

## **LEGAL NEWS**

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### **NEW REPORTING REQUIREMENTS FOR INDEPENDENT CONTRACTORS BY NANCY A. CHILLAG AND GARY BRAININ, ATTORNEYS**

Effective January 1, 2001, you will need to report most Independent Contractors to EDD. The purpose of this new reporting requirement is to aid the state in tracking non-custodial parents—it was instituted as part of Senate Bill 542 which made numerous changes to the reporting and tracking practices for securing child support.

In the past, only employees needed to be reported to EDD, so the state could only track the incomes of people who were employees. Non-custodial parents who wished to hide their incomes could simply find jobs as independent contractors and it would be difficult to track them. Unfortunately, this means that all Independent Contractors will now need to be reported.

Fortunately, the reporting requirements are not too onerous. Reporting is done on EDD form DE 542 (available at the EDD website: [www.edd.ca.gov](http://www.edd.ca.gov)) which is a one-page form. What follows is a general description of the reporting requirements; consult your attorney or tax professional to determine how the new rules apply to your specific business.

**Who Needs to Report:** Any business headquartered in California must report all Independent Contractors hired during the year. This includes Independent Contractors who live and work partly or entirely outside of California. If your business is not headquartered in California, different rules may apply.

**When to Report:** You must report an Independent Contractor within 20 days of either entering into a contract (written or oral) or

making payments totaling \$600 or more in one calendar year. For ongoing contracts, you must report by January 20. You are not required to report Independent Contractors if all work and payment was completed in 2000 or earlier; however, you will need to re-report Independent Contractors each year from now on.

**Who to Report:** You only need to report Independent Contractors if you need to file a form 1099-MISC for that Contractor. That means you do not have to report Independent Contractors who are corporations, partnerships, or similar business entities. You do have to report Independent Contractors who are individuals or sole proprietors (including dba's). Any entity who 1) should receive a 1099-MISC, 2) is paid \$600 or more, and 3) is an individual or sole proprietorship should be reported. That may include your accountant, attorney, and similar professionals. Failure to file on time subjects you to a fine of \$24 per Contractor; if it is determined that you conspired with the Contractor, the fine may be much higher.

**What to Report:** On Form DE 542, you will indicate your business name, address, and tax ID number (or your social security number if you do not have a business tax ID). You will also need to report the Independent Contractor's name, address, and social security number. Finally, you will need to provide details of the contract: start and end dates (if known) and amount. If the amount is not known, you can check the box indicating that the contract is "ongoing."

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