

2017 EMPLOYMENT LAW UPDATE

EMPLOYER ALERT

California's minimum wage increased to \$10.50 per hour for large employers (26 or more employees)! Small employers (less than 26 employees) are not required to increase their minimum wage from \$10.00 per hour to \$10.50 per hour until **January 1, 2018**, unless they are in the city of Los Angeles.

Refer to the chart on the right for more information!

Remember, employees in California are not exempt from overtime unless they earn two times the state minimum wage. This means employees must now make at least **\$43,680 per year** to qualify as an exempt employee.

Make sure your company is in compliance or you may be liable for unpaid wages!

OVERVIEW OF NEW LAWS AFFECTING CALIFORNIA EMPLOYERS

California has enacted new employment laws for 2017 that significantly alter employer obligations regarding minimum wage and overtime, harassment prevention, leaves of absences, background checks, workplace safety, workers' compensation, and employment agreements. Businesses and organizations should review these new laws to ensure that they are compliant.

Unless otherwise specified, all of the following laws are effective **January 1, 2017**.

WAGE AND HOUR

Minimum Wage Increase

Both California and the city of Los Angeles have passed laws increasing the minimum wage for large (26 or more employees) and small employers (less than 26 employees). The two minimum wage laws are nearly identical, except that Los Angeles is increasing the minimum wage on a more accelerated schedule.

For California employers, the minimum wage is increasing as follows:

Effective Date	Large Employers	Small Employers
January 1, 2017	\$10.50	\$10.00
January 1, 2018	\$11.00	\$10.50

For employers *inside the city of Los Angeles*, the minimum wage is as follows:



Effective Date	Large Employers	Small Employers
January 1, 2017	\$10.50	\$10.00
July 1, 2017	\$12.00	\$10.50
July 1, 2018	\$13.25	\$12.00

Employers must notify their employees of the minimum wage increase by posting the Minimum Wage Order (MW-2017) at their worksites. For your convenience, we have attached posters of the California and Los Angeles Minimum Wage Order at the end of this Newsletter!

Challenges to Minimum Wage Violations (AB 2899)

Currently, an employer may challenge a Labor Commissioner’s citation (issued by the Labor Commissioner upon inspection or investigation) concerning the employer’s failure to pay minimum wages by filing a writ of mandate within 45 days of the ruling. California is amending this law to require employers who wish to contest a Labor Commissioner’s citation to post a bond equal to the purported amount of unpaid wages, excluding penalties, at the time the writ of mandate is filed. The bond ensures that unpaid employees will receive their due wages.

Itemized Wage Statements (AB 2535)

Existing law requires employers to provide each employee with an itemized wage statement each pay period showing gross wages earned, total hours worked, any piece-rate units earned, all deductions, net wages earned, the pay period, the employee’s name and social security number or identification number, the name and address of the employer, and all applicable hourly rates. Under the new law, employers are no longer required to report the total number of hours worked by an exempt employee on wage statements. Talk to your payroll company to make sure they are aware of this change!



Payroll (AB 1847)

Under federal law, employers are required to notify employees of their eligibility for the federal Earned Income Tax Credit (EITC). The EITC aims to encourage low-income workers to seek employment instead of welfare by offsetting the adverse effects of payroll taxes on poor, working families. California instituted a state EITC program in 2015 to help combat poverty in the state. To ensure that the poorest working Californians are aware of the availability of state EITC, employers are now required to notify employees of their eligibility for both the California Earned Income Tax Credit as well as the federal Earned Income Tax Credit by mailing employees IRS Notice 797 and the California Franchise Tax Board's Earned Income Tax Credit fact sheet with their W-2 or 1099 Form. For your convenience, we have attached the required EITC notices at the end of this Newsletter!

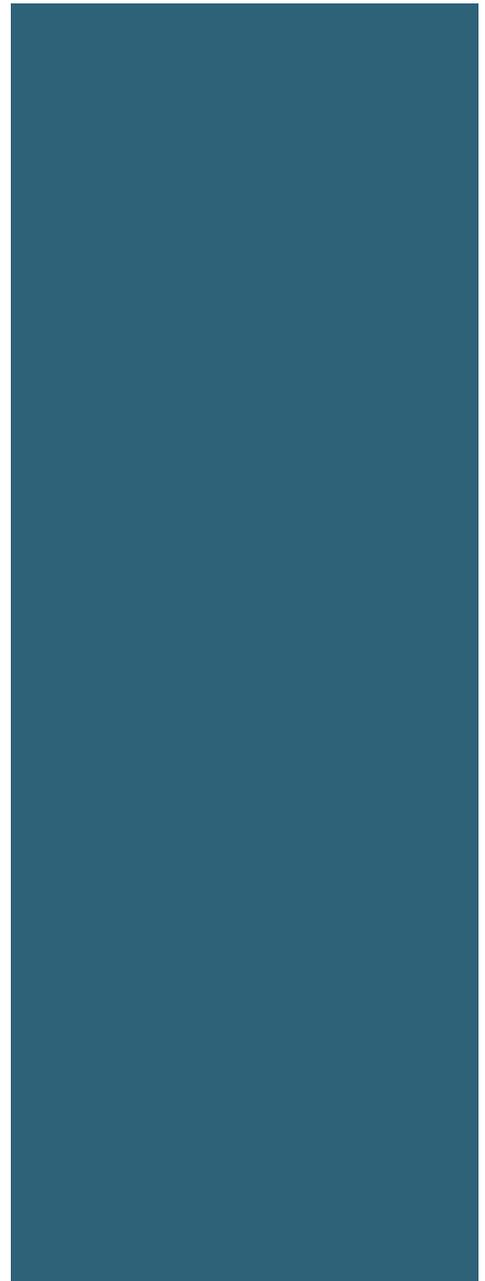
Overtime for Private Elementary and Secondary School Teachers (AB 2230)

Beginning **July 1, 2017**, teachers at private elementary schools and private high schools will need to earn the greater of (1) no less than the lowest salary offered by any school district or (2) the equivalent of no less than 70 percent of the lowest schedule salary offered by the school district or county in which the private school is located to qualify as an exempt employee. Private school teachers that do not meet this standard are entitled to overtime compensation.

Janitorial Workers (AB 1978)

Employers that provide janitorial services through contracts, subcontracts, or franchise agreements are now required to maintain employee records for three years.

Beginning **July 1, 2018**, they must also register annually with the Labor Commissioner and provide employees with the Department of Fair Employment and Housing's sexual harassment prevention pamphlet. Employers who conduct business without registering with the Labor Commissioner will be subject to civil fines.



Agricultural Overtime (AB 1066)

Over the course of 4 years, from 2019 to 2022, California will phase in overtime regulations for agricultural workers. Beginning **January 1, 2019**, employers must pay agricultural workers overtime for any work performed after working 9.5 hours in a day or 55 hours in a week. The number of regular hours permitted in a work day will be reduced by 0.5 each year, while the number of regular hours permitted in a work week will be reduced by 5 each year until the overtime requirements correspond to the traditional 8 hour workday and 40 hour workweek.

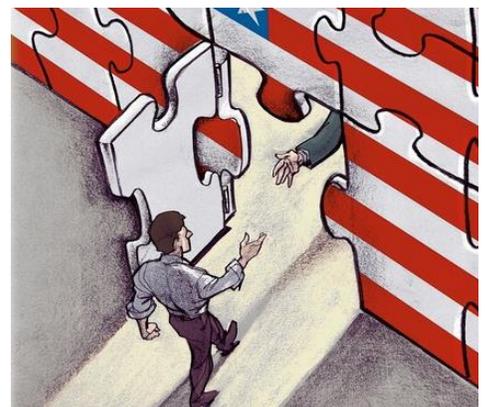
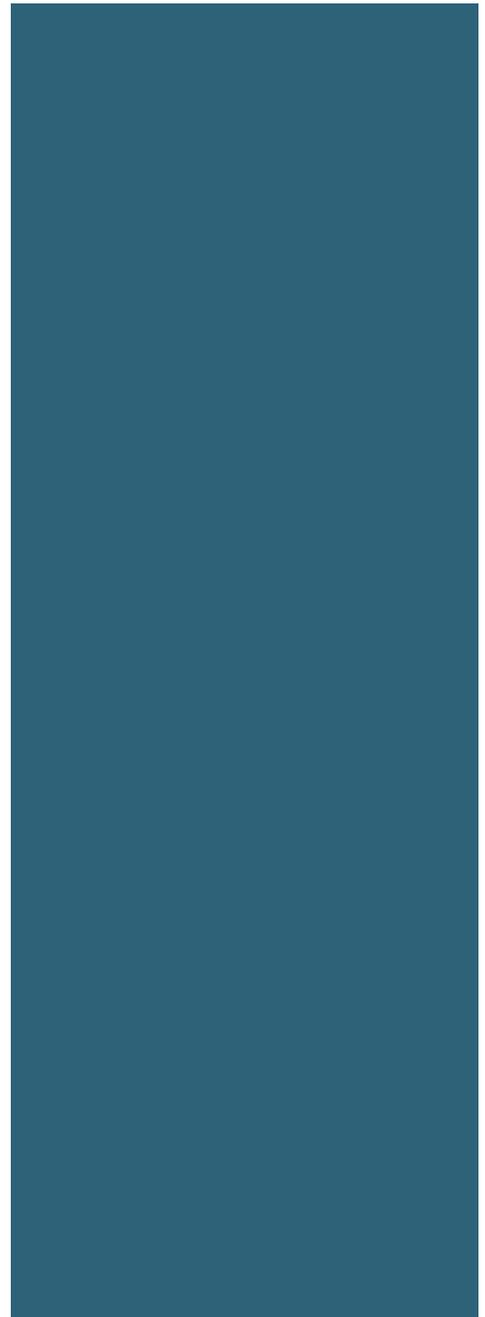
DISCRIMINATION AND RETALIATION

Fair Pay (SB 1063 and AB 1676)

- Last year, California passed a law that made it a crime for employers to pay employees of the opposite sex lower wage rates for substantially similar work. This year, California expanded the law to prohibit employers from paying employees of different races or ethnicities lower wage rates for substantially similar work. Employers may only pay employees different rates if the rate is based on seniority, merit, quantity or quality of production, or a bona fide factor (education, experience, or training) that is related to the specific job position and consistent with a legitimate business purpose.
- To further combat gender and racial wage inequalities, California also now prohibits employers from using a prior salary to justify disparities in compensation. Employers and workers may only negotiate and set salaries based on qualifications and the requirements and expectations of the job.

Immigration Status (SB 1001)

Existing law provides that employers may not engage in unfair immigration-related practices in retaliation against a person for reporting a violation. Unfair immigration-related practices include requesting additional or different documentation than that required by federal law to ascertain an individual's eligibility to work and refusing to accept documents that appear genuine.



California is expanding the definition of unfair immigration-related practices to also include an employer's refusal to honor work authorizations based on the employee's immigration status or term of status as well as any attempts to reinvestigate or reverify a current employee's work authorization using the foregoing methods. Accordingly, employers may not discriminate against job applicants and employees based on the type of visa they hold or the expiration date of their visa. Job applicants or employees who have been subjected to unfair immigration-related practices may file a complaint with the Division of Labor Standards Enforcement and recover up to \$10,000 in damages.

Definition of an Employee Under FEHA (AB 488)

Individuals employed under a special license (authorizing mentally or physically handicapped employees to work at a wage less than the legal minimum wage) in a nonprofit sheltered workshop, day program, or rehabilitation facility may now bring an action for harassment or discrimination under California's Fair Employment and Housing Act (FEHA). They were previously excluded from the definition of an "employee." Sheltered workshops are supervised workplaces for mentally or physically handicapped adults. Day programs are centers that offer intellectually and developmentally disabled individuals supportive therapy and opportunities for skill-building.

Rehabilitation facilities assist disabled individuals with acquiring employable skills and finding suitable employment.

Harassment Prevention and All-Gender Restrooms (AB 1661 and AB 1732)

- City, county, or special district officials that receive compensation from the government must now participate in sexual harassment prevention training and education. They are required to undergo 2 hours of training within the first 6 months of taking office or starting their employment and then every 2 years thereafter. Special districts are zones created by statute for the performance of specified governmental functions.



- Beginning **March 1, 2017**, employers must identify all single-user toilet facilities as “all-gender” toilet facilities.

State Contracts and Anti-Discrimination Certification (AB 2844)

To further its policy of protecting civil rights and preventing discrimination, California now requires companies who bid, propose, or renew a contract of \$100,000 or more with a state agency to certify that they are in compliance with the Unruh Civil Rights Act and FEHA. Together, the Acts prohibit discrimination in employment, housing, services, and all businesses, such as hotels and motels, restaurants, theaters, hospitals, barber and beauty shops, housing accommodations, and retail establishments, on the basis of sex, race, color, religion, ancestry, national origin, age, disability, medical condition, genetic information, marital status, or sexual orientation.

Confidential Age Information (AB 1687)

To stop age discrimination in the entertainment industry, California now allows individuals to prevent commercial online entertainment employment services from publicizing their birth date and/or age in online profiles and from sharing that information with other Internet websites. Entertainment employment service providers must remove any age-related information within 5 days of the individual’s request.

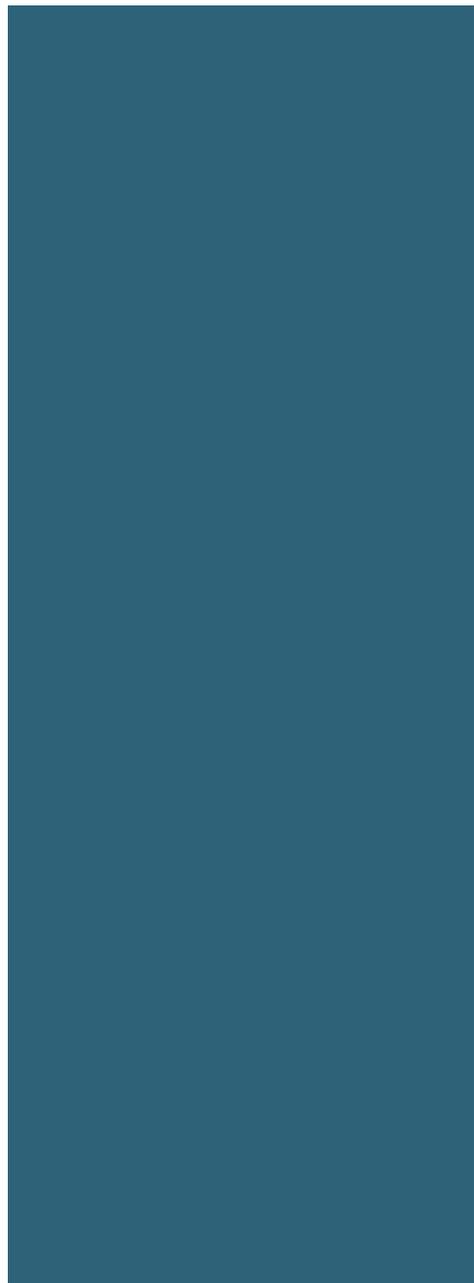
LEAVES OF ABSENCE AND BENEFITS

Paid Family Leave Benefits (AB 908)

Effective **January 1, 2018**, an employee’s paid family leave benefits will increase from 55% of earnings to either 60% or 70% of earnings, depending on the employee’s income. Employees can still not exceed their maximum weekly benefit, but they are no longer required to wait 7 days before becoming eligible to receive paid family leave benefits.

Time Off for Domestic Violence, Sexual Assault, and Stalking (AB 2337)

Employers with 25 or more employees are already prohibited from discharging, discriminating, or retaliating against an



employee who is a victim of domestic violence, sexual assault, or stalking for taking time off to seek medical attention; obtain services from a domestic violence shelter, program, or rape crisis center; obtain psychological counseling; or participate in safety planning and legal proceedings. California now requires employers to provide employees with written notice of these rights upon hire or request.

If you need your employee handbook updated to reflect this policy, please contact our office!

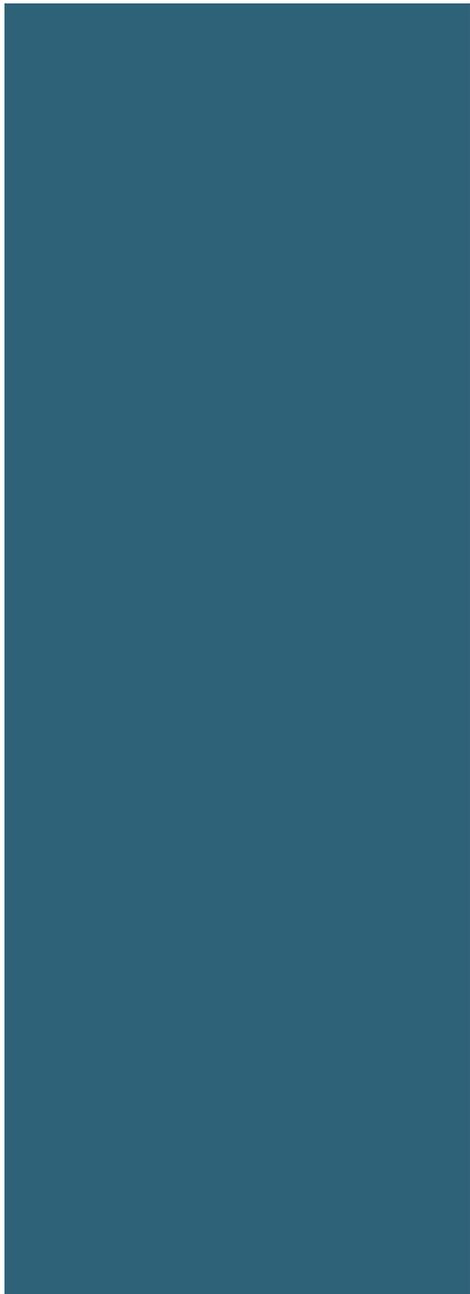
Private Retirement Savings Plans (SB 1234)

Employees whose employers do not offer a retirement plan do not have access to a seamless, lifelong retirement savings system and are at significant risk of not having enough retirement income to meet their basic needs. Accordingly, California has created a state-run retirement plan to give private-sector employees the opportunity to build their assets and attain future financial stability. The state sponsored retirement plan is entitled California Secure Choice Retirement Savings Program (SCRSP) and will require employers with 5 or more employees that do not offer retirement plans to start a payroll arrangement that allows employees to contribute a portion of their wages to the SCRSP. California is still in the process of setting up the SCRSP, so until the program is fully implemented, employers do not need to take any action.

Paid Sick Leave (SB 3)

Beginning **July 1, 2018**, in-home supportive services workers will be entitled to paid sick leave if they work in California for 30 or more days within a year. They may accrue paid sick days at a rate of no less than 1 hour per every 30 hours worked or be allocated the full amount of leave on the first day the law goes into effect or the first day of their employment. The “full amount of leave” is 8 hours, or 1 day, in each year of employment. If the employer uses the accrual method, the employee must accrue no less than 24 hours of sick leave by the 120th calendar day of employment.





Disability Benefits (AB 2886)

Beginning **March 1, 2018**, the appeal time for disability benefits determinations regarding eligibility, computation of benefits, and overpayment is extended from 20 days to 30 days.

BACKGROUND CHECKS

- **AB 1843:** Employers may no longer inquire about a job applicant's juvenile criminal history or consider such information when determining any condition of employment. Juvenile criminal history consists of any action made under the jurisdiction of a juvenile court. Health care facilities, however, may inquire about juvenile convictions or juvenile adjudications for felony and misdemeanor sexual offenses or drug possessions within the last five years.
- **Fair Chance Initiative:** Beginning **January 22, 2017**, employers in **Los Angeles** with 10 or more employees are no longer allowed to ask a job applicant about his or her criminal history until a conditional offer of employment has been made. The employer may not rescind the job offer based on the applicant's criminal history unless the employer (1) can link the specific criminal history to inherent job risks and (2) allows the applicant to provide information challenging the accuracy of his or her criminal history, including mitigating factors such as rehabilitation. Once an employer provides the applicant with written notification of his intent to rescind the offer, a copy of the written assessment, and any supporting information, the applicant has 5 business days to provide information challenging the accuracy of his or her criminal history. Only after the employer considers such information and prepares a written reassessment, may he rescind the job offer.



Employers must notify job applicants of this new law by stating in each job posting and advertisement that “the employer will consider applicants in a manner consistent with the requirements of the Fair Chance Initiative.” They must also post a notice informing applicants of their rights under this law at their workplace, work site, and any other location visited by applicants. Each labor union with which the

employer has a collective bargaining agreement must be given a copy of the notice. Los Angeles has not yet released an official notice, so until then, employers are not required to follow notice requirements.

Employment applications, with written assessments and reassessments, must be maintained for three years.

Failure to abide by this law may result in fines of up to \$2,000 per violation.

- **AB 1289:** Ride sharing services, such as Uber and Lyft, must now conduct local and national criminal background checks on their drivers. They may not employ drivers registered on the National Sex Offender Public Website or who have been convicted of terrorism-related felonies, a misdemeanor assault or battery within the last seven years, a domestic violence offense, or driving under the influence of alcohol or drugs.

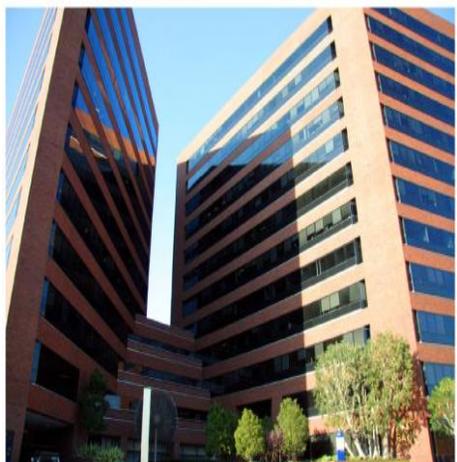
EMPLOYMENT AGREEMENTS

SB 1241: Employers may no longer force employees who primarily work and reside in California to agree to adjudicate a claim arising in California in another state (choice of forum clauses) or to apply another state's laws to an action arising in California (choice of law clauses) as a condition of employment, unless the employee is independently represented by an attorney when the agreement is negotiated. This law does not affect employment agreements already in effect.

WORKERS' COMPENSATION

- **AB 2883:** For workers' compensation purposes, California has redefined "employee" to include members, officers, and board members of quasi-public or private corporations, partnerships, or limited liability companies who render services for pay. As such, these individuals must now be compensated for any injuries sustained in the course of their employment.
- **SB 1175:** Healthcare providers are now required to submit bills for employee medical services to the employer within one





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year of the date of service. If the bills are not timely submitted, the healthcare provider is not entitled to payment.

WORKPLACE SAFETY

AB 1785: Existing law prohibits a person from using a wireless electronic device to write, send, or read a text-based communication while driving. The new law continues the ban, but allows a driver to activate or deactivate a function of the device with a single swipe or tap, as long as the device is mounted.

PUBLIC WORKS

AB 1926: Employers who provide services to public works projects must now pay their apprentices the prevailing wage for any time spent on preemployment activities, such as testing, training or taking examinations. Public works projects include the construction or maintenance of renewable energy resources, improvements to energy efficiency, as well as any construction performed on state, county, or city land.

If you have any questions about these new employment laws, please do not hesitate to call our office!



DEBORAH BIRNDORF ZEILER

Debbie Birndorf Zeiler has been practicing law for more than twenty years, including ten years at major law firms. She represents employers in all aspects of employment law, including defense of harassment and discrimination claims, wage claims, wage and hour class actions, disability claims, and misappropriation of trade secrets. She also drafts and reviews employment contracts, severance agreements, employee handbooks, and personnel policies and provides counseling.

Debbie earned her B.A. from UCLA, her M.B.A. from NYU, and her law degree from Washington University in St. Louis, where she graduated in the top of her class.

Debbie has been named a **2017 Super Lawyer** in Employment and Labor. She was previously awarded the **Super Lawyer** honor in 2013, 2015 and 2016. She has also been named one of the **Top Employment and Labor Attorneys** in Los Angeles and one of the **Top Women Attorneys** by *Los Angeles Magazine*. Birndorf Law Offices was recognized by *Los Angeles Magazine* as one of the **Best Law Firms in Los Angeles**.

Super Lawyers

Los Angeles
MAGAZINE

Super Lawyers is a rating service of outstanding lawyers from more than 70 practice areas who have attained a high-degree of peer recognition and professional achievement. The selection process is multi-phased and includes independent research, peer nominations and peer evaluations. Only five percent of the lawyers in California are named to Super Lawyers.

VANESSA LEE

Vanessa recently graduated from USC Gould School of Law. She has helped defend state agencies against wage and hour claims at the California Attorney General's Office and clerked for a superior court judge in San Francisco.

While in law school, Vanessa counseled clients at the Medical-Legal Community Partnership and served on the board of the Health Law Society.



MONICA SMITH

A native of Atlanta, Monica has been Ms. Birndorf's assistant for over seven years.

Amends General Minimum Wage Order and IWC Industry and Occupation Orders

PLEASE POST NEXT TO YOUR IWC OR INDUSTRY OCCUPATION ORDER



OFFICIAL NOTICE California Minimum Wage

MW-2017

Minimum Wage — Every employer shall pay to each employee hourly wages not less than the following.

EFFECTIVE DATE	Employers with 26 or More Employees*	Employers with 25 or Fewer Employees*
January 1, 2017	\$10.50	\$10.00
January 1, 2018	\$11.00	\$10.50

* Employees treated as employed by a single qualified taxpayer pursuant to Revenue and Taxation Code section 23626 are treated as employees of that single taxpayer.

To employers and representatives of persons working in industries and occupations in the State of California:

SUMMARY OF ACTIONS

TAKE NOTICE that on April 4, 2016, the Governor of California signed legislation passed by the California Legislature, raising the minimum wage for all industries. (SB 3, Stats of 2016, amending section 1182.12 of the California Labor Code.) Pursuant to its authority under Labor Code section 1182.13, the Department of Industrial Relations amends and republishes Sections 2, 3, and 5 of the General Minimum Wage Order, MW-2014. Section 1, Applicability, and Section 4, Separability, have not been changed. Consistent with this enactment, amendments are made to the minimum wage, and the meals and lodging credits sections of all of the IWC's industry and occupation orders.

This summary must be made available to employees in accordance with the IWC's wage orders. Copies of the full text of the amended wage orders may be obtained by ordering on-line at www.dir.ca.gov/WP.asp, or by contacting your local Division of Labor Standards Enforcement office.

1. APPLICABILITY

The provisions of this Order shall not apply to outside salespersons and individuals who are the parent, spouse, or children of the employer previously contained in this Order and the IWC's industry and occupation orders. Exceptions and modifications provided by statute or in Section 1, Applicability, and in other sections of the IWC's industry and occupation orders may be used where any such provisions are enforceable and applicable to the employer.

2. MINIMUM WAGES

Every employer shall pay to each employee wages not less than those stated in the above table on each effective date.

3. MEALS AND LODGING CREDITS - TABLE

When credit for meals or lodging is used to meet part of the employer's minimum wage obligation, the amounts so credited pursuant to a voluntary written agreement may not be more than the following:

	EFFECTIVE JANUARY 1, 2017		EFFECTIVE JANUARY 1, 2018	
For an employer who employs:	26 or More Employees	25 or Fewer Employees	26 or More Employees	25 or Fewer Employees
LODGING				
Room occupied	\$49.38/week	\$47.03/week	\$51.73/week	\$49.38/week
Room shared	\$40.76/week	\$38.82/week	\$42.70/week	\$40.76/week
Apartment — two thirds (2/3) of the ordinary rental value, and in no event more than	\$593.05/month	\$564.81/month	\$621.29/month	\$593.05/month
Where a couple are both employed by the employer, two thirds (2/3) of the ordinary rental value, and in no event more than.....	\$877.27/month	\$835.49/month	\$919.04/month	\$877.26/month
MEALS				
Breakfast	\$3.80	\$3.62	\$3.98	\$3.80
Lunch	\$5.22	\$4.97	\$5.47	\$5.22
Dinner	\$7.09	\$6.68	\$7.35	\$7.01

Meals or lodging may not be credited against the minimum wage without a voluntary written agreement between the employer and the employee. When credit for meals or lodging is used to meet part of the employer's minimum wage obligation, the amounts so credited may not be more than the amounts stated in the table above.

4. SEPARABILITY

If the application of any provision of this Order, or any section, subsection, subdivision, sentence, clause, phrase, word or portion of this Order should be held invalid, unconstitutional, unauthorized, or prohibited by statute, the remaining provisions thereof shall not be affected thereby, but shall continue to be given full force and effect as if the part so held invalid or unconstitutional had not been included herein.

5. AMENDED PROVISIONS

This Order amends the minimum wage and meals and lodging credits in MW-2014, as well as in the IWC's industry and occupation orders. (See Orders 1-15, Secs. 4 and 10; and Order 16, Secs. 4 and 9.) This Order makes no other changes to the IWC's industry and occupation orders.

These Amendments to the Wage Orders shall be in effect as of January 1, 2017.

Questions about enforcement should be directed to the Labor Commissioner's Office. For the address and telephone number of the office nearest you, information can be found on the internet at <http://www.dir.ca.gov/DLSE/dlse.html> or under a search for "California Labor Commissioner's Office" on the internet or any other directory. The Labor Commissioner has offices in the following cities: Bakersfield, El Centro, Fresno, Long Beach, Los Angeles, Oakland, Redding, Sacramento, Salinas, San Bernardino, San Diego, San Francisco, San Jose, Santa Ana, Santa Barbara, Santa Rosa, Stockton, and Van Nuys.

Post in a Conspicuous Place at any Workplace or Job Site.

Violators Shall be Subject to Penalties.

OFFICIAL NOTICE

Los Angeles Minimum Wage

Rate Effective July 1, 2016



\$10.50 PER HOUR

Starting July 1, 2016, all Employers will be required to pay Employees a new minimum wage according to the Los Angeles Minimum Wage Ordinance. The minimum wage rate will be adjusted every year according to the Los Angeles Minimum Wage Ordinance Section 187.02. Certain exemptions and deferrals may be available.

Employers with 26 or more Employees:	
7/1/2016	\$10.50
7/1/2017	\$12.00
7/1/2018	\$13.25
7/1/2019	\$14.25
7/1/2020	\$15.00

Employers with 25 or fewer Employees or Non-profit corporations with 26 or more Employees with approval to pay a deferred rate:	
7/1/2017	\$10.50
7/1/2018	\$12.00
7/1/2019	\$13.25
7/1/2020	\$14.25
7/1/2021	\$15.00

The Los Angeles Office of Wage Standards Ordinance grants authority to the Bureau of Contract Administration, Office of Wage Standards to investigate possible violations, inspect workplaces, interview Employees, and review the payroll records. The Office of Wage Standards will enforce the City's Minimum Wage Ordinance for violations including, but not limited to: 1) failure to pay the Los Angeles minimum wage; 2) failure to comply with notice, posting, and payroll records requirements; and 3) retaliation. The Los Angeles Municipal Code Section 188.04 protects Employees from any discrimination or retaliation for exercising their rights to receive the City's minimum wage.

Los Angeles Paid Sick Leave

Effective July 1, 2016

Starting July 1, 2016, all Employers, except for Employers with 25 or fewer Employees, will be required to provide paid sick leave according to the Los Angeles Minimum Wage Ordinance. The paid sick leave will be provided to all Employees who work at least two hours in a particular week in the City of Los Angeles for the same Employer for 30 days or more within a year. Employers with 25 or fewer Employees begin providing sick leave benefits on July 1, 2017.

Entitlement	
Front Loading	At least 48 hours provided either at the beginning of each year of employment, calendar year, or 12 month period ; OR-
Accrual	One hour of paid sick leave for every 30 hours worked.
72 Hour Cap	Accrued unused paid sick leave shall carry over to the following year of employment and must be capped at a minimum of 72 hours; however, an Employer may choose no cap or a higher cap.
Separation from employment	An Employer is not required to provide compensation to an Employee for accrued or unused sick days at separation from employment.
Reinstatement	If an Employee is re-hired within a year of separation from employment, previously accrued and unused paid sick leave shall be reinstated.

Usage	
When	An Employee may use paid sick leave beginning on the 90th day of employment or July 1, 2016, whichever is later.
How	An Employer shall provide paid sick leave upon the oral or written request of an Employee for themselves or a family member, or for any individual related by blood or affinity. Qualified use of time can be found in LAMC Section 187.04 G. The use of paid sick leave may be limited to 48 hours leave annually.

The Los Angeles Municipal Code Section 187.06 protects Employees from any discrimination or retaliation for exercising their rights to receive the City's paid sick leave.

For more information, please contact the Office of Wage Standards at 1-844-WAGESLA(924-3752) or email wagesla@lacity.org or visit wagesla.lacity.org.



Department of the Treasury
Internal Revenue Service

Notice 797

(Rev. December 2016)

Possible Federal Tax Refund Due to the Earned Income Credit (EIC)

What Is the EIC?

The EIC is a refundable tax credit for certain workers.

Who May Claim the EIC?

You may be able to claim the EIC for 2016 if you worked and all four of the following conditions apply.

1. You (and your spouse, if filing a joint return) have a valid social security number (SSN) issued by the Social Security Administration. For more information on valid SSNs, see Pub. 596, Earned Income Credit (EIC).

2. Your 2016 earned income and adjusted gross income are both under \$39,296 (\$44,846 if married filing jointly) if you have one qualifying child; under \$44,648 (\$50,198 if married filing jointly) if you have two qualifying children; under \$47,955 (\$53,505 if married filing jointly) if you have three or more qualifying children; or under \$14,880 (\$20,430 if married filing jointly) if you don't have a qualifying child. For a definition of earned income, see Pub. 596.

3. Your filing status on your 2016 tax return is any status except married filing a separate return.

4. You were not a qualifying child of another taxpayer in 2016.

If you **do not** have a qualifying child, you must also meet these conditions.

a. You, or your spouse if filing a joint return, were at least age 25 but under age 65 at the end of 2016. (You meet this condition if you, or your spouse if filing a joint return, were born after December 31, 1951, and before January 2, 1992.) If your spouse died in 2016, see Pub. 596.

b. You cannot be claimed as a dependent on someone else's 2016 tax return.

c. Your home, and your spouse's if filing a joint return, was in the United States for over half of 2016. If you are in the military on extended active duty outside the United States, your home is considered to be in the United States during that duty period and you may be able to claim the EIC.

You **cannot** claim the EIC if any of the following conditions apply.

1. Your 2016 investment income (such as interest and dividends) is over \$3,400. See Pub. 596 for more information.

2. You file either Form 2555 or Form 2555-EZ (relating to foreign earned income).

3. You were a nonresident alien for any part of 2016 unless you were married to a U.S. citizen or resident and elected to be taxed as a resident alien for the entire year. See Pub. 519, U.S. Tax Guide for Aliens, for more information.

(Continued on back)

Who Is a Qualifying Child?

Any child who meets all four of the following conditions is a qualifying child.

1. The child is your son, daughter, stepchild, foster child, brother, sister, half brother, half sister, stepbrother, stepsister, or a descendant of any of them (for example, your grandchild, niece, or nephew). An adopted child is always treated as your own child. An adopted child includes a child lawfully placed with you for legal adoption. A foster child is any child placed with you by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

2. At the end of 2016, the child was under age 19 and younger than you (or your spouse, if filing jointly); or under age 24, a student, and younger than you (or your spouse, if filing jointly); or any age and permanently and totally disabled.

3. The child lived with you in the United States for over half of 2016. If the child didn't live with you for the required time, there are exceptions if the child was born or died during the year, the child is presumed to have been kidnapped by someone who is not a family member, or there was a temporary absence.

4. The child does not file a joint income tax return for 2016.

There are additional rules if a child is married or is the qualifying child of more than one person. For details, see Pub. 596.

How Do You Claim the EIC?

If you are eligible, claim the EIC on your 2016 income tax return. If you have a qualifying child, you must also fill in Schedule EIC and attach it to your Form 1040 or Form 1040A.

If eligible, you can claim the EIC to get a refund even if you have no tax withheld from your pay or owe no tax. For example, if you had no tax withheld in 2016 and owe no tax but are eligible for a credit of \$800, you must file a 2016 income tax return to get the \$800 refund.

Most people qualify for free tax preparation. If you earned less than \$64,000, you can file for free online at [IRS.gov/freefile](https://www.irs.gov/freefile). In addition, IRS-certified volunteers can prepare your return for free in-person if you earned less than \$54,000 or are age 60 or older. To find locations, visit [IRS.gov/vita](https://www.irs.gov/vita) or call 1-800-906-9887.

More Information

This notice provides the basic requirements to qualify for the EIC. Refer to the instructions for Form 1040, 1040A, or 1040EZ; Pub. 596; or [IRS.gov/eitc](https://www.irs.gov/eitc) for details. You can download IRS forms and publications at [IRS.gov/forms](https://www.irs.gov/forms); and you can get printed copies mailed to you by going to [IRS.gov/orderforms](https://www.irs.gov/orderforms) or by calling 1-800-829-3676.



STATE OF CALIFORNIA
Franchise Tax Board

Fact Sheet: 2017 Filing Season Federal and State Earned Income Tax Credits

❑ Federal Earned Income Tax Credit (EITC)

EITC is a refundable federal income credit designed for individuals and families with low to moderate incomes. Taxpayers can qualify for a refundable credit, which means that taxpayers without a tax liability can get a refund check from the government.

❑ Credit Amounts

The maximum amount of credit for tax year 2016 is:

- \$6,269 with 3 or more qualifying children.
- \$5,572 with 2 qualifying children.
- \$3,373 with 1 qualifying child.
- \$506 with no qualifying children.

❑ Credit Eligibility

Taxpayers must meet the following requirements and file an income tax return, even if they do not have a filing requirement based on their income level:

- A valid social security number.
- Earned income from employment or self-employment.
- Did not use the married filing separately filing status.
- A U.S. citizen or resident alien all year or a nonresident alien married to a U.S. citizen or resident alien and filing a joint income tax return.
- Earned income and adjusted gross income of no more than:
 - \$53,505 for married filing jointly with three or more qualifying children;
 - \$20,430 for married filing jointly with no qualifying children.

❑ Find More Information About Federal EITC

Go to irs.gov and search for **EITC**.

❑ California EITC

California began offering its own EITC (Cal EITC) starting with calendar year 2015 tax returns. This refundable tax credit puts money back in the pockets of California’s working families and individuals.

For taxpayers who owe taxes, Cal EITC reduces the amount of taxes they might owe and may allow them a refund when they file their taxes. If they do not owe taxes, Cal EITC will provide them a tax refund when they file their taxes.

❑ Credit Amounts

California taxpayers can find their filing status below to see how much they may qualify for, or they can use the [CalEITC4Me online calculator](#) to estimate their credit:

Number of Qualifying Children	California Maximum Income	Cal EITC (up to)	IRS EITC (up to)
None	\$ 6,717	\$ 217	\$ 506
1	\$ 10,087	\$ 1,452	\$ 3,373
2	\$ 14,161	\$ 2,406	\$ 5,572
3 or more	\$ 14,161	\$ 2,706	\$ 6,269

❑ Credit Eligibility

Cal EITC is available to households with adjusted gross income of up to:

- \$6,717 with no qualifying children.
- \$10,087 with one qualifying child.
- \$14,161 with two or more qualifying children.

California taxpayers qualify for Cal EITC if they meet ALL of the following requirements:

- Have wages and adjusted gross income within certain limits.
- Have a social security number issued by the Social Security Administration that is valid for employment for each taxpayer, taxpayer’s spouse, and any qualifying children.
- Did not use the “married/RDP filing separately” filing status.
- Lived in California for more than half the tax year.

❑ Contact Us:

Public Affairs Office
916.845.4800