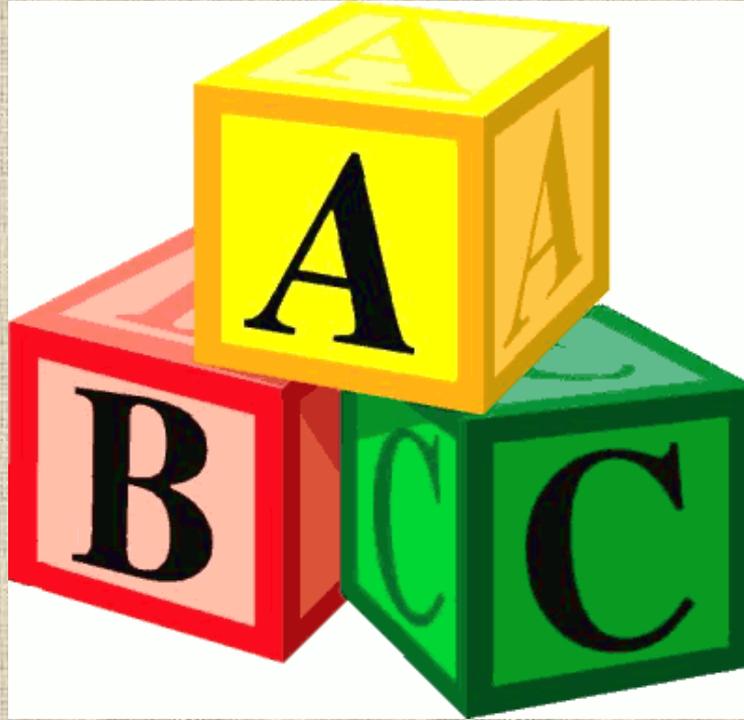


The



'S

Of Unemployment Insurance



# Utah New Hire Reporting Requirements

- Must Report within 20 Days of 1st day worked or within 60 days of a rehire:
  - Employee SSN
  - Employee Name
  - Employee Address
  - Employer FEIN
  - Employer Name
  - Employer Address
  - Date of hire
- Optional information:
  - Employee Date of birth



# Types of Employers

- A **Contributory** employer pays a quarterly unemployment insurance contribution (tax). This contribution goes into the Trust Fund (Reserve) and is used to pay unemployment insurance benefits
- A **Reimbursable** employer does not pay a quarterly contribution to the Trust Fund. They reimburse the Trust Fund for any unemployment insurance benefits paid to their former employees. Only governmental or non-profit 501(c)(3) entities can opt to be reimbursable

**Continued**



# Types of Employers

- A **Successor employer** is one that acquires an existing business and meets the required conditions prescribed by rule. The predecessor is the employing unit which last operated the business and no longer is an employer in Utah. The successor retains the account number, changing the first and last digits to show succession. The predecessor's rate is transferred to the successor and future rates are calculated using wage and benefit history of both employers
- In a **Merger** (Inheritance Transfer) an existing business acquires another existing business. The acquired company's unemployment insurance account is closed, and the history of its taxable wages and benefit costs are transferred to the surviving company's unemployment insurance account. The combined history of both the acquired company and the surviving company are used to calculate the contribution rate



# Who Is Subject To The Employment Security Act?

- You are **subject** if you meet the following requirements, including but not limited to:
  - Paid wages of \$1 or more during a calendar quarter
  - Acquired your business from an employer who was subject to this Act
  - Non-profit organization 501c(3) with 4 or more employees in 20 different weeks during a calendar year
  - Employ agricultural workers and pay wages of \$20,000/quarter OR employ 10 or more employees in 20 weeks
  - Pay wages of \$1,000 or more in a calendar quarter to a domestic (household) employee
  - Corporation and pay remuneration to corporate officers
  - Employer subject to FUTA



# What Common Employment Is Exempt From Coverage?

- Services performed by an **individual owner** (proprietor) and the owner's spouse, owners parent(s) or minor children (under age 21)
- Services performed by a **general partner**. A worker who bears an exempt relationship to all partners (a minor child in a husband and wife partnership, for example), would also be exempt
- Services performed by a **member** of limited liability company (LLC), who are filing with the IRS as a sole proprietorship or a partnership. If filing an 1120S Federal Corporate return, then all member's wages are subject to UI coverage and contributions. (There is no family exemption for an LLC)



# What Common Employment Is Exempt From Coverage?

- **Independent contractors** are excluded from coverage if both A and B are met:
  - A. The individual is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that involved in the contract of hire for services;
  - AND
  - B. The individual has been and will continue to be free from control or direction over the means of performance of those services, both under the individuals' contract of hire and in fact.



# What Common Employment Is Exempt From Coverage?

- Salespersons:
  - Who do not work on the employer's premises, and
  - Are free from the employer's control and direction, and
  - Are paid solely by way of commission

*Note: Except Traveling or City Salesman are subject.*



# What Are Wages ?

- Wages as currently defined by section 3306(b), Internal Revenue Code of 1986
  - Wages are payments for services rendered and include:
    - Hourly wages, salaries, and commissions
    - Meals, lodging and other payments in kind
    - Tips and gratuities
    - Remuneration for services of an employee with equipment
    - Vacation pay and sick pay
    - Separation or dismissal pay
    - Bonuses and gifts
    - Payments in stock
    - Employee contributions to deferred compensation plans, including 401K plans

## FUTA

# 2015 FUTA Credits

- Annual Federal Unemployment Tax (FUTA, Form 940) return is due January 31st for the prior calendar year.
- If your state unemployment insurance is paid by January 31st, then you receive a credit against your FUTA

FUTA rate - Credit = Final FUTA rate

Example:

**6.0% - 5.4% = .6%**



# Unemployment Insurance Tax Rate Notice

- Rate notices will be mailed out in late November for the following calendar year
- Employers have the right to appeal their rate determination within 30 days of notification



# New Employer Industry Rate

- For 2015
  - The new Employer Contribution rate is based on a 2 year industry average
  - Industry Rate – ranges between 1.3% and 7.3%
  - Per Statute construction contractors who have operated in another state before coming to Utah will receive the maximum rate of 7.3%

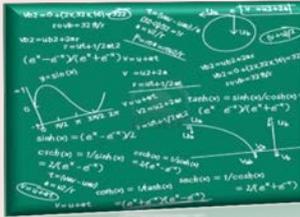


# Formula for Calculating Experience Tax Rates

- At least **one fiscal year** (July 1 - June 30) is required to calculate a contribution rate with reported wages greater than zero in July – September. Must have reported wages greater than zero October – June.

$$\frac{\text{Benefit Costs}}{\text{Taxable Wages}} = \text{Benefit Ratio}$$
 then 
$$\text{Benefit Ratio} \times \text{Reserve Factor} + \text{Social Cost} = \text{Overall Tax Rate}$$

- **Benefit Costs:** Unemployment benefits paid to former employees that are charged to the employers account
- **Taxable Wages:** The taxable portion of each employees wages (up to **\$31,300** for **2015**). Total wages are reported, but the amount in excess of the taxable wage base is not taxed
- The **Benefit Ratio** (Benefit Costs/Taxable wages) is calculated on the last 4 fiscal years. A fiscal year is July 1 through June 30
- **Reserve Factor:** The Reserve factor is a multiplier (factor), which is adjusted up or down on an annual basis depending on the overall health of the UI Trust Fund balance. The formula is based on maintaining a balance in the Trust Fund that can fund 18 to 24 months of benefits during a severe economic downturn. The Reserve Factor is set at 1.0 when the Trust Fund balance falls between the Maximum and Minimum Adequate Reserve levels. If the Trust Fund is insolvent the reserve factor is 2.0.
- **Social Costs:** The Social Costs are those Benefit Costs that cannot be charged back to specific employers and are added to the UI tax rate for all employers
- **Surcharge:** A 1% surcharge is added to the overall rate if the employer owes contribution for the prior fiscal year



# Example Formula

$$\frac{\text{Benefit Costs}}{\text{Taxable Wages}} = \text{Benefit Ratio} \times \text{Reserve Factor} + \text{Social Cost} = \text{Overall Tax Rate}$$

$$\frac{\$950}{\$45,800} = .021 \times 1.00 + .003 = .037$$

Quarterly taxable wages of \$3,600 x .024 = \$86.40 quarterly tax

The only way to estimate the potential cost of an individual receiving UI, is to take your maximum potential benefit costs and run it through this formula. The smaller your company, the greater the impact one separation has because of the ratio of benefit costs and taxable wages



# Due Dates and Filing Methods

- Due Dates to report quarterly wages and pay quarterly taxes:
  - April 30
  - July 31
  - October 31
  - January 31
- Filing Methods:
  - Paper Form 33H
  - Web Filing (preferred method of filing)
  - <https://jobs.utah.gov/ui/employer/login.aspx>

# How is a UI Claim Filed?

- Call the UI Claims Center at:
  - Salt Lake/South Davis  
801-526-4400
  - Weber/North Davis  
801- 612-0877
  - Utah County  
801- 375-4067
  - Remainder of State or out of state (888) 848-0688
- Use the website at [jobs.utah.gov](http://jobs.utah.gov)
  - Click on “Unemployment Benefits” under the “Assistance” box
    - File New or Reopen Claim
    - File Weekly Claim



# UI Claim Eligibility

Two determinations of Eligibility:

1. Monetary Determination
2. Non-Monetary Determinations





# Monetary Determination

- Benefits paid to the claimant are based on wages paid in a “Base Period.”
- Base period: First four of the last five completed calendar quarters.



- The 5<sup>th</sup> Quarter is called the “Lag Quarter.” The Lag Quarter is the unused quarter between the base period and when the claim is filed and is normally not used to calculate the monetary entitlement.
- Alternative base period: If the claim cannot be calculated using the normal base period the most recent four completed quarters will be used as an alternative.

# Weekly Benefit Amount (WBA)

- Maximum WBA for 2015 = \$496
- Minimum WBA = \$87
- The WBA is calculated by taking the highest quarterly earnings in the base period and dividing that number by 26, then subtracting \$5.
- Maximum duration = 26 weeks
- Minimum duration = 10 weeks
- Claimants certify eligibility every week



# Non-Monetary Determinations

- Able and Available to work
- Separations:



- Reduction in force (lay off)
- Voluntary Quit
- Discharge

- Suitable Work
- Separation Payments



# Able to Work

- Must be physically/medically able to perform work in normal occupation.
- Must be readily available to accept and start a full time job.

# Available / Seeking Work

- Claimants are required to make a work search.
- Exceptions to the work search requirement are granted for union membership, job attachment, seasonal jobs and special circumstances for school/ training attendance related to department approved training programs.



# Voluntary Quit



A separation is a voluntary quit if the claimant was the moving party in ending the employment relationship.

Claimant has the burden of meeting one of two different standards:

## **Good Cause-**

Adverse effect that the claimant could not control or prevent; or left work that is shown to have been illegal; or unsuitable new work.

## **Equity and Good Conscience-**

Must show they acted reasonably in response to extraordinary circumstances; made a work search.

*Note: Employers can be charged if the employer caused the hardship in the job.*

# Helpful Hints for Voluntary Quit

- If an employee gives advanced notice to quit and an employer requires the person to leave before the end of the notice period, the employer must pay regular wage to the claimant through the notice period, or the resignation is considered a discharge.
- An announcement that the claimant is looking for new work is NOT a resignation.
- If a claimant quit to avoid reasonable discipline, then the separation is generally considered a quit.
- If a claimant quits to avoid discharge, the separation is generally considered a discharge. It is also considered a discharge if an employer gives the employee the option to quit to avoid certain discharge.
- If claimant announces an intent to quit but agrees to stay on for an indefinite period of time at the employer's discretion, the separation is still a quit even if the employer determines the date of separation.

# Discharge



A Separation is considered discharge when the employer is the moving party causing the separation. Employers have the burden of proving the following elements to show just cause to deny benefits for discharge:

## **Culpability-** Conduct must be serious:

- length of employment, isolated nature of incident, and final incident is taken into consideration.
- Act of discharge needs to be within close proximity of the final incident, or else explanation is needed for the delay.

## **Knowledge-** Claimant must know the employer's expectations:

- Employer policies and prior warnings can be used to show knowledge
- Universal standard of conduct taken into consideration: violence, theft, fraud, etc.

## **Control-** Claimant must have control to prevent discharge

- Must be shown that the claimant had the skills and ability to do the job. <sup>25</sup>



# Discharge for a Crime

In Utah, being discharged for crime will result in a mandatory 52 week disqualification for the claimant and removal of the impacted employers' wages from the monetary calculation of Unemployment Benefits. In order to impose a discharge for crime decision it must be shown:

- The criminal act was in connection to work.
- The criminal act was an act of dishonesty (theft) constituting a felony or class A misdemeanor.
- The claimant admitted to the act or was established by court conviction.

*Note: If the elements of discharge for crime are not met the separation will still be adjudicated using the standard discharge elements explained earlier.*

# Helpful hints for Discharge

- If an employee resigns but later attempts to rescind and the employer refuses to allow the employee to return, the department looks at whether the employer's actions were reasonable in considering the separation a quit or discharge. *(i.e. already hired a replacement, actions taken by the employer are now impractical to reverse).*
- If an employee quits in lieu of a discharge, the separation is still a discharge.
- If you wait too long after the final incident occurred to discharge a claimant, it is difficult to show the employer is harmed and just cause may not be established.

**Continued**

# Helpful Hints for Discharge

- If you are choosing to lay employees off as part of a reduction in workforce and choose poor performers to lay off the separation is still considered a reduction of force.
- In a discharge situation, be sure the employee understands they are being fired. Using vague terminology such as “we are letting you go,” or “it’s not working out,” leaves the claimant unsure about the reason for separation.



# Recommended Steps to Take Prior to Separation

- Screen applicants with tests of skill prior to hiring them.
- Monitor new employees job performance and keep accurate notes.
- Be consistent in disciplinary actions.
- Develop clear statements of policy.
- Give every employee a copy of policy and get employee's signature.



# Suitable Work

A claimant must accept an offer of suitable new work. However, they do not have to accept an offer of work that is not suitable.

Things to consider regarding suitable work:

- Wages
- Location of work
- Prior experience and skill
- Working conditions, including hours of work
- Risk to health and safety or physical capacity



# Separation Payments



## Types of separation pay

- Vacation
- Severance
- Payments for remaining on the job

UI benefits are denied for the period of time the separation payment covers

Separation payments can be allocated out to future quarters to be use as base period wages

# Part-Time Employees

- Claimants who continue to work part time may be entitled to UI benefits
- The employer may be relieved of charges if the employee's hours have not been reduced
- Employers are not eligible for relief of charges for employees working "on call"





# Reimbursable Employers

- Reimbursable employers are never eligible for relief of charges. However, wages may be excluded from the claim in certain situations.
- Claimants are only denied benefits until they have earned 6 times their weekly benefit amount in new covered employment.

# Non-Compliance



Report claimant's non-compliance. Sometimes referred to as "fraud".

- Employer line: **801-526-4400** or **888-848-0688**, choose option 4.
- Online: **jobs.utah.gov** select "Report Fraud"
- Fax the information to **801-526-9800** or **801-526-4402**.
- Include as much information as possible about the claimant and the potential activity that would be disqualifying.

# Non Compliance or Fraud Examples:

- Failure to report work or earnings
- Inability to work
- Failure to look for or apply for work
- Refusing a job offer
- Working “under the table”
- Failure to report a separation
- Self employment/Contract Work



# Requests for Information

It is critical that employers respond to all requests for information as quickly as possible. Some needed information may include:

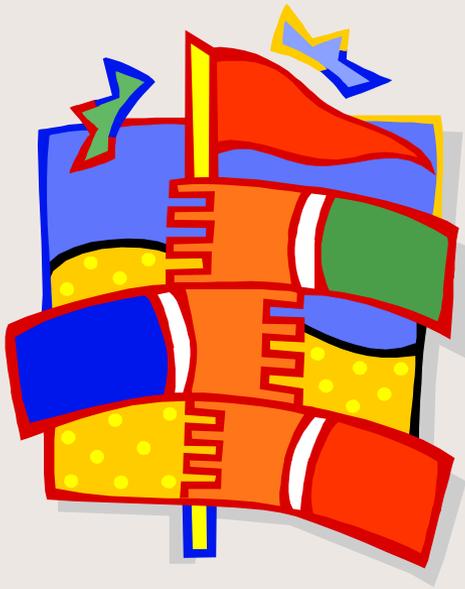
- Reason for separation, include specific details
- Information on separation pay, retirement, availability
- Return follow-up phone calls for rebuttal clarification
- Requests for weekly earnings verification (not by pay period)
- Verification of application for work

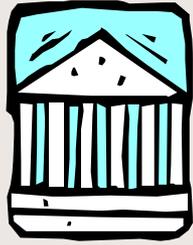
*Request for Information*

# We can't do it without YOU!

Respond to requests for information

You can do this on line by following the instructions on the Request for Separation Information, by fax or mail, or returning phone calls





# Disagree with a Decision? File an Appeal

- File timely appeal (generally 15 calendar days)
- Call at least 24 hours in advance of hearing date/time to confirm participation.
- Person with **FIRST HAND** factual information should participate.
- Review documents prior to hearing and have them for the hearing. If you have additional documentation (laws or regulations of industry, warnings, separation notices) provide it to all parties prior to the hearing.
- Only one hearing – make sure all information presented.
- Not every discharge results in a denial of benefits. An ALJ's job is to determine whether or not a client qualifies for UI, not whether an employer had a good reason for discharging an employee.

# Summary of Presentation



- Claimants must have sufficient wage credits to be monetarily eligible for UI benefits.
- Claimants must meet all non-monetary requirements in order to receive UI benefits.
- Employers need to take an active role in responding to notices and monitoring their employment practices to minimize their future unemployment tax rates.
- DWS welcomes any suggestions for improving our services to employers or job seekers.

# Employer Web Page 1

The screenshot shows the 'Employers' section of the Utah.gov Services website. The page features a navigation bar with 'Search Jobs', 'Job Seekers', 'Employers', 'Temporary Assistance', 'Labor Market', and 'Department'. Below the navigation bar, there is a main heading 'Find Qualified Employees' with a subtext stating 'Workforce Services has more than 80,000 active resumes'. A prominent green button says 'Post a Job Today', and a link below it says 'Find Qualified Applicants'. The central image shows three smiling professionals. Below the image, there are three columns of content: 'Unemployment Insurance' with links to file tax reports, make quarterly payments, report new hires, and register a new business; 'Economic Data' with links to monthly employment situation, occupational wage data, county information, and a local insights newsletter, plus a 'UEDV' logo and a 'Browse Data' link; and 'Business Development' with links to business programs, recruitment support, worker skill development, Sloan Award, and Golden Key Award, plus a 'Find Solutions' link. The footer contains a 'Find a DWS Location' search, a language translation tool, social media links for YouTube, Twitter, and Facebook, and a row of links for feedback, equal opportunity, contact us, home, terms of use, privacy policy, and accessibility policy.

Utah.gov Services Agencies Search all of Utah.gov > Sign in

Search Jobs Job Seekers Employers Temporary Assistance Labor Market Department

Business Development Unemployment Insurance Economic Data Human Resources Employment Law

## Find Qualified Employees

Workforce Services has more than **80,000 active resumes**. Post jobs and search our database of job seekers to meet your workforce needs.

[Post a Job Today](#)

[Find Qualified Applicants](#)

### Unemployment Insurance

- File Tax Reports
- Make a Quarterly Payment
- Report New Hires
- Register a New Business

### Economic Data

- Monthly Employment Situation
- Occupational Wage Data
- County Information
- Local Insights Newsletter

**UEDV**  
UTAH ECONOMIC DATA VIEWER

The Utah Economic Data Viewer gives you access to hundreds of useful reports.

[Browse Data >](#)

### Business Development

Business Programs

Recruitment Support

Worker Skill Development

Sloan Award  
- Replaces WorkLife

Golden Key Award

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# Employer Web Page 2

The screenshot displays the Utah.gov Employer Web Page 2 interface. At the top, there is a navigation bar with the Utah.gov logo, "Utah.gov Services", "Agencies", and a search bar for "Search all of Utah.gov". Below this is a secondary navigation bar with "Search Jobs", "Job Seekers", "Employers" (highlighted), "Temporary Assistance", "Labor Market", and "Department". A "Sign in" link is also present.

The main content area is titled "Unemployment Insurance and New Hire Reporting" and includes a "Hello. Click here to sign in." message and a "Live Chat" button. A horizontal menu contains links for Home, Tax, Payments, New Hire, Claims, Registration, Correspondence, Admin, and Info.

The page is organized into several columns of content:

- Tax Reporting:** Features a calendar icon for January 31, 2014, with the text "Current Filing Qtr: 2013 Q4 Due: January 31, 2014". It includes "Other Options" such as "View or amend past reports", "View tax forms", and "View all tax reporting options", along with a "File Tax Report" button.
- New Hire Reporting:** Includes a "File a New Hire Report Now" link, "Other Options" like "View past new hire reports" and "View all new hire options", and a "File New Hire Report" button.
- Notice of Claim Filing:** Features a "File a Form 606 Now" link and "Other Options" including "View history of 606 responses" and "View all notice of claim filing options".
- Payments:** Includes a "Make a Payment Now" link and "Other Options" such as "View/edit pending EFT payments", "Make a payment without signing in", and "View all payment options".
- Correspondence:** Features a "View Correspondence Now" link and "Other Options" like "View all correspondence options".
- Business Registration:** Includes a "Create a New UI Account For a Business" link and "Other Options" such as "Add an existing business to my user account" and "View all business registration options".
- Account Admin:** Features a "Most Popular Admin Options" section with links like "View account profile", "Display benefit costs", "Rate notice (Form 45)", "Update address information", "File an appeal", "Information for appeals", "Print IRS form 940C", and "Close or reopen an account". It also includes "Other Options" like "View all account admin options".



# Contact Information



## UI Benefits

- Claim Filing
- Separation Requests
- Report Fraud
  
- Employer Line:  
[801-526-4400](tel:8015264400) or [888-848-0688](tel:8888480688), choose option 4
- Chat Line available:  
[jobs.utah.gov](http://jobs.utah.gov)
- For claimants to file:  
[801-526-4400](tel:8015264400) or  
[jobs.utah.gov](http://jobs.utah.gov)

## UI Contributions

- Quarterly Tax Filing
- Tax Rates
- Subject Wages
- New Hire Reporting
  
- Employer Accounts:  
[801-526-9235](tel:8015269235)
- Chat Line available:  
[jobs.utah.gov](http://jobs.utah.gov)
- Quarterly Tax Filing:  
[jobs.utah.gov](http://jobs.utah.gov)