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Title 22@ Social Security

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Division 1@ Employment Development Department

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Subdivision 1@ Director of Employment Development

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Division 2.5@ WITHHOLDING TAX ON WAGES

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Chapter 2@ WITHHOLDING AND PAYMENT OF TAX

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Section 4329-1@ Voluntary Withholding Agreements

4329-1 Voluntary Withholding Agreements

(a)

In General. An employee and his or her employer may enter into an agreement under Section 13029 of the code to provide for the withholding of income tax upon payments of amounts described in subdivision (c) of this regulation. Such an agreement may be entered into under this section only if an agreement for the withholding of federal income tax has been entered into by the employee and his or her employer pursuant to Section 3402(p) of the Internal Revenue Code of 1954 and only with respect to amounts which are includable in the gross income of the employee under Section 17071 of the Revenue and Taxation Code. The agreement must be applicable to all such amounts paid by the employer to the employee. The amount to be withheld pursuant to an agreement under Section 13029 of the code shall be determined under the rules contained in Section 13020 of the code.

(b)

Form and Duration of Agreement. (1) (A) Except as provided in subparagraph (B) of this paragraph, an employee who desires to enter into an agreement under Section 13029 of the code shall furnish the employer with a request for withholding of California income tax which shall be signed by the employee and shall contain: (i) The name, address, and social security number of the employee making the request. (ii) The name and address of the employer. (iii) A statement

that the employee desires withholding of California income tax. The furnishing of such a signed request for withholding of a California income tax shall constitute a request for withholding and shall be attached to, and constitute a part of, the employee's Federal Form W-4. (B) In the case of an employee who desires to enter into an agreement under Section 13029 of the code with his or her employer, if the employee performs services (in addition to those to be the subject of the agreement) the remuneration for which is subject to mandatory income tax withholding by such employer, or if the employee wishes to specify that the agreement terminate on a specific date, the employee shall furnish the employer with a request for withholding which shall be signed by the employee, and shall contain: (i) The name, address and social security number of the employee making the request. (ii) The name and address of the employer. (iii) A statement that the employee desires withholding of California income tax. (iv) If the employee desires that the agreement terminate on a specific date, the date of termination of the agreement. If accepted by the employer as provided in subparagraph (C) of this paragraph, the request shall be attached to, and constitute part of, the employee's Form W-4. (C) No request for withholding under Section 13029 of the code shall be effective as an agreement between an employer and an employee until the employer accepts the request by commencing to withhold from the amounts with respect to which the request was made. (2) An agreement under Section 13029 of the code shall be effective for such period as the employer and employee mutually agree upon. However, either the employer or the employee may terminate the agreement prior to the end of such period by furnishing a signed written notice to the other. Unless the employer and employee agree to an earlier termination date, the notice shall be effective with respect to the first payment of an amount in respect of which the agreement is in effect

which is made on or after the first "status determination date" (January 1, May 1, July 1, and October 1 of each year) that occurs at least 30 days after the date on which the notice is furnished. If the employee executes a new Form W-4, the request upon which an agreement under Section 13029 of the code is based shall be attached to, and constitute a part of, such new Form W-4.

(1)

(A) Except as provided in subparagraph (B) of this paragraph, an employee who desires to enter into an agreement under Section 13029 of the code shall furnish the employer with a request for withholding of California income tax which shall be signed by the employee and shall contain: (i) The name, address, and social security number of the employee making the request. (ii) The name and address of the employer. (iii) A statement that the employee desires withholding of California income tax. The furnishing of such a signed request for withholding of a California income tax shall constitute a request for withholding and shall be attached to, and constitute a part of, the employee's Federal Form W-4. (B) In the case of an employee who desires to enter into an agreement under Section 13029 of the code with his or her employer, if the employee performs services (in addition to those to be the subject of the agreement) the remuneration for which is subject to mandatory income tax withholding by such employer, or if the employee wishes to specify that the agreement terminate on a specific date, the employee shall furnish the employer with a request for withholding which shall be signed by the employee, and shall contain: (i) The name, address and social security number of the employee making the request. (ii) The name and address of the employer. (iii) A statement that the employee desires withholding of California income tax. (iv) If the employee desires that the agreement terminate on a specific date, the date of termination of the agreement. If accepted by the employer as provided in subparagraph (C) of this paragraph, the request shall be attached to, and

constitute part of, the employee's Form W-4. (C) No request for withholding under Section 13029 of the code shall be effective as an agreement between an employer and an employee until the employer accepts the request by commencing to withhold from the amounts with respect to which the request was made.

(A)

Except as provided in subparagraph (B) of this paragraph, an employee who desires to enter into an agreement under Section 13029 of the code shall furnish the employer with a request for withholding of California income tax which shall be signed by the employee and shall contain: (i) The name, address, and social security number of the employee making the request. (ii) The name and address of the employer. (iii) A statement that the employee desires withholding of California income tax. The furnishing of such a signed request for withholding of a California income tax shall constitute a request for withholding and shall be attached to, and constitute a part of, the employee's Federal Form W-4.

(i)

The name, address, and social security number of the employee making the request.

(ii)

The name and address of the employer.

(iii)

A statement that the employee desires withholding of California income tax. The furnishing of such a signed request for withholding of a California income tax shall constitute a request for withholding and shall be attached to, and constitute a part of, the employee's Federal Form W-4.

(B)

In the case of an employee who desires to enter into an agreement under Section 13029 of the code with his or her employer, if the employee performs services (in addition to those to be the subject of the agreement) the remuneration for which is subject to mandatory income tax withholding by such employer, or if the employee wishes to specify that the agreement

terminate on a specific date, the employee shall furnish the employer with a request for withholding which shall be signed by the employee, and shall contain: (i) The name, address and social security number of the employee making the request. (ii) The name and address of the employer. (iii) A statement that the employee desires withholding of California income tax. (iv) If the employee desires that the agreement terminate on a specific date, the date of termination of the agreement. If accepted by the employer as provided in subparagraph (C) of this paragraph, the request shall be attached to, and constitute part of, the employee's Form W-4.

(i)

The name, address and social security number of the employee making the request.

(ii)

The name and address of the employer.

(iii)

A statement that the employee desires withholding of California income tax.

(iv)

If the employee desires that the agreement terminate on a specific date, the date of termination of the agreement. If accepted by the employer as provided in subparagraph (C) of this paragraph, the request shall be attached to, and constitute part of, the employee's Form W-4.

(C)

No request for withholding under Section 13029 of the code shall be effective as an agreement between an employer and an employee until the employer accepts the request by commencing to withhold from the amounts with respect to which the request was made.

(2)

An agreement under Section 13029 of the code shall be effective for such period as the employer and employee mutually agree upon. However, either the employer or the employee may terminate the agreement prior to the end of such period by furnishing a

signed written notice to the other. Unless the employer and employee agree to an earlier termination date, the notice shall be effective with respect to the first payment of an amount in respect of which the agreement is in effect which is made on or after the first "status determination date" (January 1, May 1, July 1, and October 1 of each year) that occurs at least 30 days after the date on which the notice is furnished. If the employee executes a new Form W-4, the request upon which an agreement under Section 13029 of the code is based shall be attached to, and constitute a part of, such new Form W-4.

(c)

(1) In General. Notwithstanding the exceptions to the definition of wages specified in Section 13009 of the code and the regulations thereunder, the term "wages" includes the amounts described in paragraph (2)(A) of this subdivision with respect to which there is a voluntary withholding agreement in effect under Section 13029 of the code. References elsewhere in this chapter to the definition of wages contained in Section 13009 of the code shall be deemed to refer also to this subdivision. (2) Remuneration for Services. (A) Except as provided in subparagraph (B) of this paragraph, the amounts referred to in paragraph (1) of this subdivision include any remuneration for services performed by an employee for an employer which, without regard to this subdivision, does not constitute wages under Section 13009 of the code. For example, remuneration for services performed by an agricultural worker or a domestic worker in a private home (amounts which are specifically excluded from the definition of wages by Section 13009(a) and (b) of the code, respectively) are amounts with respect to which a voluntary withholding agreement may be entered into under Section 13029 of the code. (B) For purposes of this paragraph, remuneration for services shall not include amounts not subject to withholding under Section 13009(d) of the code

(relating to remuneration for services for foreign government or international organization). Section 13009(h) (relating to remuneration other than in cash for service not in the course of employer's trade or business), 13009(i) (relating to payments from or to certain tax-exempt trusts, or under or to certain annuity plans or bond purchase plans), 13009(l) (relating to group-term life insurance), 13009(m) (relating to moving expenses), or 13009(n)(1) of the code (relating to tips paid in any medium other than cash).

(1)

In General. Notwithstanding the exceptions to the definition of wages specified in Section 13009 of the code and the regulations thereunder, the term "wages" includes the amounts described in paragraph (2)(A) of this subdivision with respect to which there is a voluntary withholding agreement in effect under Section 13029 of the code. References elsewhere in this chapter to the definition of wages contained in Section 13009 of the code shall be deemed to refer also to this subdivision.

(2)

Remuneration for Services. (A) Except as provided in subparagraph (B) of this paragraph, the amounts referred to in paragraph (1) of this subdivision include any remuneration for services performed by an employee for an employer which, without regard to this subdivision, does not constitute wages under Section 13009 of the code. For example, remuneration for services performed by an agricultural worker or a domestic worker in a private home (amounts which are specifically excluded from the definition of wages by Section 13009(a) and (b) of the code, respectively) are amounts with respect to which a voluntary withholding agreement may be entered into under Section 13029 of the code. (B) For purposes of this paragraph, remuneration for services shall not include amounts not subject to withholding under Section 13009(d) of the code (relating to remuneration for services for foreign government or international

organization). Section 13009(h) (relating to remuneration other than in cash for service not in the course of employer's trade or business), 13009(i) (relating to payments from or to certain tax-exempt trusts, or under or to certain annuity plans or bond purchase plans), 13009(l) (relating to group-term life insurance), 13009(m) (relating to moving expenses), or 13009(n)(1) of the code (relating to tips paid in any medium other than cash).

(A)

Except as provided in subparagraph (B) of this paragraph, the amounts referred to in paragraph (1) of this subdivision include any remuneration for services performed by an employee for an employer which, without regard to this subdivision, does not constitute wages under Section 13009 of the code. For example, remuneration for services performed by an agricultural worker or a domestic worker in a private home (amounts which are specifically excluded from the definition of wages by Section 13009(a) and (b) of the code, respectively) are amounts with respect to which a voluntary withholding agreement may be entered into under Section 13029 of the code.

(B)

For purposes of this paragraph, remuneration for services shall not include amounts not subject to withholding under Section 13009(d) of the code (relating to remuneration for services for foreign government or international organization). Section 13009(h) (relating to remuneration other than in cash for service not in the course of employer's trade or business), 13009(i) (relating to payments from or to certain tax-exempt trusts, or under or to certain annuity plans or bond purchase plans), 13009(l) (relating to group-term life insurance), 13009(m) (relating to moving expenses), or 13009(n)(1) of the code (relating to tips paid in any medium other than cash).