



California State Income Tax FAQs

Los Angeles Unified School District

In early 2007, a new payroll system was implemented within the Los Angeles Unified School District. Subsequently, several thousand LAUSD employees encountered payroll difficulties attributed to the new payroll system. Employees were either underpaid or overpaid throughout the 2007 calendar year. Final resolution of these payroll difficulties could not be resolved prior to the issuance of W-2 Wage and Tax Statements to LAUSD employees. As a result, many employees have questions and concerns regarding the accuracy of their W-2 forms and the resulting federal and state tax implications. This information has been prepared to help answer state income tax questions related to the LAUSD payroll issues.

1 Should a taxpayer delay filing their 2007 California Resident Income Tax Return?

No, you are required to file your California Resident Income Tax Return. That return is due April 15, 2008, with an automatic paperless extension to October 15, 2008. Failure to file by the extended due date may result in penalties.

2 How does the overpayment/underpayment of wages affect the filing of my 2007 California Resident Income Tax Return?

For tax purposes, the basic rule is that taxpayers must report all income received during the year, and may subtract any repayments made during the same year. If repayment is made in the next year, the full amount received in the first year must be included in income, but the repayment amount can be applied as a deduction or credit in the year actually repaid. At the end of the year, the District issues a W-2 form indicating the amount of salary or other wage income it has paid during the year according to its records.

3 What do I do if I agree with the LAUSD regarding the amount of overpay/underpay, and the repayment was in full during 2007, in time for the W-2 to be adjusted?

File your California Resident Income Tax Return normally. If you have repaid any balance due or received any additional payment in full during 2007, your tax return should not be impacted.

4 What should I do if I disagree with the LAUSD's figures as shown on the W-2 form I received?

If you disagree with the W-2 figures, you have two options.

- 1> You can use the W-2 figures as provided, and plan to file an amended return if it is later determined the W-2 figures are incorrect. Under this option, you will not have to do anything if you later agree with the W-2 figures.
- 2> You can file your return based on what you believe you were paid, and plan to file an amended return if it is later determined that the W-2 figures were correct. As explained below, you are likely to get a bill from the FTB and/or the IRS if you choose this option. In addition, if an IRS Form 4852 (Substitute for Form W-2) is used when filing your

federal return, you may be required to file FTB Form 3525 (Substitute for form W-2, Wage and Tax Statement) when filing your state return. You may wish to consult a tax professional if you decide to choose this option.

5 What will happen if I disagree with the LAUSD and file my return based on what I believe I was paid?

The Form W-2 is a legal document used by the Franchise Tax Board to verify information on the California Resident Income Tax Return. If there is a difference between what is claimed on the return and what is present on the W-2, the Franchise Tax Board will reduce or increase the amounts on the return to match the W-2. This could result in the taxpayer being billed for the difference. If the amount is not paid timely, penalties and interest could be charged to the taxpayer.

6 Can I alter my W-2 to match what I was paid by LAUSD if I don't agree with their computation?

Any attempt to alter a W-2 will invalidate the information on that W-2. This could cause an increase in the processing time of the return.

7 If I make repayments in 2008 what do I do? Should I amend my 2007 return when I am paid in full in 2008?

Any repayments in 2008 should be included on your 2008 California Resident Income Tax Return. If payments are made in 2008, do not amend your 2007 return. Show those payments on the 2008 California Resident Income Tax Return. Your employer should provide you with a statement after the end of the 2008 tax year explaining how to do this.

Specific penalties and fees that LAUSD employees might face as a result of this issue include:

Underpayment of Estimated Tax Penalties: These penalties are assessed automatically where the amount of payments made during the year through withholding and other payments are less than the tax due for the year. Although there are some exceptions and threshold amounts that might prevent the penalty from being assessed, this is the most likely consequence of taxpayers having to include more income than was planned for the year. It is not clear whether additional amounts were withheld on the overpaid amounts. If so, this penalty might not apply in many instances. There is no reasonable cause exception for the estimated tax penalty, but it may be waived in some cases where its imposition would be against equity and good conscience.

Late payment of tax penalty: This penalty is imposed automatically where the amount of tax shown as due on the return as filed (or as corrected during processing) has not been paid by the original due date of the return. This penalty could be assessed where the taxpayer disagrees with the LAUSD's figures and shows a different amount on the return than shown on the W-2. Again, whether this penalty will apply will depend in large part on whether sufficient withholding on wages was done from the overpaid amounts. This penalty has a reasonable cause exception.

Late filing and other penalties: A late filing penalty can be imposed if a return is not filed by the extended due date. For federal purposes, the penalty will apply if the return is filed after April 15, and no extension is requested or granted. For California, no extension is required, and this penalty will only apply if the return is not filed by the extended due date, October 15. Other miscellaneous penalties could be triggered or increased if there were other errors in the return. For example, if the employee also had sold property or engaged in some other business transaction during the year and that was audited and adjusted, any penalties related to that adjustment might be increased due to the payroll problem.

The **Franchise Tax Board** is committed to working with affected LAUSD employees to resolve any problems that might arise as a result of the payroll difficulties. If you have any further state tax related questions, please contact the Franchise Tax Board at **1.800.852.5711**.