

## Piece-Rate Legislation Back Pay (AB 1513)

Assembly Bill (AB) 1513 (Chapter 754, Statutes of 2015) added a new Section 226.2 to the Labor Code concerning piece-rate compensation. The new section is designed to resolve unsettled controversies over how to compensate piece-rate workers during mandated rest and recovery periods and other work time that does not generate piece-rate earnings.

The new section does two things:

- First, it clarifies and settles the pay requirements for mandated rest and recovery breaks and other nonproductive time going forward.
- Second, it provides a short window of time for employers to make back wage payments to workers for rest and recovery breaks and other nonproductive time in exchange for relief from statutory penalties and other damages.

Back payments are required for the time period of July 1, 2012, through December 31, 2015. Employers can either use time records to calculate and pay the amounts actually due plus interest or pay four percent (4%) of gross earnings in pay periods in which any work was performed on a piece-rate basis during that same time period.

**Employers are required to make back payments to the impacted workers by no later than December 15, 2016. In order to properly report back pay to the Employment Development Department (EDD):**

- **Prepare a *Quarterly Contribution Return and Report of Wages*, DE 9, and pay the contributions (Unemployment Insurance, State Disability Insurance, Employment Training Tax) in the quarter that the back pay is paid.**
- **Prepare a *Quarterly Contribution Return and Report of Wages (Continuation)*, DE 9C, for the quarters in which the employees earned the back pay (and should have been paid).**
- **Mail the forms to:**

**Attention: Karina Benitez  
Tax Processing and Accounting Division, MIC 13  
Employment Development Department  
722 Capitol Mall  
Sacramento, CA 95814**

Be sure to include Personal Income Tax (PIT) withholdings where applicable (PIT withholding is optional for agricultural labor).