

Restaurant and Hotel Industries

The restaurant and hotel industries consist of establishments that are open to the public or are operated by membership organizations that furnish meals or lodging.

The restaurant industry is composed of establishments that prepare and serve meals and beverages. This includes, but is not limited to, restaurants, cafeterias, caterers, cocktail lounges, diners, fast food places, mobile food services, and takeout or delivery businesses.

Establishments in the hotel industry provide lodging to their customers or members and include, but are not limited to, hotels, motels, hostels, inns, rooming and boarding houses, fraternity or sorority residential houses, and residential clubs.

Typical employees in the restaurant and hotel industries include, but are not limited to:

- Chefs
- Dishwashers
- Bus persons
- Maître d's
- Cashiers
- Delivery persons
- Valets
- Maids
- Laundry persons
- Desk Clerks
- Cooks
- Kitchen helpers
- Waiters and waitresses
- Hosts and hostesses
- Managers
- Bartenders
- Clerical and office staff
- Switchboard operators
- Repair and maintenance persons
- Bellhops

Other services that may be performed by an employee are bookkeepers, janitors, and entertainers.

Who Is an Employee?

Per the California Unemployment Insurance Code (CUIC), an employee may be one of the following:

- An individual who is an employee based on the standard that applies using the ABC test under section 621(b) of the CUIC, the *Borello* test*, or another applicable test; or
- An individual who is identified specifically or statutorily in the CUIC.

An employee may perform services on a permanent, temporary, or less than full-time basis.

The ABC Test for Classifying Individuals

Per section 621(b) of the CUIC (referred to as the ABC test), any individual providing labor or services for remuneration 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 the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.
- B. The individual performs work that is outside the usual course of the hiring entity's business.
- C. The individual is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

While the ABC test under section 621(b) of the CUIC contains the applicable criteria for most workers, there are exceptions to the ABC test defined in sections 2776 through 2784 of the [Labor Code](#) ([leginfo.legislature.ca.gov/faces/codes.xhtml](#)). If each section's factors are all satisfied, the *Borello test** is used to determine whether the individual is an employee or independent contractor. Additionally, there are other specific occupations which require the application of standards in the [California Business and Professions Code](#) ([leginfo.legislature.ca.gov/faces/codes.xhtml](#)).

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

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

What Are Wages?

Wages are payments made to an employee for services performed during employment. The payment may be made in cash or some medium other than cash. Types of payments typically considered to be wages are:

- Cash
- Lodging
- Meals and beverages
- Tips

Taxability of Meals and Lodging

Employer-provided meals and lodging are subject to Unemployment Insurance (UI), Employment Training Tax (ETT), and State Disability Insurance (SDI).

Meals are subject to California Personal Income Tax (PIT) withholding and reportable as PIT wages unless furnished for the employer's convenience and on the employer's premises.

If more than half employees receive meals for the convenience of the employer, then all meals provided by the employer are considered for the employer's convenience and are therefore not subject to PIT withholding or reportable as PIT wages.

If fewer than half of employees receive meals for the convenience of the employer, then only those meals provided for the employer's convenience are exempt from the PIT withholding and wage reporting requirements.

Lodging is also subject to PIT unless provided on the employer's premises, for the employer's convenience and as a condition of employment.

For more information, refer to the following:

- [Information Sheet: Wages \(DE 231A\) \(PDF\)](http://edd.ca.gov/pdf_pub_ctr/de231a.pdf) (edd.ca.gov/pdf_pub_ctr/de231a.pdf)
- [Information Sheet: Personal Income Tax Wages Reported on the Quarterly Contribution Return and Report of Wages \(Continuation\) \(DE9C\) \(DE 231PIT\) \(PDF\)](http://edd.ca.gov/pdf_pub_ctr/de231pit.pdf) (edd.ca.gov/pdf_pub_ctr/de231pit.pdf)
- [California Employer's Guide \(DE 44\) \(PDF\)](http://edd.ca.gov/pdf_pub_ctr/de44.pdf) (edd.ca.gov/pdf_pub_ctr/de44.pdf)

What Are the Values of Meals and Lodging?

The taxable values of meals and lodging should not be less than the reasonable estimated values agreed by the contract of employment or in a union agreement. If the cash values are not set in the hiring or union agreement, the taxable values are established by regulation. The taxable value of lodging is 66 2/3 percent of the ordinary rental value to the public up to a maximum per month and not less than a minimum value per week.

The taxable values of meals and lodging are listed below and are subject to change each calendar year.

Visit [Rates, Withholding Schedules, and Meals and Lodging Values](http://edd.ca.gov/en/payroll_taxes/rates_and_withholding) (edd.ca.gov/en/payroll_taxes/rates_and_withholding).

Year	Value of Meals					Value of Lodging	
	Day	Break-fast.	Lunch	Dinner.	Un-identified	Max Per Month	Min Per Week
2024	\$14.85	\$3.05	\$4.55	\$7.25	\$5.35	\$1,852	\$60.05
2023	\$13.85	\$2.85	\$4.25	\$6.75	\$4.95	\$1,759	\$57.05
2022	\$12.95	\$2.65	\$4.00	\$6.30	\$4.65	\$1,715	\$55.60
2021	\$12.45	\$2.55	\$3.85	\$6.05	\$4.45	\$1,688	\$54.75
2020	\$12.05	\$2.45	\$3.70	\$5.85	\$4.30	\$1,607	\$52.10

Note: These values apply to non-maritime employees only.
Lodging: 66 2/3 percent of ordinary rental value.

Wages Includes Tips

Employees who receive more than \$20 in tips in a calendar month shall report all tips in one or more written statements to the employer on or before the 10th day of the month following the month in which they are received from the customers. Tips are taxable when the employee's statement is furnished to the employer. Banquet tips and tips controlled by the employer are treated as regular wages, and their taxability is not contingent upon employees reporting them to the employer.

Tips received by the employee from the customer in the form of cash, check, or any other monetary item of exchange are wages subject to UI, ETT, SDI, and PIT if they total \$20 or more in a month, provided the employee reports the amount in a written statement furnished to the employer. Tips should be combined with regular wages when reported to us. Refer to [Information Sheet: Tips \(DE 231T\) \(PDF\)](http://edd.ca.gov/pdf_pub_ctr/de231t.pdf) (edd.ca.gov/pdf_pub_ctr/de231t.pdf) for more detailed information on reporting tips.

More Information

For further assistance, contact the Taxpayer Assistance Center at 1-888-745-3886 or visit the nearest [Employment Tax Office](http://edd.ca.gov/Office_Locator) (edd.ca.gov/Office_Locator).

More information is also available through our 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/or alternate formats need to be made by calling 1-888-745-3886 (voice) or TTY 1-800-547-9565.

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