



Information Sheet

Casual Labor

Casual labor is used to describe workers performing a variety of services on a temporary, seasonal, as needed, or part-time basis. Workers hired for an hour, a day, a week or part time are typically employees. The law does not allow an employer to treat a worker as an independent contractor if they work less than full-time. The following types of workers have been referred to as casual laborers:

- Part-time helper
- Day laborer
- Student
- Noncitizen or immigrant
- A worker on probation
- A worker in training
- Temporary helper
- Outside laborer

Who Is an Employer?

Under section 675 of the [California Unemployment Insurance Code \(CUIC\)](http://leginfo.ca.gov/faces/codes.xhtml) (leginfo.legislature.ca.gov/faces/codes.xhtml) a business becomes an employing unit when it employs one or more employees and pays more than \$100 in wages during any calendar quarter. Wages are compensation for personal work done, including, but not limited to, cash payments, commissions, bonuses, and the reasonable cash value of nonmonetary payments for services, such as meals and lodging.

Once you become an employer, you must register with the Employment Development Department (EDD) within 15 days. Employers are responsible for reporting wages paid to their employees and paying Unemployment Insurance and Employment Training Tax on those wages. They may be required to withhold State Disability Insurance* and Personal Income Tax from the wages paid to employees, and send the amount withheld to the EDD.

Who Is an Employee?

An *employee* includes all of the following:

- An individual who is an employee based on the standard that applies using the ABC test

* Includes Paid Family Leave (PFL).

under section 621(b) of the CUIC, the *Borello* test**, another applicable test; or

- An individual who the law defines as a statutory employee, such as a corporate officer.

The ABC Test for Classifying Individuals

Under the ABC test, an individual providing labor or services for any form of compensation has the status of an employee rather than an independent contractor unless the hiring entity demonstrates all three of the following conditions:

- A. The individual is free from control and direction, both under contract and in fact.
- B. The individual performs work that is outside the usual course of the hiring entity's business.
- C. The individual has their own independently established business of the same type as the work performed.

While the ABC test is the applicable test for most workers, there are exceptions to the ABC test that are defined in sections 2776 through 2784 of the [Labor Code](http://leginfo.ca.gov/faces/codes.xhtml) (leginfo.legislature.ca.gov/faces/codes.xhtml). If each section's factors are all satisfied, the *Borello* test** is used to decide whether the individual is an employee or independent contractor.

Additionally, there are specific occupations which require the application of standards set forth in the [California Business and Professions Code](http://leginfo.ca.gov/faces/codes.xhtml) (leginfo.legislature.ca.gov/faces/codes.xhtml).

For information on the ABC test, *Borello* test**, and other ABC test exceptions, refer to [Information Sheet: Employment \(DE 231\) \(PDF\)](http://edd.ca.gov/pdf_pub_ctr/de231.pdf) (edd.ca.gov/pdf_pub_ctr/de231.pdf) and visit the [Employment Status Portal](http://labor.ca.gov/employmentstatus/employers/) (labor.ca.gov/employmentstatus/employers/).

** Test established by the California Supreme Court in *S.G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal. 3d 341

Wages

An employee performing casual labor may be paid by the hour, salary, day rate or commission on sales, as well as by piece rate or by the job. The methods of payment may include, but are not limited to, cash, check, meals, lodging, products or services, and the reasonable cash value of all pay in any form other than cash.

When Would Casual Labor Be Excluded from Employment?

1. Under section 640 of the CUIIC, services not in the course of the employing unit's trade or business performed in any calendar quarter by an employee would be excluded unless:
 - The compensation received for services is \$50 or more, and
 - The services performed by an individual who is regularly employed by such employing unit to perform such service and who worked fewer than 24 days during either the current calendar quarter or the preceding calendar quarter.
2. Services performed by an employee that are in the course of the employing unit's trade or business would be considered employment regardless of the amount of compensation received or the length of the services. However, under section 641 of the CUIIC, services performed in any calendar quarter in the employ

of any organization that is exempt from federal income taxes, such as nonprofit organizations and farmer cooperative organizations, would be excluded if the compensation for such services is less than \$50.

"Service not in the course of the employing unit's trade or business" means service which does not, in any way, promote, advance or further the trade or business of the employing unit, and in no way tends toward the preservation, maintenance or operation of its business, business premises or business property.

"Trade or business" includes any business or professional undertaking irrespective of its size or scope without regard to the principal trade or business of the employing unit. Refer to section 640-1 of Title 22, California Code of Regulations.

More Information

For more help:

- **Call:** The Taxpayer Assistance Center at 1-888 745-3886.
- **Website:** Visit the nearest [Employment Tax Office](http://edd.ca.gov/Office_Locator/) (edd.ca.gov/Office_Locator/). Additional information is also available through [EDD's no-cost payroll tax seminars](http://seminars.edd.ca.gov/payroll_tax_seminars) (seminars.edd.ca.gov/payroll_tax_seminars).

The EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Requests for services, aids, and alternate formats need to be made by calling 1-888-745-3886 (voice) or TTY 1-800-547-9565.

This information sheet is provided as a public service and is intended to provide nontechnical assistance. Every attempt has been made to provide information that is consistent with the appropriate statutes, rules, and administrative and court decisions. Any information that is inconsistent with the law, regulations, and administrative and court decisions is not binding on either the Employment Development Department or the taxpayer. Any information provided is not intended to be legal, accounting, tax, investment, or other professional advice. Consult a tax professional, legal counsel, or a qualified professional for information concerning your specific situation.