Unemployment Insurance

Employer Contributions & Benefits

Training

Updated November 2015
Purpose of Unemployment Compensation Fund

Employers contribute to the Utah Unemployment Compensation Fund to pay benefits to workers who become unemployed through no fault of their own. The contribution rate formulas are designed to build up the fund during a strong economy to pay increases in benefits when the economy slows.
Table of Contents

New Hire Reporting
Types of Employers
Exemptions from Coverage
FUTA Credits
Tax Rates and Formulas for Calculating Eligibility for Unemployment Insurance Benefits
Recommendations for Controlling Costs
Contact Information
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
  - Date of Hire
  - Employer FEIN
  - Employer Name
  - Employer Address

- Optional information:
  - Employee Date of birth
Types of Employers

- A **Contributory** employer pays a quarterly unemployment insurance contribution (tax).

- A **Reimbursable** employer does not pay a quarterly contribution to the Trust Fund.
  - Only governmental or non-profit 501(c)(3) entities can opt to be reimbursable
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.
Types of Employers

Merger (Inheritance Transfer)

- 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.
Types of Employers

Reimbursable Employers

- Reimbursable employers are never eligible for relief of charges. However, wages may be excluded from the claim in certain situations.
- Reimbursable employers do not pay a quarterly contribution to the Trust Fund on taxable wages.
- A Reimbursable employer’s liability is limited to the amount of benefits paid to the claimant.
- Note: Reimbursable employers may be required to pay interest, penalty and collection costs on past due amounts.
Who Is Subject To The Employment Security Act?

- Employed one or more individuals for some portion of a day during a calendar year
- Acquired your business from an employer subject to the Act
- All non-profits without 501(c)(3) classification are subject if employ one or more individuals for some portion of a day during a calendar year
- Agriculture – ten (10) or more employees in 20 weeks OR $20,000 in a qtr.
- Wage of $1,000 or more in calendar qtr. for domestic employee
- Corporation and pay remuneration to corporate officers
- Employer subject to FUTA
Exemptions From Coverage
Sole Proprietor/Partner

- Services performed by an individual owner (proprietor) and his/her:
  - Spouse
  - Parent(s)
  - Minor child or 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

- This applies to partnership entities not to LLC’s
Exemptions from Coverage
LLC

- 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
  - All member’s wages are subject to UI coverage and contributions
  - There is no family exemption for an LLC
Exemptions From Coverage Independent Contractors

Services performed by an individual are considered to be employment subject to UI unless the following elements are clearly demonstrated:

- 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

- 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.
Exemptions From Coverage

Salesperson

- Who do not work on the employer’s premises
- Are free from the employer’s control and direction
- Are paid solely by way of commission
What Are Considered Wages?

Wages as defined by section 3306(b), internal revenue code of 1986.
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 can receive up to a 90% credit against your FUTA tax.
  - FUTA rate - Credit = Final FUTA rate
  - Example:
    6% FUTA tax – 5.4% credit for timely payment of state unemployment insurance = .6% final FUTA tax
Unemployment Insurance Tax Rate Notice

- Rate notices will be mailed out in late December 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%
Calculating Experience Tax Rates

- New employers are assigned a rate based upon average rates of all employers in their respective industries.
- An “earned” rate is based upon payroll and is assigned January 1 of the year following the first full fiscal year (July 1 – June 30).
Formula for Calculating Experience Tax Rates

- **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 $32,200 for 2016).
  - 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.

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 Formulas

**Quarterly taxable wage** $4,550 \times 0.034 = $154.70 (quarterly tax)

**Benefit Costs**

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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:
  - Web Filing (preferred method of filing)
  - Paper Form 33H
Online filing is the easiest (and preferred) method for filing quarterly reports.
Unemployment Insurance Eligibility

- Two determinations of Eligibility:
  - Monetary Determination
  - Non-Monetary Determinations
How is a UI Claim Filed?

- Use the website at jobs.utah.gov (preferred)

- 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
Eligibility for UI Benefits

Weekly Benefit Amount (WBA)

- Maximum WBA for 2016 = $509
- Minimum WBA = $27
- Maximum duration = 26 weeks
- Minimum duration = 10 weeks
- Claimants certify eligibility every week
Eligibility for UI Benefits
Non-Monetary Determinations

- Able and Available to work
- Separations:
  - Reduction in force
  - Voluntary Quit
  - Discharge
- Suitable Work
- Separation Payments
Eligibility for UI Benefits

Able to Work

 Must be physically and mentally able to perform work in normal occupation
 Must be readily available to accept and start a full time job
Eligibility for UI Benefits Available for and Seeking Work

- Claimants are required to make an active work search of at least four (4) NEW contacts each week.
- Exceptions may be granted to the work search requirement for:
  - Attached Union Members
  - Job Attached (will begin employment within 3 weeks)
  - Special circumstances for school/ training attendance related to department approved training programs
Voluntary quit is if the employee was the moving party in ending the employment relationship.

Employee (claimant) has the burden of meeting one of two different standards:

- Good Cause
- Equity and Good Conscience
Eligibility for UI Benefits
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
    - Culpability
    - Knowledge
    - Control
Eligibility for UI Benefits
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.
Eligibility for UI Benefits

Suitable Work

- Things to consider regarding suitable work:
  - Wages
  - Location of work
  - Prior experience and skill
  - Working conditions, including hours of work
Eligibility for UI Benefits
Part-Time Employees

- Claimants who continue to work part-time may be entitled to Unemployment Insurance benefits.
- Wages earned must be reported every week.
- 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".
Separation Payments

- Types of separation pay
  - Vacation
  - Severance
  - Payments for remaining on the job
Non-Compliance

- Report claimant’s non-compliance. Sometimes referred to as “fraud”
  - **Online:** jobs.utah.gov select “Report Fraud”
  - Employer line: 801-526-4400 or 888-848-0688, option 4
  - 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
- Identity theft
- 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
Recommendations for Controlling Costs
Steps to Take Prior to Separation

- Hire Right! (check references)
- Give employee job description and outline expectations
- Develop clear statements of policy
- Monitor employee performance
- Discuss issues/concerns when they occur
- Keep accurate notes
- Be consistent in disciplinary actions
Recommendations for Controlling Costs
Helpful hints for Discharge

- Employee resigns, rescinds and employer refuses
- Employee quits in lieu of discharge
- Employer waits to discharge
- Employer has ROF and poor performers go first
- When firing, don’t “beat around the bush”
Recommendations for Controlling Costs

Disagree with a Decision?
File an Appeal

- File timely appeal
- Call in advance of hearing
- Invite persons with first hand knowledge to participate
- Provide documents to all parties in advance
- There will be only one hearing
- Role of the ALJ
It is critical that employers respond to all requests for information as quickly as possible.
Contact Information

- UI Benefits
  - Claim Filing
  - Separation Requests
  - Report Fraud
    801-526-4400 or 888-848-0688, opt. 4
    [http://jobs.utah.gov/ui/Fraud/uifraud](http://jobs.utah.gov/ui/Fraud/uifraud)

- UI Contributions
  - Quarterly Tax Filing
  - Tax Rates
  - Subject Wages
  - New Hire Reporting:
    801-526-9235