



# Table of Contents

<b>Taxation of Domestic Partner Benefits</b> .....	<b>2</b>
Federal Law.....	2
California Law.....	2
<b>Frontline ERP Domestic Partner Setup</b> .....	<b>3</b>
Benefit Group .....	3
Benefit Provider .....	3
Employee Management Record .....	5
Benefit Provider Tab .....	5
Verify Benefit Calculations .....	6
Addon Tab .....	8
Verify Addon Calculations.....	9
<b>Helpful Resources</b> .....	<b>10</b>
<b>Appendix A – School &amp; College Legal Service Update</b> .....	<b>11</b>



## **Taxation of Domestic Partner Benefits**

See Appendix A - School and College Legal Services Legal Update *Taxation of Domestic Partner Benefits Memo No 26-2019* dated October 11, 2019.

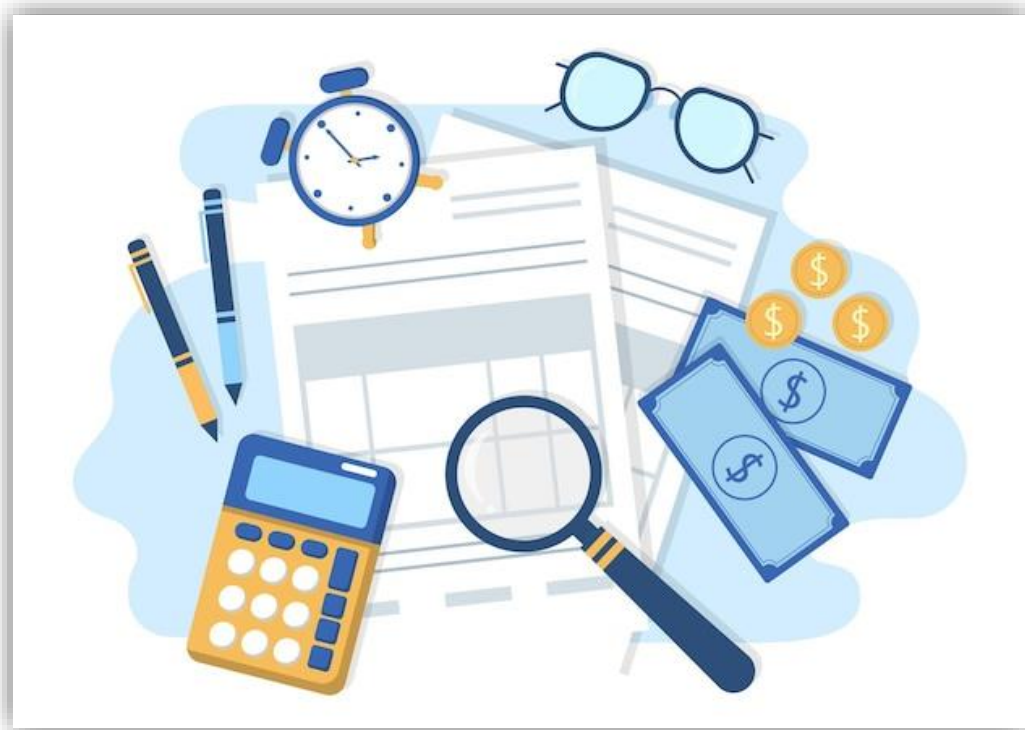
### **Federal Law**

Federal law does not recognize domestic partners as a "spouse". As such, when an employee elects to add their domestic partner to their health benefits, the employee must be taxed on the fair market value of the domestic partner benefit (taxable fringe benefit).

### **California Law**

The State of California enacted AB 205 in 2003 requiring all employers in California to provide the same benefits to employees with domestic partners as would be provided to spouses of employees.

Registered Domestic Partners are NOT required to pay State taxes on the domestic partner benefit. Non-Registered Domestic Partners ARE required to pay State taxes on the domestic partner benefit.



# Frontline ERP Domestic Partner Setup

## Benefit Group

Create MEDPOST Benefit Group to link to Post-Tax Domestic Partner Benefit Provider record.

[Go to HR/Payroll - Setup - Benefit - Benefit Group](#)

Group Code	Description	Active
DENPOST	Dental Post	Yes
DENTAL	Dental	Yes
LIFE	Life	Yes
MED	Medical	Yes
MEDPOST	MEDPOST	Yes
MEDPOST1	DOMESTIC PARTNER MED POST TAX	Yes
OPT	Opted out of coverage	Yes
VISION	Vision	Yes
VISPOST	Vision Post	Yes

## Benefit Provider

Create Benefit Provider Record with the difference in premiums from one level to the other based on current tiered rates or composite rates. Domestic Partner Benefit Provider can have multiple levels, or set up levels as needed.



If the district is using a Composite Rate for benefits, then the Fair Market Value will need to be calculated using the percentage formulas determined by the coverage carrier. District will need to contact carrier for percentage amounts.

**Example:** District has Tiered Rates. Certificated Employee is adding a Domestic Partner. The Employee was enrolled in Single Coverage, adding the Domestic Partner moves the coverage to Double.

[Go to HR/Payroll - Setup - Benefit - Benefit Providers](#)

- Open Current Benefit Provider record and compute difference in premium for both EE and ER

Level	Description	Coverage Type	EE Amt	ER Amt	EE Refund Amt	EE Budget Amt	ER Budget Amt	Premium Amount	Budget Premium	Self Insured
KN-4 S125	KN-4 S125 CHILD		159.53	1,286.47	0.00	159.53	1,286.47	1,446.00	1,446.00	
KN-3 S125	KN-3 S125 FAMILY		233.86	1,899.14	0.00	233.86	1,899.14	2,133.00	2,133.00	
KN-2 S125	KN-2 S125 DOUBLE		193.83	1,566.17	0.00	193.83	1,566.17	1,760.00	1,760.00	
KN-1 S125	KN-1 S125 SINGLE		109.86	875.14	0.00	109.86	875.14	985.00	985.00	

Level	EE Amount	ER Amount	Premium Amount
KN1-S125 SINGLE	\$109.86	\$875.14	\$985.00
KN2-S125 DOUBLE	\$193.83	\$1,566.17	\$1,760.00
DIFFERENCE	\$83.97	\$691.03	\$775.00

- Create New Benefit Provider record
  - Enter information on Provider Tab
  - Link to MEDPOST1 Benefit Group

CE-KADOM {CERT - KAISER DOMESTIC PARTNER} - From: 4/1/2024 Thru:

Provider Information		Provider Definition	
<b>1 - Schedule</b>		<b>2 - Provider Definition</b>	
Benefit Provider	CE-KADOM	Vendor	000935
Description	CERT - KAISER DOMESTIC PARTNER	Vendor Address	1
Short Description		Comment	
Check Description		<b>3 - ACA</b>	
Begin Date	4/1/2024	Self Insured	
End Date		Prepay Benefits	
Leftover Cap Pay Addon		<b>4 - Add/Update Info</b>	
Contribution	KA DOM (Kaiser H & W Contribution)		
Deduction	KAISER (KAISER POST TAX)		
Proration Allowed	Yes		
Benefit Group Code	MEDPOST1 (DOMESTIC PARTNER MED POST TAX)		
Force Employer Paid			

- Click on Levels Tab
  - Enter premium difference in EE and ER Amount Columns

CE-KADOM {CERT - KAISER DOMESTIC PARTNER} - Fro

Level	Description	Coverage Type	EE Amt	ER Amt	EE Refund Amt	EE Budget Amt	ER Budget Amt	Premium Amount	Budget Premium
CERTKN-2	SINGLE TO DOUBLE		83.97	691.03	0.00	83.97	691.03	775.00	775.00

- Save/Close

Provider	Description	Begin Date	End Date	Contrib	Deduct	Addon	Prorate	Group
CE-KADOM	CERT - KAISER DOMESTIC PARTNE	4/1/2024		KA DOM	KAISER		Yes	MEDPOST1
CL-KS125	CL-KAISER 125	10/1/2023		KAIS125	KAIS125		Yes	MED
CL-KSR	CL-KAISERPOST	10/1/2023		KAISER	KAISER		Yes	MEDPOST
CL-PPO	CL-ANTHEM BLUE CROSS POST	10/1/2023		PPO	PPO		Yes	MEDPOST
CLPPO125	CL-ANTHEM BLUE CROSS S125	10/1/2023		PPOS125	PPOS125		Yes	MED
DEL RET	DELTA DENTAL RETIREE	10/1/2023		DELRET	DELPOST		No	DENPOST
DELTA	DELTA POST	10/1/2023		DELTA	DELTA		Yes	DENPOST
DELTS125	DELTA S125	10/1/2023		DELS125	DELS125		Yes	DENTAL
KAIS RET	KAISER RETIREE	10/1/2023		KAISRET	KAIRET		No	MED
KAIS125	KAISERS125	10/1/2023		KAIS125	KAIS125		Yes	MED
KAISER	KAISERPOST	10/1/2023		KAISER	KAISER		Yes	MEDPOST

## Employee Management Record

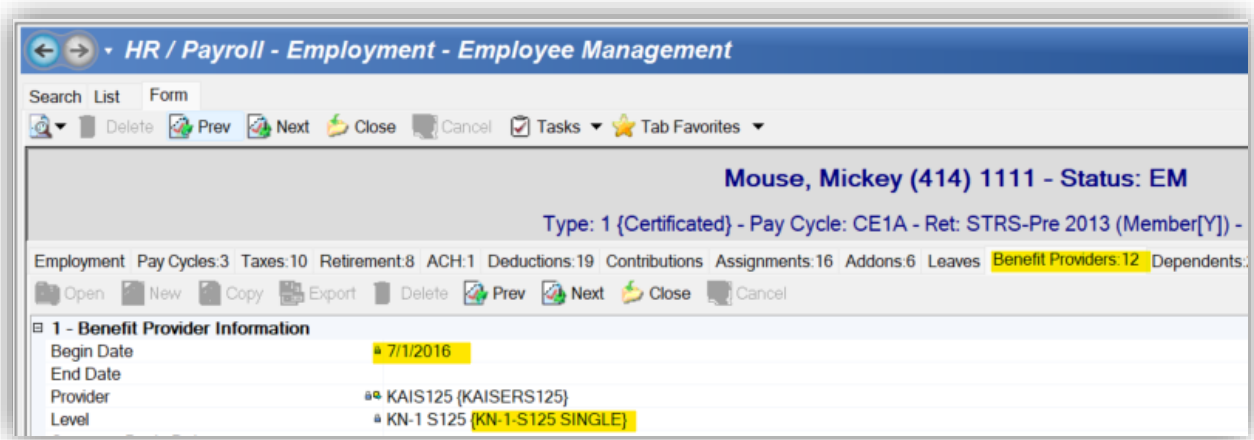
The employee will need to have two Medical Benefit Provider Records added to their Employee Management record, as well as a Domestic Partner Addon with the inflated ER Monthly Premium Amount. Both of these steps are necessary for correct tax implications. If District is using Deductions and Contributions instead of Benefit Providers contact [helpdesk@scoe.org](mailto:helpdesk@scoe.org) for additional setup.

### ***Go to HR/Payroll – Employment – Employee Management***

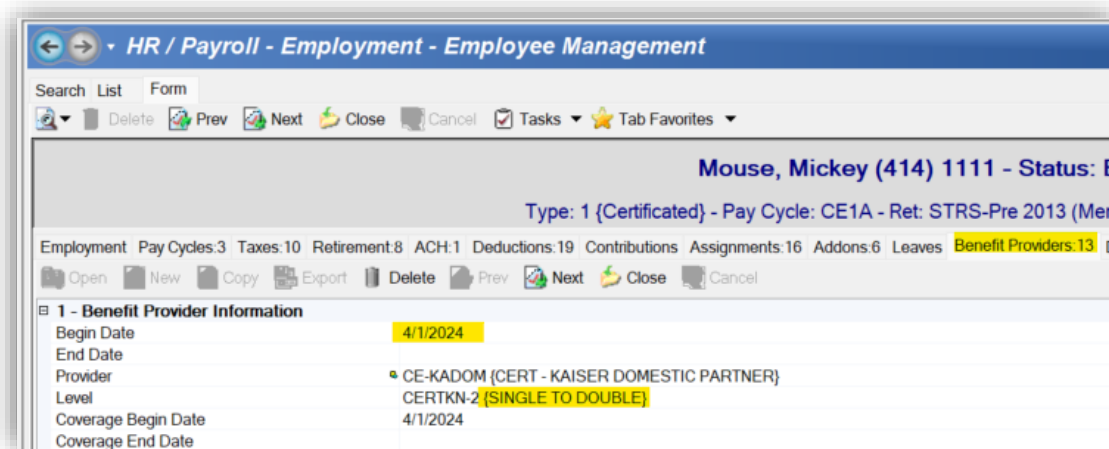
#### **Benefit Provider Tab**

**Example:** Employee went from Single to Double Coverage. Add Pre-Tax KAIS125 at the Single Level AND the Post-Tax CE-KADOM for the difference in premium level going from Single to Double.

- Keep current Pre-Tax Benefit Provider record open at Single Level



- Create Post-Tax CE-KADOM Record with Single to Double Level
  - Click New



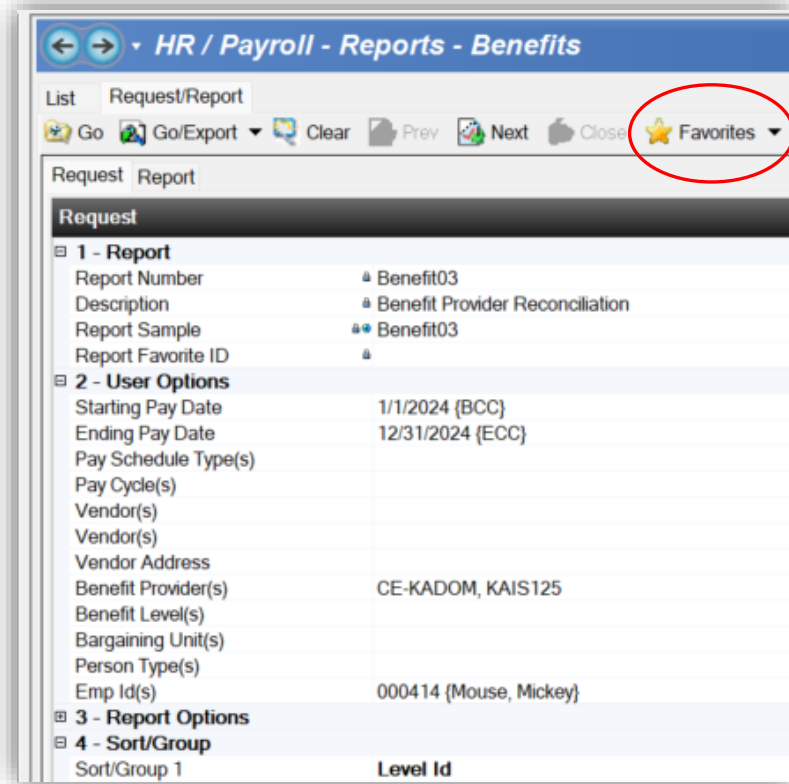
- Save/Close

## Verify Benefit Calculations

Review the Benefit03 Benefit Provider Reconciliation to verify the change in Benefits.

### Example: Benefit03 Benefit Provider Reconciliation for Calendar Year

- Starting Pay Date: BCC
- Ending Pay Date: ECC
- Benefit Providers: Enter Pre-Tax and Post-Tax Benefit Providers
- Emp Id(s): Enter applicable Emp Id(s)
- Sort/Group 1: Level Id



Save a Favorite Report so it can be run again once next Fiscal Year is open

### Page 1 – Premium for Domestic Partner (Difference for Single to Double)

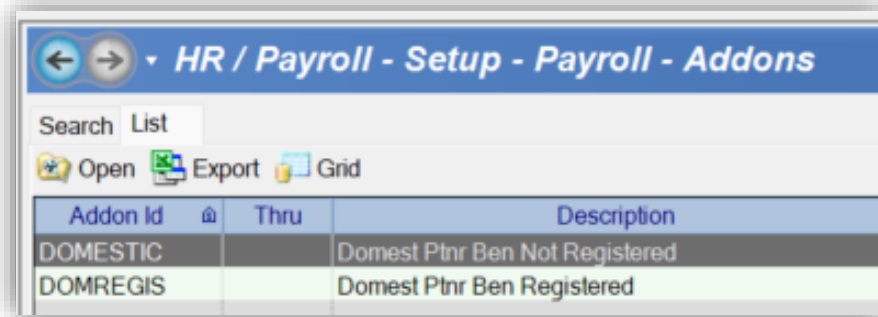
Benefit03a						Benefit Provider Reconciliation						
Level CERTKN-2 - SINGLE TO DOUBLE												
Employee	(ID) SSN4	Pay Cycle	Pay Date	Prov	Effective Dates	Benefit FTE	Summer Employee	Summer Employer	Current Employee	Current Employer	Current Total	Premium Amount
Mouse, Mickey	(000414) 1111	CE1A/#9	04/30/24	CE-KADOM	04/01/24- Open	1.00000	27.99	230.34	83.97	691.03	775.00	775.00
		CE1A/#10	05/31/24	CE-KADOM	04/01/24- Open	1.00000	28.01	230.35	83.97	691.03	775.00	775.00
		CE1A/#11	06/28/24	CE-KADOM	04/01/24- Open	1.00000	28.00	230.34	83.97	691.03	775.00	775.00
		CE1A/#1	08/30/24	CE-KADOM	04/01/24- Open	1.00000	7.63	62.82	83.97	691.03	775.00	775.00
		CE1A/#2	09/30/24	CE-KADOM	04/01/24- Open	1.00000	7.63	62.82	83.97	691.03	775.00	775.00
		CE1A/#3	10/31/24	CE-KADOM	04/01/24- Open	1.00000	7.63	62.82	83.97	691.03	775.00	775.00
		CE1A/#4	11/29/24	CE-KADOM	04/01/24- Open	1.00000	7.64	62.82	83.97	691.03	775.00	775.00
		CE1A/#5	12/30/24	CE-KADOM	04/01/24- Open	1.00000	7.63	62.82	83.97	691.03	775.00	775.00
Total for Mouse, Mickey							122.16	1,005.13	671.76	5,528.24	6,200.00	6,200.00

Page 2 – Premium for Employee at Single Level

Benefit03a						Benefit Provider Reconciliation						
Level KN-1 S125 - KN-1-S125 SINGLE												
Employee	(ID) SSN4	Pay Cycle	Pay Date	Prov	Effective Dates	Benefit FTE	Summer Employee	Summer Employer	Current Employee	Current Employer	Current Total	Premium Amount
Mouse, Mickey	(000414) 1111	CE1A/#6	01/31/24	KAIS125	07/01/16- Open	1.00000	6.36	78.19	109.86	875.14	985.00	985.00
		CE1A/#7	02/29/24	KAIS125	07/01/16- Open	1.00000	6.35	78.19	109.86	875.14	985.00	985.00
		CE1A/#8	03/29/24	KAIS125	07/01/16- Open	1.00000	6.36	78.19	109.86	875.14	985.00	985.00
							19.07	234.57	329.58	2,625.42	2,955.00	2,955.00
Mouse, Mickey	(000414) 1111	CE1A/#9	04/30/24	KAIS125	07/01/16- Open	1.00000	6.35	78.19	109.86	875.14	985.00	985.00
		CE1A/#10	05/31/24	KAIS125	07/01/16- Open	1.00000	6.36	78.19	109.86	875.14	985.00	985.00
		CE1A/#11	06/28/24	KAIS125	07/01/16- Open	1.00000	6.35	78.19	109.86	875.14	985.00	985.00
		CE1A/#1	08/30/24	KAIS125	07/01/16- Open	1.00000	9.99	79.56	109.86	875.14	985.00	985.00
		CE1A/#2	09/30/24	KAIS125	07/01/16- Open	1.00000	9.99	79.56	109.86	875.14	985.00	985.00
		CE1A/#3	10/31/24	KAIS125	07/01/16- Open	1.00000	9.99	79.56	109.86	875.14	985.00	985.00
		CE1A/#4	11/29/24	KAIS125	07/01/16- Open	1.00000	9.99	79.56	109.86	875.14	985.00	985.00
							9.99	79.56	109.86	875.14	985.00	985.00
Total for Mouse, Mickey							69.01	632.37	878.88	7,001.12	7,880.00	7,880.00
<b>Total for Level KN-1 S125</b>								<b>866.94</b>		<b>9,626.54</b>		<b>10,835.00</b>
							<b>88.08</b>		<b>1,208.46</b>		<b>10,835.00</b>	
<b>Total for Org 063 - ABC</b>								<b>1,872.07</b>		<b>15,154.78</b>		<b>17,035.00</b>
							<b>210.24</b>		<b>1,880.22</b>		<b>17,035.00</b>	

## Addon Tab

Employees can choose to register their Domestic Partnership with the State of the California. If the Domestic Partnership is registered, the premium benefit is not taxable for State Income Tax. If the Domestic Partnership is **NOT** registered, the premium benefit is taxable for State Income Tax as a Fringe Benefit. The software has the DOMESTIC and DOMREGIS Addons set up to tax accordingly.

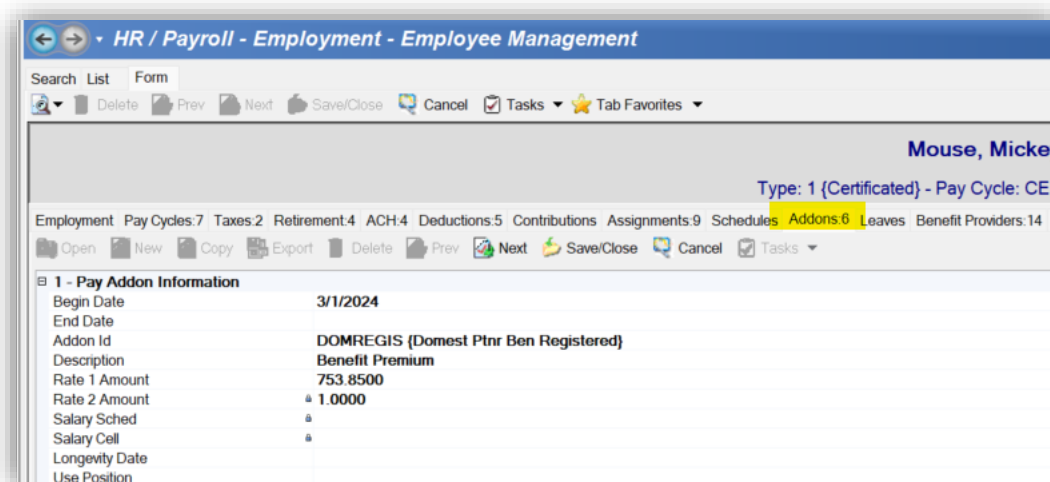


Addon Id	Thru	Description
DOMESTIC		Domest Ptnr Ben Not Registered
DOMREGIS		Domest Ptnr Ben Registered



**Example:** Employee Registered Domestic Partnership with the State of California. On an 11 Pay employee, inflate monthly ER premium to include summer month (monthly premium \* 12 / 11).

- Click New
- Addon Id: DOMREGIS
- Rate1 Amount: \$753.85 (\$691.03 monthly premium \* 12 months / 11 pay periods)



Mouse, Mickey  
Type: 1 {Certificated} - Pay Cycle: CE1

Employment Pay Cycles:7 Taxes:2 Retirement:4 ACH:4 Deductions:5 Contributions Assignments:9 Schedules Addons:6 Leaves Benefit Providers:14

1 - Pay Addon Information

Begin Date	3/1/2024
End Date	
Addon Id	DOMREGIS (Domest Ptnr Ben Registered)
Description	Benefit Premium
Rate 1 Amount	753.8500
Rate 2 Amount	1.0000
Salary Sched	
Salary Cell	
Longevity Date	
Use Position	

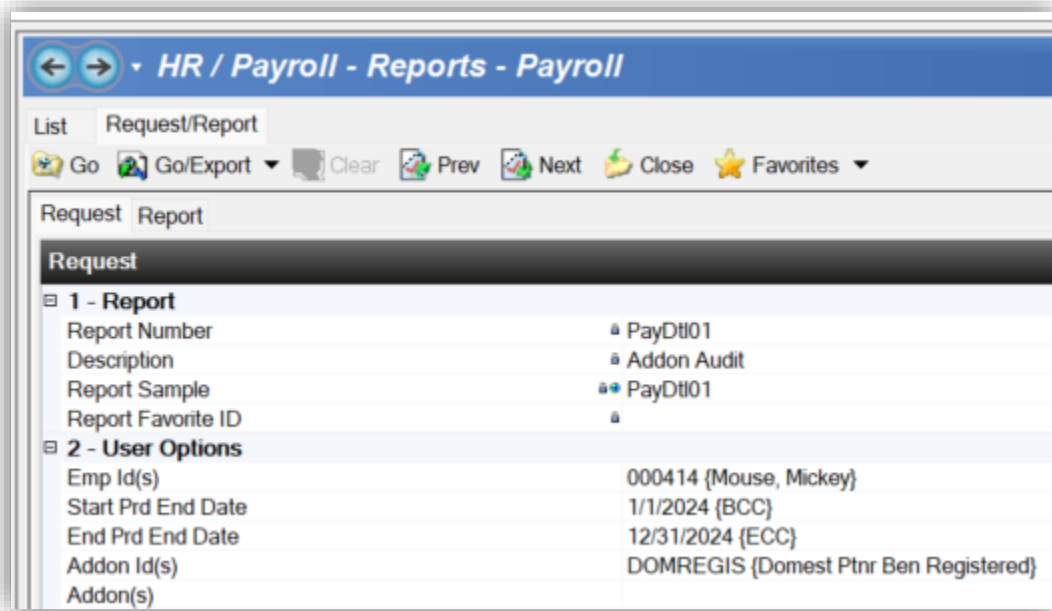
- Save/Close

## Verify Addon Calculations

Review Addon Audit to verify the correct addon is being used. The Addon Pay column is the fringe benefit taxable subject gross amount that will be added to reported wages in Box1 of the W2 .

### Example: PayDtl01 – Addon Audit for Calendar Year

- Emp Id(s): Enter applicable Emp Id(s)
- Starting Pay Date: BCC
- Ending Pay Date: ECC
- Addon Id(s): Enter applicable DOMREGIS or DOMESTIC

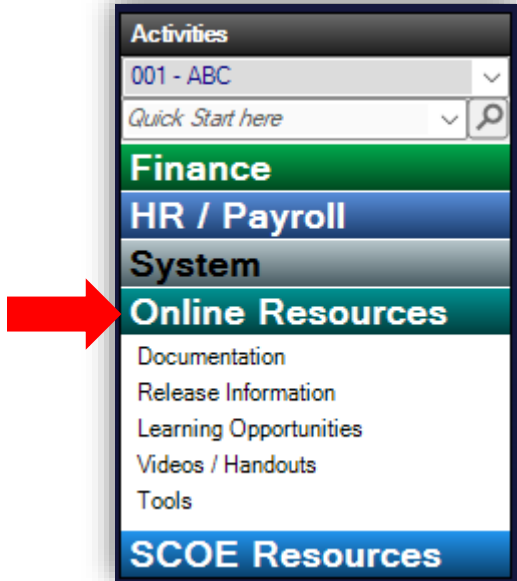


PayDtl01a		Addon Audit							
Period End Date 01/01/2024 through 12/31/2024									
Fiscal Year	Addon ID - Description	Effective	Pay Cycle/Prd	Rate 1 (Opt)	Rate 2 (Opt)	Pay Rate	Salary Schedule (Cell)	Units	Addon Pay
Mouse, Mickey		Empld 000414							
2024	DOMREGIS-Domest Ptnr Ben Regis	04/30/2024	CE1A/# 9	753.85 ()	1.00 (L)	753.85		1.00	753.85
2024	DOMREGIS-Domest Ptnr Ben Regis	05/31/2024	CE1A/#10	753.85 ()	1.00 (L)	753.85		1.00	753.85
2024	DOMREGIS-Domest Ptnr Ben Regis	06/30/2024	CE1A/#11	753.85 ()	1.00 (L)	753.85		1.00	753.85
2025	DOMREGIS-Domest Ptnr Ben Regis	08/31/2024	CE1A/# 1	753.85 ()	1.00 (L)	753.85		1.00	753.85
2025	DOMREGIS-Domest Ptnr Ben Regis	09/30/2024	CE1A/# 2	753.85 ()	1.00 (L)	753.85		1.00	753.85
2025	DOMREGIS-Domest Ptnr Ben Regis	10/31/2024	CE1A/# 3	753.85 ()	1.00 (L)	753.85		1.00	753.85
2025	DOMREGIS-Domest Ptnr Ben Regis	11/30/2024	CE1A/# 4	753.85 ()	1.00 (L)	753.85		1.00	753.85
2025	DOMREGIS-Domest Ptnr Ben Regis	12/31/2024	CE1A/# 5	753.85 ()	1.00 (L)	753.85		1.00	753.85
<b>Employee Total</b>									<b>6,030.80</b>
Employee Count for Org 063 - ABC --> 1									<b>6,030.80</b>

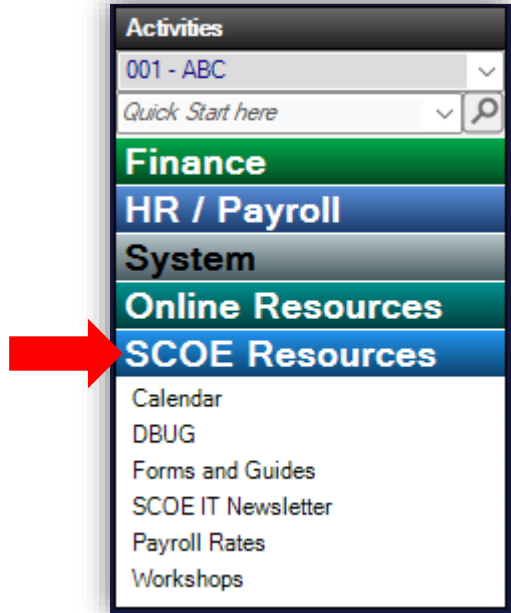
- Fringe Benefit Taxable Subject Gross added to Box 1 of W2

# Helpful Resources

Online Resources for Escape information



SCOE Resources for Local information



## Appendix A – School & College Legal Service Update



# SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

*A Joint Powers Authority  
serving school and college  
districts throughout the  
state.*

5350 Skylane Boulevard  
Santa Rosa, CA 95403

Tel: (707) 524-2690  
Fax: (707) 578-0517  
santarosa@sclscal.org  
www.sclscal.org

*General Counsel*  
Carl D. Corbin

*Attorneys*  
Ellie R. Austin  
Monica D. Batanero  
Jennifer Henry  
Sarah Hirschfeld-Sussman  
Nancy L. Klein  
Damara L. Moore  
Jennifer E. Nix  
Steven P. Reiner  
Kaitlyn A. Schwendeman  
Loren W. Soukup  
Erin E. Stagg

*Of Counsel*  
Robert J. Henry  
Margaret M. Merchat  
Patrick C. Wilson  
Frank Zotter, Jr.

## LEGAL UPDATE

October 11, 2019

**To:** Superintendents, Member School Districts (K-12)  
**From:** Kaitlyn Schwendeman, Schools Legal Counsel *KAS*  
**Subject:** Updated Taxation of Domestic Partner Benefits  
Memo No. 26-2019

Our office is reissuing this Legal Update on the taxation of domestic partner benefits, last issued in 2010 as Legal Update 30-2010, with the current legal status, in response to inquiries for updated guidance in this area. If your district has any questions regarding the taxation of these employees, please do not hesitate to reach out to our office for further guidance.

### Federal Law

Federal law does not recognize domestic partners as having the same standing as a spouse or qualified dependent when it comes to the taxation of an employee's benefits. As such, federal law requires that the employer compute the fair market value of domestic partner benefits and include this in the gross income of the employee as compensation, if the employee elects for their eligible domestic partner to receive benefits through an employer-sponsored plan. This income must be reported in the employee's W-2 and is subject to withholding for income, Social Security and Medicare taxes. In addition, the income is also considered wages for Federal Insurance Contributions Act (FICA) and Federal Unemployment Tax Act (FUTA).

**Exception:** A domestic partner may qualify as a "dependent" under Internal Revenue Code ("IRC") section 105(b). If so, they would be treated as any other qualified dependent and their benefits would not be included in the employee's gross income. In order for a domestic partner to qualify as a "dependent" under section 105(b), all of the following requirements must be met:

1. Live with the employee for the full taxable year, except for temporary absences such as vacation, military service or education.
2. Is a citizen or legal resident of the United States.
3. Is not a qualifying dependent for anyone else under section 152 of the IRC.
4. Receive more than one half of their support from the employee.<sup>1</sup>

<sup>1</sup> IRC section 152.

If your plan offers coverage to the child of an employee's domestic partner, the same dependent analysis would apply. If the domestic partner's child cannot meet all of the above criterion, then the fair market value of the benefits for the child must be computed and included as income for the employee.

*Note:* Practically speaking, it is unlikely that a domestic partner's child would qualify under the dependent test, as the child would most likely be considered the dependent of the domestic partner (and thus would fail criteria #3). Therefore, it is likely any benefits extended on behalf of the child would be taxable as wages to the employee.

### **California Law**

California law requires that employers provide the same benefits to employees with registered domestic partners as would be provided to spouses of employees.<sup>2</sup>

California Family Code section 297 defines domestic partners as two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring. A registered domestic partnership is created when both persons have filed a Declaration of Domestic Partnership with the Secretary of State, and at the time of filing, all of the following requirements are met:

1. Neither person is married to someone else or is a member of another domestic partnership with someone else that has not been terminated, dissolved, or adjudged a nullity.
2. The two persons are not related by blood in a way that would prevent them from being married to each other in this State.
3. Both persons are at least 18 years of age.<sup>3</sup>
4. Both persons are capable of consenting to the domestic partnership.

*Note:* As of July 30, 2019, the requirements to form a domestic partnership have been amended. Previously, domestic partnerships in California could only be formed between same sex partners or opposite sex partners where one or both persons were over 62 years of age. These requirements have been repealed.

Employers are not required to verify an employee's claim of a registered domestic partnership. The Fair Employment and Housing Act protects employees from discrimination on the basis of marital status; if employers do not currently have a policy of seeking documentation of marital status from employees, they should not request documentation of domestic partnership status. Similarly, the California Insurance Equity Act provides that insurance carriers can only require documentation of domestic partnership if they also require proof of marriage.

California Revenue and Tax Code section 17021.7 requires that a registered domestic partner of a taxpayer be treated as a spouse or former spouse of that taxpayer for most purposes. This code section extends tax benefits to registered domestic partners and their partner's dependent's health coverage, and excludes coverage amounts from the employee's gross income.

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<sup>2</sup> Employers are not required by law to provide the same benefits to unregistered domestic partners, though some districts extend such benefits by policy or regulation.

<sup>3</sup> There is an exception within the law for domestic partners under the age of 18, if both partners obtain the consent of their parents and a court order granting permission, as well as meet other requirements, set forth in the law. Family Code section 297.1.

### Conclusion

In light of the above, qualified domestic partner benefit coverage amounts shall be excluded from California taxation if the employee meets the domestic partnership test and is registered with the State. In that case, the fair market value of the domestic partner's benefits shall only be classified as income for federal tax purposes (except in the rare circumstance where the domestic partner qualifies as a dependent under IRC section 104(b)). However, if the employee does not meet California eligibility, the benefits shall be considered income for both state and federal tax purposes.

### Fair Market Value of Benefits

If it is determined that the domestic partner's benefits must be classified as taxable income to the employee, the employer must determine the fair market value of the benefits. The IRS does not provide any official guidance on how to determine the fair market value, however, there are two generally accepted methods:

- Tiered Rates: The difference between the amount the employer would contribute for the employee alone and the amount the employer would contribute for coverage of an employee and a spouse and/or dependents (as applicable).
- Composite Rates: If the employer pays a composite rate for employees, it must use the computed fair market value percentage formulas as determined by the coverage carrier. The employer will have to contact its carrier for this information.

### Examples of Tiered Rate:

- Employee + 1: An employee has no children, but does have a registered domestic partner. The medical plan they are enrolled in has an Employee + 1 rate of \$450.00/mo. The Employee Only rate is \$300.00/mo. The difference is \$150.00/mo. Thus, the increase in taxable income to the employee would be \$150.00 per month plus any applicable Social Security and Medicare taxes.
- Employee + 2 (One Dependent of Domestic Partner): An employee has a domestic partner and the domestic partner has one child (who is not a dependent of the employee). The medical plan they are enrolled in has an Employee + 2 rate of \$550.00/mo. The Employee rate is \$300.00. The difference is \$250.00/mo. Since the employer must tax the fair market value of both the domestic partner and the child's benefits, the increase in taxable income to the employee would be \$250.00 per month plus any applicable Social Security and Medicare taxes.

Please contact our office with questions regarding this Legal Update or any other matter.

*The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.*

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