800) 772-1213

Social Security Administration offices
Website listing: <https://s044a90.ssa.gov/apps6z/FOLO/fo001.jsp>

Individuals living outside of the United States should check the list of offices for the one to contact at <http://www.socialsecurity.gov/foreign/index.html>.

Forms and References

Application for a Social Security Card (Form SS-5)

Website: <http://www.ssa.gov/online/ss-5.pdf>

Application for IRS Individual Taxpayer Identification Number (Form W-7)

Website: <http://www.irs.gov/pub/irs-pdf/fw7.pdf>

3.3 Selling Merchandise

Under the Sales and Use Tax Law, the sale or use of tangible personal property in California is subject to a statewide tax of 8.25 percent. This rate includes both a state tax and a state-administered local sales and use taxes for cities and counties. Several counties and cities also have special district taxes that are applied in increments of .125 to .50 percent. Since a county or city may have more than one special tax district, sales and use tax rates in California range from about 8.25 percent to 8.85 percent depending on the place of sale or use.

Sales and use taxes are overseen by the California Board of Equalization (BOE). For a complete, current list of tax rates by county and city, businesses should obtain a copy of BOE Pamphlet No. 71, *California City and County Sales Use Tax Rates*. Copies are available from any BOE office listed at the end of this section, or at the website:

<http://www.boe.ca.gov/sutax/pam71.htm>.

NOTE: There is no *federal* sales tax, use tax or value-added tax.

Sales and use tax pertaining to interstate and foreign commerce is discussed in the publication, *Board of Equalization Sales and Use Tax Regulation No. 1620, Interstate*

and Foreign Commerce, which can be obtained from the BOE or at the website:
<http://www.boe.ca.gov/pdf/reg1620.pdf>.

Detailed information about sales tax can be obtained from:

California Board of Equalization
Customer and Taxpayer Service
P.O. Box 942879
Sacramento, CA 94279-0001
Toll-free telephone within the United States: (800) 400-7115
Tel: (916) 445-6464
Fax: (916) 322-2015
Website: <http://www.boe.ca.gov/sutax/saletax.htm>

The Franchise Tax Board (<http://www.ftb.ca.gov>) administers an 8.84 percent tax (known as the “Bank and Corporation Franchise Tax”) on net corporate income.

California S Corporations are subject to tax rate of 1.5 percent on net income.

California uses the unitary method to determine the portion of income reasonable attributable to this state and thus subject to the Bank and Corporation Franchise Tax. Corporations deriving income from sources both within and outside the state are required to report the income of all related business units in a combined report. The combined income derived from all business activity is apportioned to each state or nation using an apportionment formula.

The percentage of property, payroll, and sales attributed to California, versus worldwide operations, is calculated. They are then added together, with double weight given to sales, and divided by four.

This calculation determines the percentage of the unitary or combined income subject to California’s bank and corporation franchise tax.

Apportionment Formula = percentage of unitary income subject to California’s corporate tax.

(California Payroll (percent) + CA property (percent) + CA Sales (percent) + CA Sales (percent)).

Multinational corporations may make a “Water’s Edge” election whereby they exclude most income derived from foreign operations from the combined report. Foreign business units or corporations that have an apportionment percent in excess of 20 percent must be included in the combined report. The election lasts for seven years, but it is continuously renewed unless a notice of non-renewal is filed by the business.

- Effective January 1, 2011 California Businesses will have the option to select a Single Sales Factor. This allows companies to choose to weigh only sales made in the state – not property or payroll – to determine corporate taxes owed.

If you would like more additional information on the Franchise Tax Board’s “Water’s Edge” visit <http://www.ftb.ca.gov/aboutFTB/manuals/audit/water>

SELLER’S PERMIT

Businesses in California that sell tangible personal property in the state are liable for the collection of sales tax and must apply to the Board of Equalization for a seller’s permit for each location in the state. If a business changes ownership or business locations, it must obtain a new permit.

To file for a seller’s permit – whether selling as retail or wholesale – the registrant must complete an *Application for a Seller’s Permit and Registration as a Retailer* (Form BOE-400-SPA). The registrant can file either by mail or in person. When applicable, the BOE will forward a copy of the application to the California Employment Development Department (EDD) to assist in the registration of the employer for unemployment tax purposes.

Businesses using tangible personal property in California purchased for use in the state, without the payment of sales tax, are liable for use tax. A company would most commonly be subject to use tax on property that is purchased outside California and used in the state, or inventory that is purchased without tax and then converted to business or personal use. Generally, a business can report use tax by reporting the purchase price of the property on line 2 of its sales tax return. If a business does not need a sales tax permit, it must register for a use tax permit if it incurs a use tax liability on a regular basis. To determine if a business needs a use tax permit, a company representative should contact one of the Board of Equalization offices listed at the end of this section.

There is no fee for obtaining a sales or use tax permit. However, the BOE may require a security deposit for some corporations. Notification will be given through a *Notice of Security Requirements*.

Details about seller’s permits may be obtained from the following:

*Your California Seller’s Permit: Your Rights and Responsibilities
Under the Sales and Use Tax Law*
California Board of Equalization
Customer and Taxpayer Service
P.O. Box 942879
Sacramento, CA 94279-0001
Toll-free telephone within the United States: (800) 400-7115
Tel: (916) 445-6464
Fax: (916) 322-2015
Website: <http://www.boe.ca.gov/sutax/sutprograms.htm>

Forms and References

*Application for a Seller's Permit as a Retailer –
Individuals/Partnerships/Corporations/Organizations (BOE 400-SPA)*
Website: <http://www.boe.ca.gov/pdf/boe400spa.pdf>

3.4 Manufacturing Products

PERMITS

A company seeking to establish a manufacturing facility in California will need to obtain the appropriate government permits for the type and location of the business.

A very handy website that provides businesses with general information on permits and other requirements of California agencies at all levels of government is the CalGold website: <http://www.calgold.ca.gov>.

PROTECTING CALIFORNIA'S ENVIRONMENT

Land Use and Planning Obligations for Both Sellers and Manufacturers

Land use and planning in California is regulated by a set of environmental review requirements. Any project that will potentially affect the environment engages certain requirements stated in the California Environmental Quality Act (CEQA).

The permit process is independent yet integral to the CEQA process. The issuance of any permit must consider potential environmental consequences of activities to be conducted under the requested permit. CEQA, in turn, addresses those concerns in one document in which all permit agencies, the land use decision agency, the project proponent, and the general public participate. The document, typically an *Environmental Impact Report* (EIR), is the initial step upon which subsequent permit decisions are based.

Although streamlined in recent years, the California permitting process can be complex. Issuance of the permits indicates that the company agrees to build and operate its facility in compliance with the federal, state and local building and environmental laws. Many small, non-manufacturing facilities may not require a significant permit process or an EIR.

Part 4: Administering Employees

There are specific federal, state and local requirements regarding equal opportunity employment, employee safety and health protection, taxes and insurance. These and other issues about administering employees are discussed below.

4.1 Complying With Equal Employment Opportunity Laws

EMPLOYEE RIGHTS

Federal and state laws and regulations protect employee rights. Applicants to and employees of most private employers, state and local governments, educational institutions, employment agencies and labor organizations are protected under the following federal laws:

Race, Color, Religion, Sex, National Origin

Title VII of the Civil Rights Act of 1964, as amended, prohibits discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex or national origin.

Disability

The Americans with Disabilities Act of 1990, as amended, protects qualified applicants and employees with disabilities from discrimination in hiring, promotion, discharge, pay, job training, fringe benefits, classification, referral, and other aspects of employment on the basis of disability. The law also requires that covered entities provide qualified applicants and employees with disabilities with reasonable accommodations that do not impose undue hardship.

Age

The Age Discrimination in Employment Act of 1967, as amended, protects applicants and employees 40 years of age or older from discrimination on the basis of age in hiring, promotion, discharge, compensation, terms, conditions or privileges of employment.

Sex (Wages)

In addition to sex discrimination prohibited by Title VII of the Civil Rights Act (see above), the Equal Pay Act of 1963, as amended, prohibits sex discrimination in payment of wages to women and men performing substantially equal work in the same establishment.

Retaliation against a person who files a charge of discrimination, participates in an investigation, or opposes an unlawful employment practice is prohibited by all of these federal laws.

Other federal laws and regulations may apply to employers holding federal contracts or subcontracts, or programs. Inquiries and requests for additional information about federal discrimination laws should be addressed to:

U.S. Equal Employment Opportunity Commission (EEOC)
131 M. Street, NE
Washington, D.C. 20507
Tel: (202) 663-4900
Website: <http://www.eeoc.gov/>

EEOC – San Francisco District Office
350 The Embarcadero, Suite 500
San Francisco, CA 94105-1260
Tel: 1-800-669-4000
Fax: (415) 356-5126

EEOC – Los Angeles District Office
Roybal Federal Building
255 East Temple St., 4th Floor
Los Angeles, CA 90012
Tel: 1-800-669-4000
Fax: (213) 894-1118

Or, locate the nearest field office: <http://www.eeoc.gov/offices.html>

State Harassment and Discrimination

The California Fair Employment and Housing Act of 1959 protects employees against harassment or discrimination in employment because of sex, race, color, religious creed, national origin, sexual orientation, disability (mental and physical, including HIV and AIDS), medical condition, age, marital status, as well as family, medical care or pregnancy disability leave needs. Sexual harassment is defined as unsolicited and unwelcome sexual advances, requests for sexual favors, or other verbal, physical, or visual conduct of a sexual nature that occurs and creates an intimidating, hostile or otherwise offensive working environment.

The law provides for administrative fines and for remedies for individuals, which may include hiring, back pay, promotion, reinstatement, cease-and-desist order, punitive damages, and damages for emotional distress.

Additional information about California harassment laws and related issues can be obtained through:

Department of Fair Employment and Housing
1-800-884-1684 (Within California)
1-916-478-7200 (Outside California)
Website: <http://www.dfeh.ca.gov>

Additional information and guidelines on employee rights and other labor management issues can be found by consulting the following source:

California Labor Law Digest Kit
California Chamber of Commerce
1215 K Street, Suite 1400
Sacramento, CA 95814
Toll-free telephone in the United States: (800) 331-8877
Tel: (916) 444-6670
Fax: (916) 444-6685
Labor Law Helpline: (916) 444-6670
Website: <http://www.calbizcentral.com>

AT-WILL EMPLOYMENT AND WRONGFUL TERMINATION

California's Labor Code specifies that an employment relationship with no specified duration is presumed to be employment "at-will." This means, at least in theory, that the employer or employee may terminate the employment relationship at any time, with or without cause. There are exceptions to the at-will rule created by statute, the courts or public policy.

Statutory exceptions include terminating an employee for reasons based on the discrimination laws discussed above; for participating in union activity; for refusing to carry out an activity that violates the law.

An employer can potentially reduce exposure to wrongful discharge liability by emphasizing using an at-will language in all written and verbal communications with employees. This extends from job announcements and interviews to employee handbooks, training seminars and employee reviews. It is also advised to avoid references in all situations that indicate job security or permanence.

Additional information and guidelines on at-will employment and other labor management issues can be found by consulting the following sources:

California Labor Law Digest
California Chamber of Commerce
(See contact information above)
Website: <http://www.calbizcentral.com>

Division of Labor Standards Enforcement District Offices:

Bakersfield (661) 395-2710	Redding (530) 225-2655	San Jose (408) 277-1266
El Centro (760) 353-0607	Sacramento (916) 263-1811	Santa Ana (714) 558-4910
Eureka (707) 445-6613	Salinas (831) 443-3041	Santa Barbara (805) 568-1222
Fresno (559) 244-5340	San Bernardino (909) 383-4334	Santa Rosa (707) 576-2362
Long Beach (562) 590-5048	San Diego (619) 220-5451	Stockton (209) 948-7771
Los Angeles (213) 620-6330	San Francisco (415) 703-5300	Van Nuys (818) 901-5315
Oakland (530) 225-2655	San Francisco HdQtrs. (415) 703-4810	Van Nuys-Entmt Wk Pmt (818) 901-5484

EMPLOYEE SAFETY AND HEALTH PROTECTION

California law provides job safety and health protection for workers under the Cal/OSHA program, sponsored by the California Department of Industrial Relations (DIR) and the Division of Occupational Safety and Health (DOSH). All employers and employees must comply with the rules and regulations enforced by DOSH/DIR to ensure work and workplaces are safe and healthful. Special rules apply in work that involves hazardous substances.

Information about the Cal/OSHA program can be found at website:

http://www.dir.ca.gov/occupational_safety.html

Consultative assistance is provided to employers through on-site visits, telephone support, publications, eTools and educational outreach. They provide assistance for the General Industry, Construction Industry, Agriculture Industry and Partnership Programs. If you would like to learn more about these services visit:

<http://www.dir.ca.gov/DOSH/consultation.html>

Companies should contact one of the DOSH district offices for details of the Cal/OSHA rules and regulations that apply to the specific business:

Division of Occupational Safety and Health
Cal/OSHA
(800) 963-9424
e-mail: info@dir.ca.gov

Headquarters
1515 Clay Street, Suite 1901
Oakland, CA 94612
Tel: (510) 286-7037
Fax: (510) 286-7038

Cal/OSHA Enforcement District Offices:

Concord (925) 602-6517	Foster City (650) 573-3812	Fremont 510-794-2521
Fresno (559) 445-5302	Los Angeles (213) 576-7451	Modesto (209) 576-6260
Monrovia (626) 256-7913	Oakland (510) 622-2916	Redding (field office) (530) 224-4743
Sacramento (916) 263-2800	San Bernardino (909) 383-4321	San Diego (619) 767-2280
San Francisco (415) 972-8670	Santa Ana (714) 558-4451	Santa Rosa (707) 576-2388
Torrance (310) 516-3734	Van Nuys (818) 901-5403	Ventura (field office) (805) 654-4581
West Covina (626) 472-0046		

Consultation Service

Toll-free telephone within California: (800) 963-9424

e-mail: infocons@dir.ca.gov

Consultation Service Offices

Northern California (916) 263-0704	San Francisco Bay Area (510) 622-2891	Central Valley (559) 454-1295
Los Angeles (562) 944-9366	San Fernando Valley (818) 901-5754	San Bernardino, Orange (909) 383-4567
San Diego (619) 767-2060		

Or, find the consultation office nearest you at website:

http://www.dir.ca.gov/dosh/consultation_offices.html

Other Division of Occupational Safety and Health Offices:

Process Safety Management Unit

Torrance Office
Phone (310) 217-6902
FAX (310) 217-6969

Concord Office
Phone (925) 602-2665
FAX (925) 602-2668

Mining and Tunneling Unit

Sacramento Office
Phone (916) 574-2540
FAX (916) 574-2542

Van Nuys Office
Phone (818) 901-5420
FAX (818) 901-5579

San Bernardino Office
Phone (909) 383-6782
FAX (909) 388-7132

High Hazard Compliance Unit

Santa Ana Office
Phone (714) 567-7100
FAX (714) 567-6074

Oakland Office
Phone (510) 622-3009
FAX (510) 622-3025

Additional information and guidelines on employee safety and health protection and other labor management issues can be found in the following source:

California Labor Law Digest Kit
California Chamber of Commerce
1215 K Street, Suite 1400
Sacramento, CA 95814
Toll-free telephone within the United States: (800) 331-8877
Tel: (916) 444-6670; Fax: (916) 444-6685
Labor Law Helpline: (916) 444-6670
Website: <http://www.calchamber.com/AboutUs/Pages/Default.aspx>

4.2 Providing Employee Benefits

With the exception of wages and salaries, employee benefits are the primary tools by which employers attract and retain qualified personnel for their organizations. Most employers voluntarily provide a variety of benefit packages.

Reasons for providing such benefits range from a desire to be competitive in the relevant labor market to a genuine concern for their employees' welfare.

Vacation, holidays, sick leave, medical, dental and vision coverage, and retirement benefits are not required by law. If such benefits are offered, the employer may choose to pay all, part or none of the costs. Once the benefits are offered, however, law regulates how the employer must apply them. The following highlights some of the key issues of each benefit.

VACATION

The employer has the right to set the amount of vacation employees will earn each year, or if they will earn any at all. Employers also have the right to determine when vacations may be taken, and for how long. It is critical that vacation policies be clear about how much vacation is offered, the rate of accrual, and whether accrual begins immediately or after some period of time.

If an employer chooses to offer paid vacations to employees, the California Labor Commissioner has set forth certain rules by which the employer must abide concerning

vacation benefits. Information about these rules is available on the website:
http://www.dir.ca.gov/dlse/FAQ_Vacation.htm.

For more information, visit the California Labor Commissioner's website:
<http://www.dir.ca.gov/dlse/>.

Written inquiries should be addressed to:

California Labor Commissioner
455 Golden Gate Avenue, Suite 3149
San Francisco, CA 94102

HOLIDAY

Employers are not required to offer employees time off for holidays, nor are employers required to pay for time for holidays granted. Accommodation of religious holidays may be required in certain circumstances (see *Complying with Equal Employment Opportunity Laws*). It is wise to set forth at the beginning of each year which, if any, holidays will be granted and whether they will be paid.

The most commonly granted holidays in California are:

New Year's Day – January 1
Memorial Day – May 31, observed on the last Monday in May
Independence Day – July 4
Labor Day – first Monday in September
Veterans Day – November 11
Thanksgiving – fourth Thursday in November
Christmas – December 25

Employers should set forth a holiday policy explaining what will happen if an employee is required to work on a day which the employer has designated as a paid holiday. The common procedure is to grant another day off or pay one and one-half to two times the employee's normal rate on the holiday.

Employers should establish a policy for the situation where a holiday falls on a day that is the employee's usual "day off." If it is company policy to give that holiday as a paid day, and all other employees are being paid for that holiday, then the employee in question also should be paid for the holiday unless the policy clearly states otherwise.

When an employee quits or is terminated, there is no entitlement to pay for any future holiday that has not yet occurred.

PERSONAL DAYS AND/OR FLOATING HOLIDAYS

Some employers elect to grant holidays that employees may take for specific events, such as a birthday or anniversary, or at any time not associated with a specific event. The way an employer's policy defines personal days or floating holidays is critical to the issue of whether unused days must be paid out at the end of the employment relationship. Time off which is tied to a specific event is treated as a holiday and need not be paid out at termination. Time off which is not tied to a specific event must be treated the same as vacation time, which accrues and vests, and therefore must be paid out at termination.

SICK LEAVE

Most California employees participate in the State Disability Insurance Plan (SDI), which they pay through payroll deduction. In addition to the mandated SDI benefits, the employer is not required by law to offer paid sick leave to employees; however, many employers offer paid days off to employees for use when they are ill.

Unlike vacation days, sick leave does not accrue or vest. Therefore, any unused sick leave may be forfeited at the end of a designated period of time, and sick leave does not need to be paid out upon termination of the employment relationship.

Additional information about SDI can be obtained from:

California Employment Development Department
Website: http://www.edd.ca.gov/Disability/Disability_Insurance.htm
Toll-free, statewide, inside California: (800) 480-3287
Toll-free, worldwide, outside California: (800) 250-3913

PAID TIME OFF

Some employers combine vacation, sick leave, personal days and/or floating holidays into one benefit called Paid Time Off (PTO). This allows employees a certain number of days off per year to use for illness, vacation, holidays, and personal needs.

While PTO is an acceptable benefit, employers are warned that the Labor Commissioner will consider the entire sum of PTO to be vacation. Therefore, the entire amount of accrued but unused PTO granted to employees must be paid out at the termination of the employment relationship.

MEDICAL, DENTAL AND VISION

The law does not require employers to provide health insurance coverage for employees. Employers may choose to pay for all, part or none of such insurance.

Employers who do offer health insurance benefits will find that group plans are always less expensive than individual plans. The employer may have a standard plan for all employees or may offer each employee the same amount of dollar benefits and permit the

employee to select desired benefits from a “menu” of options offered by the insuring company. For all plans, all employees must be treated equally; however, an employer may offer different insurance plans to different groups of employees, such as production versus managerial employees, so long as that distinction is not based on any “protected class” considerations. An employer may also establish a weekly work hour threshold concerning eligibility for such benefits. Finally, an employer is required to give employees a minimum of 15 days’ notice before making any change in the level or composition of health insurance benefits.

A listing of licensed health care, dental and vision plans can be obtained from the California Department of Managed Health Care’s Internet website, or by contacting one of its two offices:

California Department of Managed Health Care
980 9th Street, Suite 500
Sacramento, CA 95814-2725
Tel: (888) HMO-2219
Fax: (916) 229-0465
Website: <http://www.hmohelp.ca.gov/>
Online HMO Help Center Contact Form
http://www.hmohelp.ca.gov/aboutthedmhc/gen/gen_hmohelp.aspx

RETIREMENT

The law does not require an employer to offer its employees a retirement program, although many employers offer such benefits. If a retirement plan is offered, it must be fully disclosed and offered to all employees. The terms of the retirement program are enforceable in California courts. Retirement plans can be financed entirely by the employer through profit sharing or periodic contributions; plans also may be financed through employer and employee matching funds or by many other means. Periodic accounting should be made to employees or as reported by the retirement fund’s management.

4.3 Establishing Wages and Hours

Employers in California are subject to labor laws from many sources, both state and federal. When these laws conflict, there often is no easy answer to the issue of which one will prevail. In general, the law that is most restrictive to the employer and most generous to the employee must be followed.

SOURCES OF FEDERAL LABOR LAW

In addition, California employers must comply with federal law, which often conflicts with state law or is more or less restrictive. In general, California’s wage and hour laws are more restrictive than federal laws, though there are some exceptions.

The following are some of the sources of federal labor law:

- Fair Labor Standards Act
- Davis-Bacon Act (prevailing wage)
- Americans with Disabilities Act
- Immigration and Naturalization Act
- Family and Medical Leave Act

FAIR LABOR STANDARDS ACT

The Fair Labor Standards Act (FLSA), enacted in 1938, is by far the most important federal law affecting wages and hours with which employers should be familiar. The FLSA establishes minimum wage, overtime pay, record keeping and child labor standards.

The FLSA requires employers to:

- Pay at least the current minimum wage to all covered and nonexempt employees for all hours worked;
- Pay at least one and one-half times the regular rate of pay of all covered and nonexempt employees for all hours worked over 40 in the work week (in California, also pay at least one and one-half times the regular rate of pay of all covered and nonexempt employees for all hours worked over eight (8) hours per day);
- Comply with FLSA child labor standards; and,
- Comply with FLSA record keeping requirements.

Inquiries and requests for additional information on wages, hours and the FLSA should be addressed to any of the California-based, U.S. Department of Labor district offices:

U.S. Department of Labor
Employment Standards Administration, Wage and Hour Division
Website: <http://www.dol.gov/esa/>

East Los Angeles District Office
Tel: (626) 966-0478; (626) 966-8679; Fax: (626) 966-5539

Los Angeles District Office
Tel: (818) 240-5274; (213) 894-6375; Fax: (213) 894-6845

Sacramento District Office
Tel: (916) 978-6120; Fax: (916) 978-6125

San Diego District Office
Tel: (619) 557-5606; Fax: (619) 557-6375

San Francisco District Office
Tel: (415) 744-5590; Fax: (415) 744-5088

WAGE RATES

The Industrial Welfare Commission regulates wages and hours of non-exempt employees in California through wage orders. Each of the 17 wage orders is specific to the industry or occupation it covers. Within each wage order, an employer can find regulations on such things as:

- Hours and days of work
- Minimum wages
- Reporting time paid
- Licenses for disabled workers
- Record retention
- Cash shortage and breakage
- Meals and lodging
- Meal periods
- Rest periods
- Overtime pay

The 17 wage orders include details for the following industries and occupations:

- 1) Manufacturing
- 2) Personal Services
- 3) Canning, freezing and preserving
- 4) Professional, technical, clerical, mechanical and similar occupations
- 5) Public housekeeping
- 6) Laundry, linen supply, dry cleaning and dyeing
- 7) Mercantile
- 8) Industries handling products after harvest
- 9) Transportation
- 10) Amusement and recreation
- 11) Broadcasting
- 12) Motion picture
- 13) Industries preparing agricultural products for market, on the farm
- 14) Agricultural operations
- 15) Household services
- 16) Certain On-Site Occupations in the Construction, Drilling, Logging and Mining Industries
- 17) Miscellaneous Employees

More information on each wage order may be obtained through the Department's website at: <http://www.dir.ca.gov/IWC/WageOrderIndustries.htm>.

Wage order postings for any of the industries and occupations listed above may be obtained free of charge through the Department of Industrial Relations website at: <http://www.dir.ca.gov/WP.asp>.

4.4 Filing Employment Taxes

According to the U.S. Internal Revenue Service (IRS), an employee is defined as “anyone who performs services that can be controlled by an employer.” Employers are responsible for regularly filing employees’ withheld state and federal income taxes and payroll taxes.

Because of the complex nature of income and payroll taxes, it is recommended that a business consult with or retain the services of a certified public accountant or accounting firm. If you would like further assistance please visit <http://www.irs.gov/businesses/small/article/0,id=172179,00.html> Accountants and accounting firms can be located in the telephone directory Yellow Pages under “accountants.”

State and federal requirements for employee income tax withholding and payroll tax payment are outlined below.

STATE OF CALIFORNIA

Companies with employees must register with the California Employment Development Department (EDD) for state income tax withholding and employment taxes.

Different rules apply to various types of employers in determining when each becomes “subject” to the employment tax laws of California. Generally, a business becomes a “subject employer” upon paying wages in excess of \$100 in a calendar quarter to one or more employees within the current or preceding calendar year. Once subject, an employer must report for the current and subsequent years regardless of the amount of wages paid.

An employer is required to register with EDD within 15 calendar days after paying more than \$100 in wages for employment in a calendar quarter, or whenever a change in ownership occurs.

An employer may download a registration form online at <http://www.edd.ca.gov/Forms/default.asp>. Or, the employer may call (916) 654-7041 or visit the nearest Employment Tax Office to get a registration form. A list of offices is available on EDD’s website at http://www.edd.ca.gov/About_EDD/Department_Directory.htm

The completed registration form may be mailed or faxed to the address or fax number below, also listed at the top of the registration form. If the employer’s payroll service requires an employer account number in order to process payroll, call EDD’s Tele-Reg at (916) 654-8706.

Employment Development Department
Account Services Group, MIC 28
PO Box 826880
Sacramento CA 94280-0001
Fax (916) 654-9211

The federal Employment Identification Number (EIN – See *Registering for Business Taxes, U.S. Federal Government*) should be included on the DE 1 registration form so unemployment insurance tax credits will be properly applied.

When the employer registers with EDD, the company will be assigned an eight-digit account number. This number will be used on all reporting forms sent to the company and on all notices relating to former employees. The employer should provide the number to any bank or payroll service that may prepare the company's tax forms.

NOTE: There are six different DE 1 registration forms. Non-profit employers, governmental organizations, and employers of agricultural or household workers may be required to complete a specific DE 1 form. Such businesses should check with EDD regarding which form is the appropriate one for the business.

Below are the state taxes that employers must withhold or pay:

Income tax

EMPLOYEE PAYS; EMPLOYER WITHHOLDS. State income tax is the responsibility of the employee; however, the employer withholds the tax and pays it to the California Franchise Tax Board on behalf of the employee.

State income tax is based on the “adjusted gross income” reported – the income amount remaining after various deductions are taken, determined according to individual circumstances. State income taxes are assessed at graduated rates on the “adjusted gross income.”

State Disability Insurance

EMPLOYEE PAYS; EMPLOYER WITHHOLDS. The State Disability Insurance (SDI) program provides benefits to eligible workers experiencing a loss of wages when they are unable to perform their regular or customary work due to a non-occupational illness or injury, or disability resulting from pregnancy or childbirth. SDI is funded entirely by employees through withheld wages and paid to either the SDI fund or a voluntary plan for disability insurance.

The State Disability Insurance (SDI) withholding rate for 2008 is 1.1%. The taxable wage limit is \$90,669 for each employee per calendar year. The maximum to withhold for each employee is \$997.35.

http://www.edd.ca.gov/Payroll_Taxes/State_Disability_Insurance_Tax.htm.

State Unemployment Insurance

EMPLOYER PAYS. The purpose of the State Unemployment Insurance (SUI) program is to provide financial assistance to people who are temporarily out of work through no fault of their own. All employers are required to pay into the Unemployment Insurance Fund, which is used to pay unemployment benefits. All new employers are required to pay a rate of 3.4 percent on the first \$7,000 in wages for up to three years. There is a maximum

of \$434 per employee, per year. (Calculated at the highest UI tax rate of 6.2 percent x \$7,000) http://www.edd.ca.gov/Payroll_Taxes/Unemployment_Insurance_Tax.htm. Generally, the more there is employee turnover, the higher the employer's unemployment insurance rate will be.

Employment Training Tax

EMPLOYER PAYS. In 1982, the California State Legislature created the Employment Training Panel (ETP) as a cooperative business labor program to provide employers with skilled workers and provide workers with good, long-term jobs. The Legislature also established the Employment Training Tax (ETT). All tax-rated employers, including new employers, are subject to ETT which is used to fund the ETP's program and training contracts. All employers are assessed a small percent (0.1% or .001) of the first \$7,000 of each employee's wages.

State employment tax rates, allowances and withholding schedules are available on the Internet at the website: http://www.edd.ca.gov/Payroll_Taxes/Rates_and_Withholding.htm

For information or advice about state income tax withholding and payroll tax payment, or about employment tax seminars for employers, contact one of the following:

EDD Payroll Tax Assistance
Phone: 1-888-745-3886 within the United States and Canada
Phone: (916) 464-3502 outside the US and Canada
FAX: (916) 464-3504

EDD Taxpayer Assistance Center
P.O. Box 2068
Rancho Cordova, CA 95741-2068

Employment Tax Offices:

Type of Office:

- ¹ These offices—Taxpayer Service Centers—are located with Franchise Tax Board to offer in-person one-stop tax service.
- ² These locations offer in-person employment tax service.
- ³ These locations have no open counter, but forms and a lobby telephone are available.

CITY	ADDRESS
Anaheim ²	2099 S. State College Blvd., Suite 401 Anaheim, CA 92806
Bakersfield ³	1800 30th Street, Suite 401 Bakersfield, CA 93301
Capitola ³	2045 40th Avenue, Suite A Capitola, CA 95010

Chico ³	240 West 7th Street Chico, CA 95828
El Centro ³	1550 West Main Street El Centro, CA 92243
Escondido ²	240 West 2nd Avenue Escondido, CA 92025
Eureka ³	409 "K" Street, Suite 202 Eureka, CA 95501
Fresno ²	1050 "O" Street Fresno, CA 93721
Los Angeles ²	5401 Crenshaw Blvd. Suite A Los Angeles, CA 90043
Modesto ³	3340 Tully Road, Suite E-10 Modesto, CA 95350
Monterey ³	480 Webster Street, Suite 150 Monterey, CA 93940
Oakland ²	7700 Edgewater Drive, Suite 100 Oakland, CA 94621
Redding ²	1255 Shasta Street Redding, CA 96001
Riverside ³	1180 Palmyrita Avenue, Suite B Riverside, CA 92507
Sacramento ¹	3321 Power Inn Road, Suite 220 Sacramento, CA 95826
San Bernardino ²	454 West 4th Street, Suite 454A San Bernardino, CA 92401
San Diego ²	3110 Camino Del Rio South, Suite 100 San Diego, CA 92108
San Francisco ³	745 Franklin Street, Suite 400 San Francisco, CA 94102
San Jose ²	906 Ruff Drive San Jose, CA 95110
San Luis Obispo ³	3196 South Higuera Street, Suite C San Luis Obispo, CA 93401
Santa Fe Springs ²	10330 Pioneer Boulevard, Suite 150 Santa Fe Springs, CA 90670
Santa Rosa ³	50 "D" Street, Room 415 Santa Rosa, CA 95404
Vallejo ³	1440 Marin Street Vallejo, CA 94590
Van Nuys ²	6150 Van Nuys Blvd., Room 210 Van Nuys, CA 91401
Ventura ³	4820 McGrath Street, Suite 250 Ventura, CA 93003

Forms and References

Registration Form for Commercial Employers (DE 1)

Website: http://www.edd.ca.gov/pdf_pub_ctr/de1.pdf

Details about state employment taxes can be found in the following source:

California Employer's Guide

Download from the Internet at: http://www.edd.ca.gov/pdf_pub_ctr/de44.pdf

4.5 U.S. Federal Government

When an employer registers with the U.S. Internal Revenue Service (IRS) for an Employer Identification Number (EIN), this informs the federal government that the business may have employees. The business is responsible for regularly depositing employees' withheld federal income tax and payroll taxes with the IRS. The filing schedule varies, depending on the composition of the business and the amount of tax liability. Below are the federal taxes that the employer must withhold or pay:

INCOME TAX

EMPLOYER WITHHOLDS; EMPLOYEE PAYS. Although payment of federal income tax is the responsibility of the employee, the employer withholds the tax and submits it to the U.S. Internal Revenue Service (IRS) on behalf of the employee.

Federal income tax is based on "adjusted gross income" – the income amount remaining after various deductions are taken, determined according to individual circumstances.

Federal income taxes are assessed at graduated rates on the "adjusted gross income." Tax liabilities are published on IRS tax tables, which are available on the Internet and in the IRS publication *Circular E, Employer's Tax Guide*, referenced below.

Federal Unemployment Tax Act (FUTA)

EMPLOYER PAYS. The Federal Unemployment Tax Act (FUTA), along with the state unemployment systems, provides for payments of unemployment compensation to workers who have lost their jobs. Only the employer pays FUTA tax; it is not deducted from the employee's wages.

Federal Insurance Contributions Act (FICA)

EMPLOYER WITHHOLDS AND EMPLOYER MATCHES. The Federal Insurance Contributions Act (FICA) consists of both Social Security (retirement) payroll tax and Medicare (hospital insurance) tax.

Employers withhold the Social Security and Medicare taxes for the employee; employers also make matching tax payments of the same amounts to the IRS. Social Security tax

applies to wages up to a maximum wage base; Medicare tax applies to all wages with no maximum wage base.

More information is available on the IRS website at:

<http://www.irs.gov/businesses/index.html>.

For additional information about federal income tax withholding and payroll tax payment, consult:

Circular E, Employer's Tax Guide
 Internal Revenue Service
 Western Area Distribution Center
 Rancho Cordova, CA 95743-0001
 Website: <http://www.irs.gov/pub/irs-pdf/p15.pdf>

The IRS Taxpayer Education Offices offer Small Business Workshops periodically throughout California on how to prepare payroll taxes. For workshop schedules, visit <http://www.irs.gov/businesses/small/article/0,,id=99202,00.html>

For other IRS business tax questions, call the IRS toll-free number, 1-800-829-4933 (within the United States). IRS publications are available on the Internet at: <http://www.irs.gov/formspubs/index.html>.

Federal tax rates and taxable wage limits are subject to change each year. For current rates or other information about withholding federal income tax or paying payroll taxes, consult with the Internal Revenue Service (IRS).

For assistance internationally:

IRS Overseas Assistance Centers

City	Address	Phone/FAX
Frankfurt	IRS U. S. Consulate Frankfurt Geissener Str. 30 60435 Frankfurt am Main	Tel: [49] (69) 7535-3834 FAX: [49] (69) 7535-3803 M-F 8 a.m. - 4 p.m. (Closed U.S. and German Holidays)
London	Internal Revenue Service United States Embassy 24/31 Grosvenor Square London W1A 1AE United Kingdom	Walk-In assistance Tuesday through Thursday 9:00 a.m. to 4:00 p.m. Phone Service 9 a.m. to Noon. Monday through Friday Tel: [44] (207) 894-0476 FAX: [44] (207) 495-4224
Paris	United States Embassy/IRS 2 Avenue Gabriel 75382 Paris Cedex 08, France	Walk-In assistance 9:00 a.m.- noon Phone service: M-F 1:30 p.m. - 3:30 p.m. Tel. [33] (01) 4312-2555 Fax: [33] (01) 4312-2303

Taxpayers located outside the U.S. may also contact the IRS by mail at:

Internal Revenue Service
P.O. Box 920
Bensalem, PA 19020

Or you may telephone or FAX the Philadelphia Service Center office at:

Tel: 215-516-2000 (not toll-free)
Fax: 215-516-2555

International Taxpayer Advocate, Worldwide (Puerto Rico office):

Tel: (787) 622-8931
FAX: (787) 622-8933

4.6 Obtaining Worker's Compensation Insurance

Workers' compensation is the oldest social insurance program in the United States; programs vary from state to state. Workers' compensation insurance became mandatory for California employers in 1913.

California Labor Code requires all employers (with at least one employee) to carry workers' compensation insurance. It is a no-fault system, meaning that injured employees need not prove the injury was someone else's fault in order to receive workers' compensation benefits for an on-the-job injury.

The workers' compensation system is premised on a trade-off between employees and employers – employees are supposed to promptly receive the limited statutory workers' compensation benefits for on-the-job injuries, and in return, the limited workers' compensation benefits are the exclusive remedy for injured employees against their employer, even when the employer negligently caused the injury. This no-fault structure was designed to – and in fact did – eliminate the then-prevalent litigation over whether employers were negligent in causing workers' injuries. To learn more about the program please go to: <http://www.insurance.ca.gov/0100-consumers/0060-information-guides/0030-business/>

There are three basic parts to the workers' compensation system:

- Benefit structure
- Benefit delivery
- Benefit financing

THE BENEFIT STRUCTURE

The benefit structure defines what injured workers are entitled to receive when they sustain an injury “arising out of” and in the course of their employment. There are five

basic types of workers' compensation benefits available, depending on the nature and severity of the worker's injury: (1) medical care; (2) temporary disability benefits; (3) permanent disability benefits; (4) vocational rehabilitation services; and, (5) death benefits.

THE BENEFIT DELIVERY SYSTEM

Unlike most social insurance programs (e.g., social security and unemployment compensation), workers' compensation in California, as well as in most other states, is not administered by a government agency. Workers' compensation benefits are administered primarily by private parties – insurance companies authorized to transact workers' compensation and those employers secure enough to be permitted to self-insure their workers' compensation liability.

When an employer becomes aware of an on-the-job injury, the employer is expected to begin the process of providing the injured worker the benefits to which he or she is entitled under the law. Either the employer (if the employer is authorized to self-insure) or the employer's insurer pays the benefits.

The state's role in benefit delivery is to oversee the provision of workers' compensation benefits, provide information and assistance to employees, employers, and others involved in the system, and to resolve disputes that arise in the process.

THE BENEFIT FINANCING SYSTEM

Employers may finance their liability for workers' compensation benefits by one of three methods: (1) self-insurance; (2) private insurance; or, (3) state insurance.

Self-insurance: Most large, stable employers and most government agencies are self-insured for workers' compensation. To become self-insured, employers must obtain a certificate from the Department of Industrial Relations. Private employers must post security as a condition of receiving a certificate of consent to self-insure, and must submit to self-insurance plan audits.

For additional informational about self-insurance plans and obtaining a self-insurance certificate, contact:

Office of Self Insurance Plans
Department of Industrial Relations
2265 Watt Avenue, Suite 1
Sacramento, CA 95825
Tel: (916) 574-0300
Website: <http://www.dir.ca.gov/sip>

Private Insurance: Employers may purchase insurance from any of the approximately 300 private insurance companies which are licensed by the Department of Insurance to transact workers' compensation insurance in California. Insurance companies are free to price this insurance at a level they deem appropriate for the insurance and services provided. Rate comparison information is available at:

<http://www.insurance.ca.gov/0100-consumers/0010-buying-insurance/0080-compare-premiums/0010-workers-comp-rate-comp/index.cfm>.

State Insurance: Employers may also purchase insurance from the State Compensation Insurance Fund, a state-operated entity that exists solely to transact workers' compensation insurance on a non-profit basis. It actively competes with private insurers for business, and it also effectively operates as the assigned risk pool for workers' compensation insurance.

For details about workers' compensation and California labor law, and access to the California Labor Code, contact:

Division of Workers' Compensation
 California Department of Industrial Relations
 1515 Clay Street, 17th Floor
 Oakland, CA 94612
 Tel: (510) 286-7100; Recorded information: 1-800-736-7401
 Website: http://www.dir.ca.gov/dwc/dwc_home_page.htm

Or, contact one of the Division of Worker's Compensation Offices below:

Anaheim (714) 414-1800	Marina del Ray (310) 482-3820	San Bernardino (909) 383-4341
Bakersfield (661) 395-2723	Oakland (510) 622-2866	San Diego (619) 767-2083
Eureka (707) 445-6518	Oxnard (805) 485-2355	San Francisco (415) 703-5011
Fresno (559) 445-5051	Pomona (909) 623-4301	San Jose (408) 277-1246
Goleta (805) 968-0258	Redding (530) 225-2845	Santa Ana (714) 558-4121
Grover Beach (805) 481-4912	Riverside (951) 782-4269	Santa Rosa (707) 576-2391
Long Beach (562) 590-5001	Sacramento (916) 263-2735	Stockton (209) 948-7759
Los Angeles (213) 576-7335	Salinas (831) 443-3060	Van Nuys (818) 901-5367

Other Department of Industrial Relations Offices:

Division of Apprentice Office Locations:

San Francisco Headquarters (415) 703-4920	Sacramento (916) 263-2877	Los Angeles (213) 576-7750
San Francisco District Office (415) 703-1128	San Diego (619) 767-2045	
Fresno (559) 445-5431	San Jose (408) 277-1273	

State Mediation Office Locations:

Northern California
1515 Clay Street, Suite 2206
Oakland , California 94612
Phone: (510) 873-6465
Fax: (510) 873-6475
smcsinfo@dir.ca.gov

Central Valley
Phone: (510) 873-6465
Fax: (510) 873-6475
smcsinfo@dir.ca.gov

Southern California
Phone: (510) 873-6465
Fax: (510) 873-6475
smcsinfo@dir.ca.gov

Division of Labor and Statistics:
(415) 703-4780

4.7 Finding Employees

There are a number of resources; the California Employment Development Department (EDD) provides employment referral and recruitment services which is a good place to start in finding employees.

The following websites will provide you with the resources necessary:
http://www.edd.ca.gov/Jobs_and_Training/Find_a_Job.htm as well as
<http://www.labormarketinfo.edd.ca.gov/>

CALIFORNIA EMPLOYMENT DEVELOPMENT DEPARTMENT

CalJOBSSM

Through CalJOBSSM, <http://www.caljobs.ca.gov/>, the EDD Job Service offers an Internet-based network that links employers with job seekers in California and nationwide.

EDD Job Service's primary mission of meeting employers' workforce needs is largely accomplished through CalJOBSSM. Job Service also provides employers with other services to meet workforce needs:

- Re-employment services for dislocated workers.

- Labor market information for planning business expansion, relocation, and future hiring.
- Focused recruitment for new business ventures or facilities needing a large number of specialized workers in a hurry.
- Coordinated workforce preparation services in partnership with local employment and training agencies.

Listing Job Openings

California employers with Internet access can enter their job listings directly into the CalJOBSSM website; otherwise, job announcements can be phoned or faxed in to an EDD Job Service location. Job Service staff at locations closest to the work site will be familiar with local economic conditions.

Employers can have their jobs listed publicly, enabling qualified job seekers to view the job information and apply directly to the company. Employers may also request EDD's assistance in screening suitable employees from the CalJOBS database.

For more information on CalJOBSSM:

Employment Development Department/CalJOBSSM

<http://www.caljobs.ca.gov/>

Toll-free telephone within the United States: (800) 758-0398

For additional information on EDD's Job Service, visit their web site at:

http://www.edd.ca.gov/Jobs_Training/Find_a_Job.htm, or contact one of the many local offices listed on the Internet at: <http://www.servicelocator.org>

To access other information and services for employers, visit the EDD website for employers at: http://www.edd.ca.gov/Payroll_Taxes/default.htm

CALIFORNIA'S ONE-STOP CAREER CENTERS

California's One-Stop Career Centers help businesses with recruiting employees, from help with drafting duty statements and job announcements to screening applicants. They can also connect businesses with training resources for employees. Since the centers also help job seekers with job training and placement services, they are an effective connection between businesses and the local workforce.

More information is available online, with links to local centers, at:

http://www.edd.ca.gov/Jobs_and_Training/pubs/osfile.pdf

Part 5: Physically Setting Up an Office or Facility

5.1 Locating an Office or Facility

SITE SELECTION AND LOCATION

Property leasing agreements can be as variable as the property locations. Sites can be found for short periods to very long periods of time, with anywhere from ready-to-occupy facilities to build-to-suit arrangements.

In the United States, there is generally no limitation on foreign companies purchasing and owning real estate.

Locating site options for an office, manufacturing, research and development, or distribution facility is one of the key services provided by CalBIS. CalBIS stands ready to work with local economic development corporations and real estate professionals to assist a foreign business in finding the appropriate location for a California expansion.

For site location assistance, contact:

CalBIS
801 K Street, Suite 2100
Sacramento, CA 95814
Tel: (916) 322-0000; Fax: (916) 322-0614
E-mail: CalBIS@labor.ca.gov
Website: <http://www.labor.ca.gov/CalBIS>

BUSINESS INCUBATORS

Small, start-up companies that need limited office space for only a few months to initiate their businesses may do well to participate in one of the business incubator programs. There are a growing number of business incubators throughout California sponsored by various entities, such as universities, cities or counties, ethnic or industry associations, or private companies.

The business incubator is a cost-effective way for companies to find space to start their businesses. A few incubators are solely international in focus, while most of the others welcome domestic and international businesses. Incubator facilities can vary, but generally they offer an individual office, cubical or at least a desk for the businessperson, plus communal communication and business services. The incubator offers other benefits to a newly formed business. Within the organization are advisors and/or mentors who can guide a business person on legal, financing, banking, and personnel matters.

For information on business incubators around California, contact a local Small Business Development Center. A list of local centers is available at:
<http://www.calbusiness.ca.gov/cedpgybsbdc.asp>.

5.2 Acquiring Office Manufacturing Equipment

Office furnishings can be rented or bought through businesses that deal primarily with office occupants. These companies are easy to locate through local telephone Yellow Pages under “office furniture and equipment, dealers or rental.” Companies that sell telephone and computer systems, copy, fax and mail machines and other technical equipment can also be located through the Yellow Pages. Companies selling other office supplies such as pens, paper, tape and staples can be found through the Yellow Pages listed under “office supplies” or “stationers,” or through catalog sales.

5.3 Obtaining Office/Facility Insurance

It is prudent for a business, whether service- or manufacturing-oriented, to obtain property and liability insurance coverage for the physical office or facility.

In general, a business owner policy (BOP) covers:

- Property: Building (if owned);
- Business personal property (building contents);
- Time element (business income and extra expense);
- Liability: Premises/building; and,
- Business operations (Includes bodily injury or property damage).

Specific coverage can be added to a BOP for things such as flood, fine arts and equipment and employee dishonesty (forgery, embezzlement, burglary). The best source to find a business or commercial insurance broker is through the telephone Yellow Pages, listed under “insurance.”

5.4 Government Incentives

The State of California provides a variety of incentive programs to encourage investment and reduce the cost of starting and operating a business in California. The following are examples of incentives for Businesses.

ECONOMIC DEVELOPMENT AREAS

The state offers four types of Economic Development Areas (EDAs): Enterprise Zones (EZ); Local Agency Military Base Recovery Areas (LAMBRA); Manufacturing Enhancement Areas (MEA); and, Targets Tax Areas (TTA) in urban and rural areas.

ENTERPRISE ZONES

Businesses located within the boundaries of an Enterprise Zone are eligible for tax credits. The first major Enterprise Zone tax credit is equivalent to the sales and use tax paid on the first \$1,000,000 Personal Income Tax or \$20,000,000. Corporate Tax Payers

of qualified new or used manufacturing equipment purchased each year. Qualified machinery is machinery or parts used to:

- Manufacture, process, fabricate, or otherwise assemble a product;
- Produce renewable energy resources; or,
- Control air or water pollution.

The definition of “qualified property” has been expanded to include data processing and communications equipment including, but not limited to, computers, CAD systems, copy machines, telephones systems and faxes. Equipment must be purchased in California unless equipment of comparable price and quality cannot be found in California.

The second major Enterprise Zone benefit takes the form of a credit equal to a percentage of the wages paid to a qualified employee. The credit is based on the lesser of the actual hourly wage or 150 percent of the state-established minimum wage. The credit is provided over a five-year period with 50 percent of the wages creditable in the first year of employment, 40 percent the second year, 30 percent the third year, 20 percent the fourth year, and 10 percent the fifth year. If the employee stays with the company for the entire five-year period, the company received credits totaling nearly \$37,440 per qualified employee. If the employee is terminated prior to 270 days of employment, the credit is recaptured.

Other Enterprise Zone benefits that may apply in certain cases include:

- A 15-year carryover of up to 100 percent of net operating losses.
- Expensing of certain depreciable property.
- Deduction of lender interest income.

For more information, visit <http://www.hcd.ca.gov/fa/cdbg/ez>

LAMBRAS, MEAS, AND TTAS

LAMBRAs, MEAs, and TTAs are detailed in the above and below link as well.

LAMBRA zones are a companion to Enterprise Zones. The most notable differences in incentives include enhanced equipment purchase eligibility under the sales and use tax credit; an annual wage limitation of \$2 million per year under the hiring tax credit; and redefinition of qualified employees to include displaced military or civilian employees of the former base.

If you would like more information specifically to LAMBRA visit

<http://www.hcd.ca.gov/fa/cdbg/ez/lambra>

RESEARCH AND DEVELOPMENT TAX CREDIT

Designed to encourage businesses to increase their basic research and development activities in California, the research and development tax credit allows companies to receive a 15 percent credit against their bank and corporations tax liability for qualified in-house research expenses, and a 24 percent credit for basic research payments to

outside organizations. Qualified research expenses generally include wages, supplies and contract research costs. To qualify, a taxpayer's research must be conducted within California and include basic or applied research of scientific inquiry, original investigation for the advancement of scientific or engineering knowledge or improved function of a business component.

If you would like more information on the Research and Tax Development Tax Credit visit <http://www.ftb.ca.gov/forms/misc/1082.pdf>

NET OPERATING LOSS CARRYOVER

For taxable years beginning in 2008 and 2009, California has suspended the net operating loss (NOL) carryover deduction. Corporations may continue to compute and carryover an NOL during the suspension period. However, corporations with taxable income of less than \$500,000 or with disaster loss carryovers are not affected by the NOL suspension rules. The carryover period for suspended losses is extended by:

- Two years for losses incurred in taxable years beginning before January 1, 2008.
- One year for losses incurred in taxable years beginning on or after January 1, 2008, and before January 1, 2009.

For more information please visit http://www.ftb.ca.gov/forms/2008/08_3805d.pdf

EMPOWERMENT ZONES

The federal government has designated sections of several California communities as Renewal Communities, Empowerment Zones and Enterprise Communities (RC, EZs, and ECs). The cities of Fresno, Los Angeles, Santa Ana, San Diego, San Francisco, Orange Cove, Parlier, and the counties of Imperial and Riverside have designated RCs, EZs or ECs. Benefits to businesses locating or expanding in these areas include:

- Employer wage credits of 20 percent for the first \$15,000 in wages paid to an individual who resides in the EZ up to \$3,000;
- Section 179 deduction allowing businesses to deduct all or part of the cost of eligible property (machinery, furniture, equipment, computers) up to an additional \$20,000;
- Availability of low interest rate tax-exempt private activity bonds to finance industrial projects typically between \$1-3 million (some zones have substantially larger limits), often with fewer restrictions than those normally associated with tax-exempt bond financing;
- Possible city business tax exemption; and,
- Postponement of capital gains on the sale of EZ/EC assets.

If you would like more information please visit <http://www.hud.gov/offices/cpd/economicdevelopment/programs/rc/index.cfm>

FOREIGN TRADE ZONES

California's Foreign Trade Zones (FTZ) are located in San Francisco, San Jose, Long Beach, Oakland, West Sacramento, San Diego, Palmdale, Los Angeles, Port Hueneme, Merced/Madera/Fresno counties, Stockton, Palm Springs, Santa Maria, Victorville, Eureka and Imperial, Butte and Riverside counties. FTZs are secured areas legally outside of U.S. customs territory usually located in or near customs points of entry. Foreign trade zones allow entry of foreign or domestic merchandise without formal customs entry or government excise taxes. Merchandise entering a zone may be stored, tested, sampled, relabeled, repackaged, displayed, repaired, manipulated, salvaged, destroyed or processed. Products exported from or imported into foreign trade zones are excluded from customs duty and excise taxes until the time of transfer from the foreign trade zone.

If you would like more information please visit <http://www.ia.ita.doc.gov/ftzpage>

NEW MARKETS TAX CREDITS

The New Market Tax Credit (NMTC) Program permits taxpayers to receive a credit against federal income taxes for qualified equity investments in designated Community Development Entities (CDEs). Substantially all of the qualified equity investment must in turn be used by the CDE to provide investments in low-income communities. The credit provided to the investor totals 39 percent of the cost of the investment and is claimed over a seven-year period. In each of the first three years, the investor received a credit equal to 5 percent of the total amount paid for the stock or capital interest at the time of purchase.

For the final four years, the value of the credit is 6 percent annually. Investors may not redeem their investments in CDEs prior to the conclusion of the seven-year period. NMTC's will be allocated annually by the Fund to CDEs under a competitive application process. As of 2007, allocated in California include Border Communities Capital Company, LLC of Solana Beach; Clearinghouse CDFI of Lake Forest; Impact Community Capital CDE, LLC of San Francisco; KHC New Markets CDE, LLC Series A of Carlsbad; Lenders for Community Development of San Jose; and WNC National Community Development Advisors, LLC of Costa Mesa.

If you would like more information please visit <http://www.cdfifund.gov/index.asp>

NEW HIRE TAX CREDIT

A temporary tax incentive will target small businesses that create new California jobs in the coming two years. This credit is intended to complement existing job creation and tax credits the state offers to employers in geographically targeted Enterprise and other zones.

- In 2009 and 2010, California employers that began the year with 20 or fewer employees will be able to claim a \$3,000 income tax credit for each new, full-time employee they hire.
- Estimated to save small businesses \$330 million in 2009-10 and help create thousands of jobs.
- Ends the quarter after \$400 million in credits have been allocated.

FILM AND TV PRODUCTION TAX CREDIT

Tax incentives to retain television and movie production in California.

- For the next five fiscal years, the California Film Commission will certify and administer a tax credit for new production in the state or production that returns to California from another state. The credit will be equal to 20 percent of expenditures in the state related to the film production, and 25 percent for production returning to the state and independent films. It will be capped at \$100 million per year.

HOME-BUYER TAX CREDIT

Helps protect jobs encouraging homebuyers back into the market through a new incentive: a tax credit on the purchase of a new (never been occupied) home.

- The credit will be equal to 5 percent of the home's value, up to \$10,000, and distributed over three years. The amount of credits offered by the state will be capped at \$100 million.
- The purchase must be made between March 1, 2009 and March 1, 2010, and the purchaser must live in the house as a principle residence.

INDUSTRIAL DEVELOPMENT BONDS

IDB financing may be the most competitive financing option available for the acquisition of manufacturing facilities and equipment. IDBs provide a method for middle market manufacturers to access the private capital markets at tax-exempt rates. The IDB interest rate is significantly lower than bank financing because the interest paid to the investor is exempt from state and federal income tax, resulting in substantial savings to the borrower, depending on the amount financed.

The IDB issuance process can be pursued concurrently with the bank credit approval process. The entire process can be easily completed within 90 days and from the borrower's standpoint should not be much different than a conventional financing.

The financing structure is fairly straightforward. A governmental entity will issue bonds and loan the proceeds to the company. The company's obligation to repay the loan is secured by a direct-pay Letter of Credit from a bank rater 'A' or better. The interest rate

on the bonds is adjustable and is reset weekly by the underwriter in its capacity as remarketing agent.

IDBs can be issued by the California Infrastructure and Economic Development Bank (I-Bank), cities, counties, and joint powers authorities. Industrial development bonds do not constitute an obligation of either the state or the local government issuer.

The issuer's staff and the borrower's finance team of experienced professionals assist the business through each stage of the process. The finance team usually comprises a bond counsel, financial advisor (who assists in packaging and structuring the financing), letter of credit bank, underwriter, and trustee. IDB guidelines include the following.

- \$10 million: maximum amount that can be borrowed as a tax-exempt industrial development bond.
- \$20 million: limit on the company's capital expenditures for the three years before and after the bond issuance (intended to target the program to small and medium-sized manufacturers)
- Low interest rate: 20-30% below conventional financing rates
- Primary business activity: Manufacturing, processing, or fabrication. Examples include but aren't limited to: meat processing, vegetable dehydration, machine fabrication, car/truck parts manufacturing, wine-making, and lithographers. Distribution is not an eligible use.
- Primary use of bond funds: acquisition, construction, rehabilitation and equipping.
- Comprehensive funding: the funds can be used for construction and/or takeout to finance land, buildings and equipment.
- No prepayment penalty.
- Repayment: If the company qualifies for a conventional bank loan, it should be able to qualify for a bank Letter of Credit.
- Federal and state requirements: because the bond financing provides a 'benefit' to business, borrowers must meet certain public benefit criteria as well as general eligibility requirements.

If you would like to know more information about I-Bank visit <http://www.ibank.ca.gov>

The project financed by the bonds must meet certain public benefits criteria established by the California Debt Limit Allocation Committee (CDLAC) located in the California's Treasurer's Office, which include, among other things, the creation of retention of jobs.

The IDB financing process can generally be completed within 150 days. The conduit issuer's staff and a financing team, which typically consists of an underwriter, bond counsel and financial advisor, will assist the applicant through each stage of the process.

If you would like to know more about the California Treasurer's Office visit <http://www.treasurer.ca.gov>

SALES & USE TAX EXEMPTIONS FOR ZERO EMISSION VEHICLE MANUFACTURING

Under the California Alternative Energy & Advanced Transportation Authority's (CAEATFA) authorizing statute, the authority's purpose is to provide industry in California with alternative methods of financing alternative energy and advanced transportation technologies. The statute defines advanced transportation as: "emerging commercially competitive transportation-related technologies identified by the authority as capable of creating long-term, high value-added jobs for Californians while enhancing the state's commitment to energy conservation, pollution reduction, and transportation efficiency." (California Public Resources Code Section 26002.3(d)).

The CAEATFA Board has directed authority staff to explore proposals for providing sales and use tax exemptions for the purchase of Zero Emission Vehicle (ZEV) manufacturing equipment. The goal of this new ZEV program is to create a strong new ZEV industry within California that reduces green house gas emissions and creates new long-term high value-added jobs.

This exemption is created through a sales-lease-back approach where: CAEATFA purchases specified equipment (tangible personal property, not real property) on behalf of company X. CAEATFA finances this purchase through a bond or loan. Company X then leases the equipment from CAEATFA, with the lease payments paying for the bond or loan. As envisioned, the lease would stay in existence only from the time of the equipment purchase until the equipment is placed in use. By statute, CAEATFA does not have to pay sales tax on the equipment it purchases. The Board of Equalization (BOE) oversees state sales and use tax issues and would be consulted in the process.

If you would like more information visit <http://www.treasurer.ca.gov/caeatfa/>

POLLUTION CONTROL FINANCING

The CPCFA provides tax-exempt bond financing for pollution control projects. Their Tax-Exempt Bond Financing Program gives California businesses help with acquisition or construction of qualified pollution control, waste disposal, or waste recovery facilities, and the acquisition and installation of new equipment. They also offer a Sustainable Communities Grant and Loan Program that assists communities implementing "smart growth strategies" and the CalReUSE Program that offers low-interest, forgivable loans to assist public and private partners in redeveloping contaminated "brownfields." The California Capital Access Program (CalCAP) helps small-business borrowers obtain loans.

If you would like more information visit <http://www.treasurer.ca.gov/cpcfafa/>.

MARKET DEVELOPMENT AND EXPANSION GRANT PROGRAM

The Department of Conservation provides up to \$20 million annually to increase beverage container recycling in California and to improve processing and manufacturing with recycled aluminum, glass and plastic. It encourages projects that advance environmentally and economically sustainable containers, packaging and other products. The program supports research and development of new technologies and helps reduce greenhouse gas emissions by strengthening “green” industries in the state. Specific objectives include:

- Creating market opportunities for new sustainable products or packaging;
- Expanding market-related activities for existing recycled-content products;
- Improving the quality and supply of beverage container material feedstock for use in manufacturing sustainable products or packaging; and,
- Creating market opportunities for sustainable beverage packaging.

For more information, visit the Department of Conservation’s website at:

<http://www.conservation.ca.gov/dor/grants/Pages/rmdeg.aspx>

BEVERAGE CONTAINER RECYCLING GRANT PROGRAM

The Department of Conservation provides funding annually in the form of grants for beverage container recycling and litter reduction programs. The Department typically seeks projects that provide convenient beverage container recycling opportunities in California; however, the focus may change with each new solicitation. Grant proposals are evaluated on criteria set forth in each year’s Grant Solicitation. There are no restrictions on who can apply for the grants.

For more information visit the Department of Conservation’s website at:

<http://www.conservation.ca.gov/dor/grants/pages/bcrg.aspx> or call 1-800-RECYCLE

BEVERAGE CONTAINER RECYCLING INFRASTRUCTURE LOAN GUARANTEE PROGRAM

The Department of Conservation provides continuous funding in the form of loan guarantees for up to \$10 million for capital expenditures for new infrastructure that would add recycling capacity, re-use and/or remanufacturer beverage container materials into new products. Include equipment costs, building and facilities, rent and utilities, travel, contractual services, salaries, and benefits, other operating and non-operating costs. Private companies, non-governmental organizations, governmental agencies, manufacturers and trade associations are eligible to apply.

For more information, visit the Department of Conservation’s website at:

<http://www.conservation.ca.gov/dor/Notices/Documents/LGPNNotice081707.pdf>

RECYCLING MARKET DEVELOPMENT ZONE REVOLVING LOAN PROGRAM

The Recycling Market Development Zone (RMDZ) Revolving Loan Program makes capital available for California manufacturers located in RMDZs. The program provides direct loans to eligible businesses that manufacturer recycled raw materials, produce new recycled products, or that reduce waste from the manufacture of a product. These loans promote market development for post consumer and secondary waster materials and divert waste from non-hazardous California landfills. Funds may be used to acquire equipment, make leasehold improvements, purchase recycled raw materials and inventory, or acquire real property. Applicants may borrow a maximum of 75 percent of the cost of a project of \$2 million. Terms are generally 10 years and interest rates are fixed.

If you would like more information visit <http://www.ciwmb.ca.gov/rmdz/loans>

SMALL BUSINESS ADMINISTRATION 504 LOANS

SBA (Small Business Administration) 504 loans are marketed, processed, closed and services by Certified Development Corporations (CDC). Through the SBA 504 Program, CDC's provide up to 90 percent of fixed-asset financing costs. The second mortgage, long-term, fixed-rate financing nature of the program allows banks to participate in business expansion by reducing risk exposure. The benefit to the borrower is a lower down payment requirement (10 percent) and a longer-term, fixed-rate loan, which translates into reduced monthly payments.

The maximum SBA debenture is \$1,500,000 when meeting the job creating criteria or a community development goal. The maximum debenture for "small manufacturers" is \$4.0 million. Generally, a business must create or retain one job for every \$50,000 provided by the SBA except for "Small Manufacturers" which have a \$100,000 job creation or retention goal.

Individual job goals can be somewhat flexible if the CDC's overall portfolio meets the requirements. At that point, community impact and public policy goals can be mitigating factors. Eligible 504 loans uses include the purchase of land, existing buildings, new construction, and the acquisition of machinery and equipment with a 10-year useful life. The private sector participant finances 50 percent of the project cost and takes a first lien on assets pledged as collateral.

The SBA takes a second lien on assets and finances up to 40 percent of the project cost, up to \$1 million in some cases. Borrowers inject 10 percent in the form of cash of equity in real estate. For more information on SBA 504 loans, call the California Statewide Certified Development Corporation toll free at (800) 348-6258 or visit <http://www.sba.gov/services/financialassistance/index/html>

USDA RURAL DEVELOPMENT

The U.S Department of Agriculture sponsors “Business & Industry” guaranteed loans in rural communities. USDA guarantees up to 80 percent on loans from \$750,000 to \$5 million and up to 70 percent on loans up to \$10 million. Rates are fixed or variable and negotiated between lender and business. Terms are typically seven years for working capital, 15 years on equipment and 30 years on real estate. Lenders negotiate their own fees and the USDA charges 2 percent of the guaranteed amount as a one-time fee. Most types of businesses qualify but the project must be in a rural area beyond the urbanized periphery surrounding a city of 50,000 or more. Communities that have grown beyond 50,000 since the 2000 census may still be eligible.

For more information visit <http://www.rurdev.usda.gov/ca/index.htm>

CalBIS can work with companies to determine whether incentive options are available for the specific business. Details of the above incentive programs and packages are available through CalBIS.

Part 6: Other Resources

6.1 Agencies and Organizations

STATE

California Business Investment Services – CalBIS

801 K Street, Suite 2100
Sacramento, CA 95814
Tel: (916) 322-0000
Fax: (916) 322-0614
e-mail: CalBIS@labor.ca.gov
Website: <http://www.labor.ca.gov/CalBIS>

California Chamber of Commerce

1215 K Street, 14th Floor
Sacramento, CA 95814
P.O. Box 1736, Sacramento, CA 95812-1736
Tel: (916) 444-6670
Membership: (800) 649-4921
Fax: (916) 325-1272
Website: <http://www.calbizcentral.com>

FEDERAL AND NATIONAL

U.S. Small Business Administration (SBA)

Website: <http://www.sba.gov>

SBA Sacramento District Office

6501 Sylvan Rd, Suite 100
Citrus Heights, CA 95610
Phone: (916) 735-1700
Fax: (916) 735-1719
<http://www.sba.gov/ca/sacr/>

SBA San Francisco District Office

455 Market Street, 6th Floor
San Francisco, CA 94105-2420
(415) 744-6820
<http://www.sba.gov/ca/sf/>

SBA Fresno District Office

2719 North Air Fresno Drive, Suite 200
Fresno, CA 93727
Phone: (559) 487-5791
Fax: (559) 487-5636
Toll free call (800) 359-1833 then press 6
<http://www.sba.gov/ca/fresno/>

SBA Los Angeles District Office

330 North Brand, Suite 1200
Glendale, CA 91203
(818) 552-3215
<http://www.sba.gov/ca/la/>

SBA Santa Ana District Office

200 W Santa Ana Blvd., Suite 700
Santa Ana, CA 92701
(714) 550-7420
Fax (714) 550-0191
<http://www.sba.gov/ca/santa/>

SBA San Diego District Office

550 West C Street, Suite 550
San Diego, CA 92101
(619) 557-7250
FAX: (619) 557-5894
TTY: (619) 557-6998
<http://www.sba.gov/ca/sandiego/>

U.S. Customs Service

1300 Pennsylvania Avenue NW
Washington, DC 20229
Tel: (202) 927-1000
Website: <http://www.customs.gov>

California ports of entry:

<http://www.customs.gov/xp/cgov/toolbox/contacts/ports/ca>

Trade Information Center

International Trade Administration, U.S. Department of Commerce

Toll-free telephone within the United States: (800) USA-TRADE or
(800) 872-8723
Website: <http://www.trade.gov>

U.S. International Trade Commission

500 E Street SW
Washington, D.C. 20436
Tel: (202) 205-2000
Website: <http://www.usitc.gov/>

American Immigration Lawyers Association

Suite 300, 1331 G Street, NW
Washington, DC 20005-3142
Tel: (202) 507-7600
Fax: (202) 783-7853
Website: <http://www.aila.org/>

6.2 Publications

BUSINESS START- UP KITS

Labor, Employment and Environmental Compliance

Various useful publications:

California Chamber of Commerce
1215 K Street, Suite 1400
Sacramento, CA 95814
Toll-free telephone in the United States: (800) 331-8877
Tel: (916) 444-6670
Fax: (916) 444-6685
Website: <http://www.calbizcentral.com>

California Labor Law Survival Kit

California Chamber of Commerce
See contact information above
Labor Law Helpline: (916) 444-6670
Website: <http://www.calbizcentral.com>

Employer's Guide to the Fair Labor Standards Act

Toll-free telephone within the United States: (800) 677-3789
Or (not toll-free): (202) 872-4000
Website: <http://www.thompson.com/public/offerpage.jsp?promo=WAGE>

TAXES

Circular E, Employer's Tax Guide

Internal Revenue Service
Western Area Distribution Center
Rancho Cordova, California 95743-0001

Toll-free telephone within the United States: (800) 829-3676

Website: <http://www.irs.gov/pub/irs-pdf/p15.pdf>

Additional IRS publications on various federal tax topics can be found on the Internet at: <http://www.irs.gov/formspubs/index.html>.

California Employer's Guide

Download from the Internet at: http://www.edd.ca.gov/pdf_pub_ctr/de44.pdf

Guide for Corporations Starting Business in California

(FTB publication 1060)

Franchise Tax Board

Website: <http://www.ftb.ca.gov/forms/misc/1060.pdf>

Striking Gold in California

Website: <http://www.taxes.ca.gov/striking.pdf>

PRODUCT CLASSIFICATION

Harmonized Tariff Schedule of the United States

U.S. International Trade Commission

500 E Street SW, Washington, D.C. 20436

(202) 205-1819

Website:

http://www.cbp.gov/xp/cgov/toolbox/contacts/office_intl_trade_contacts.xml

INTERNET LINKS TO USEFUL FORMS

Statement of Partnership Authority (GP-1)

Website: <http://www.ss.ca.gov/business/gp/forms/gp-1.pdf>

Statement of Dissociation (GP-3)

Website: <http://www.ss.ca.gov/business/gp/forms/gp-3.pdf>

Statement of Amendment/Cancellation (GP-7)

Website: <http://www.ss.ca.gov/business/gp/forms/gp-7.pdf>

Foreign Limited Partnership Application for Registration (LP-5)

Website: <http://www.ss.ca.gov/business/lp/forms/lp-5.pdf>

Foreign Limited Partnership Amendment to Application for Registration (LP-6)

Website: <http://www.ss.ca.gov/business/lp/forms/lp-6.pdf>

Limited Partnership Certificate of Cancellation (LP-4/7)

Website: <http://www.ss.ca.gov/business/lp/forms/lp-4.pdf>

Registered Limited Liability Partnership Registration (LLP-1)

Website: <http://www.ss.ca.gov/business/llp/forms/llp-1.pdf>

Limited Liability Partnership Alternative Security Provision (LLP-3)

Website: <http://www.ss.ca.gov/business/llp/forms/llp-3.pdf>

Limited Liability Partnership Amendment to Registration (LLP-2)

Website: <http://www.ss.ca.gov/business/llp/forms/llp-2.pdf>

Limited Liability Partnership Notice of Change of Status (LLP-4)

Website: <http://www.ss.ca.gov/business/llp/forms/llp-4.pdf>

Limited Liability Company Application for Registration (LLC-5)

Website: <http://www.ss.ca.gov/business/llc/forms/llc-5.pdf>

Limited Liability Company Application for Registration Certificate of Amendment (LLC-6)

Website: <http://www.ss.ca.gov/business/llc/forms/llc-6.pdf>

Limited Liability Company Certificate of Cancellation (LLC-4/7)

Website: http://www.ss.ca.gov/business/llc/forms/llc-3_4-7_4-8.pdf

Statement and Designation by Foreign Corporation (S&DC-General)

Website: http://www.ss.ca.gov/business/corp/pdf/foreign/corp_s&dcgen.pdf

Amended Statement by Foreign Corporation

Website: http://www.ss.ca.gov/business/corp/pdf/foreign/corp_asdc.pdf

Certificate of Surrender of Right to Transact Intrastate Business

Website: http://www.ss.ca.gov/business/corp/pdf/foreign/corp_surr.pdf

Registration of Trademark and Service Mark (LP/TM 100)

Website: <http://www.ss.ca.gov/business/ts/forms/tm-100.pdf>

Application for Employer Identification Number (Form SS-4)

Website: <http://www.irs.gov/pub/irs-pdf/fss4.pdf>

Application for a Social Security Card (Form SS-5)

Website: <http://www.ssa.gov/online/ss-5.pdf>

Application for IRS Individual Taxpayer Identification Number (Form W-7)

Website: <http://www.irs.gov/pub/irs-pdf/fw7.pdf>

Application for a Seller's Permit as a Retailer –

Individuals/Partnerships/Corporations/Organizations (BOE 400-SPA)

Website: <http://www.boe.ca.gov/pdf/boe400spa.pdf>

Registration Form for Commercial Employers (DE 1)

Website: http://www.edd.ca.gov/pdf_pub_ctr/de1.pdf

Appendix I: California Investment Guide

For the latest copy of the California Investment Guide, download the guide at <http://www.labor.ca.gov/calBIS/cbbusincentives.pdf>, or contact CalBIS staff at:

CalBIS
801 K Street, Suite 2100
Sacramento, CA 95814
Tel: (916) 322-0000
Fax: (916) 322-0614
e-mail: CalBIS@labor.ca.gov
Website: <http://www.labor.ca.gov/CalBIS>