

State Law Requires Employers to Tell Employees about Earned Income Tax Credit

A state law passed in 2007, AB 650, requires employers to notify *all* employees for whom they pay California unemployment taxes that they may be eligible for the Earned Income Tax Credit (EITC) within one week of providing them with their annual wage summary or W-2. The information provided here is intended to help you meet the requirements of the new law and make your employees aware of underutilized tax credits.

What Does the New Law Mean for Me?

1. You must inform all employees that they may be eligible for the EITC

Effective Jan. 1, 2008, California law requires that you notify all employees covered under California Unemployment Insurance Code of their possible eligibility for the EITC.

Employers are **required to hand directly to the employee or mail to the employee's last known address** written notification. *Posting or displaying information in the workplace or sharing information with employees via e-mail, does not meet the requirements of the law;* however, it is encouraged as an additional means to increase employee awareness of the EITC. The law requires notification of your employees within one week before or after, or at the same time that you provide them with their annual wage summary, including, but not limited to, W-2 forms.

Here is a list of tools, to help you notify your employees:

- Download a notice to distribute to your employees that meets the new CA state legal requirements. Remember, you must hand this notice directly to the employee or mail it to the employee's last known address. You may wish to enclose a copy with the W-2 form. The notice is available for download at www.sfchamber.com/taxcredits.htm.
- Tell your employees about the San Francisco Working Families Credit. It is a \$100 tax credit for qualifying San Francisco residents who apply for the Earned Income Tax Credit. Tell your employees to ask their tax preparers or to call (800) 358-8832 for more information.
- You may also want to notify employees earning less than \$45,000 that they are eligible to have their taxes completed for free. Tell your employees to call (800) 358-8832 for more information.

2. You are required to provide the Advance EITC to any employee who requests it

The legal notification provided above includes information for employees about the Advance EITC. You are required to inform employees about where they can get the required IRS W-5 form and to process the Advance EITC upon request of the employee. For employees, there are both pros and cons to receiving the Advance EITC, so you may receive requests for it from some eligible employees and not from others.

What Is the Advance EITC?

With the Advance EITC, eligible employees receive part of their EITC in paychecks throughout the year rather than waiting until they file their federal taxes. You subtract the Advance EITC payments made to employees from your total employment taxes. To qualify for the Advance EITC, employees must fill out an IRS W-5 form and must reapply each calendar year.

How Do I Make the Advance EITC Available to My Employees?

- You will be making employees aware of the Advance EITC option when you hand or send them the EITC Notification form that the Chamber & SF Works are providing you. When an employee requests the Advance EITC, you must provide them with an IRS W-5 form. You may wish to print multiple copies to keep on hand should employees request them and to include them among materials you provide to new employees.
 - Eligibility guidelines for the Advance EITC differ slightly from those for the EITC. They are detailed on the IRS W-5 form which interested employees must review and complete.
 - Employees must reapply for the Advance EITC by completing a new IRS W-5 form every calendar year that they wish to receive it.
- Ask interested employees to return completed W-5 forms to the appropriate human resources or management personnel.
- Include Advance EITC payments in requesting employees' paychecks. The amount to be included varies, based on a percentage of the employee's salary. The advance payment is added to the employee's net pay for the pay period. Since the Advance EITC is not wages, you don't withhold any Income Tax, Social Security, or Medicare taxes from the Advance EITC portion of the payment.
 - To figure the amount of credit to include with the employee's pay, use the Tables for Percentage Method or Tables for Wage Bracket Method of Advance EITC Payments in Publication 15, Circular E, Employer's Tax Guide.
 - In 2009, the maximum annual Advance EITC you can provide to an employee with at least one qualifying child is \$1,750.
- Report the payments made to your employees by showing the total payments on the Advance EITC line of your employment tax return (i.e., Form 941, Form 943, or Schedule H of Form 1040, whichever applies), and subtract this amount from your total employment taxes. If you use an employment tax software program, it likely incorporates Advance EITC payments into its calculations.
 - More information about specific filing instructions can be found in IRS Publication 15, Circular E, Employer's Tax Guide.