



INDIANA
DEPARTMENT OF
WORKFORCE
DEVELOPMENT



UNEMPLOYMENT INSURANCE

EMPLOYER HANDBOOK

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DWD CONTACT INFORMATION

UI Premiums

GeneralPremiumQuestions

(800)437-9136

Web Address

<http://www.in.gov/dwd>

<http://www.in.gov/dwd/SUTA.htm>

Email

<http://askworkone.in.gov/>

Employer Status

Account registration

(800)437-9136,option2

Businesstransfer

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(800)437-9136,option3

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(800)437-9136,option1

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UNEMPLOYMENT INSURANCE – EMPLOYER HANDBOOK

The Unemployment Insurance (UI) program is administered by the Indiana Department of Workforce Development (DWD). This guide helps employers understand how they are affected by the law governing the UI program in Indiana. This guide explains the following:

- How DWD opens and maintains an employer account
- Employers' premium obligations
- The conditions under which former employees can collect UI benefits
- An employer's responsibilities when a former employee files a claim for benefits.

If you encounter a term that is unfamiliar please see the glossary for an explanation.

This guide is for general information, not to cover all phases of law or to answer all questions.

The Employer Handbook is a living document and will include changes from the US Congress and the Indiana General Assembly as they are finalized.

For copies of laws relating to DWD, visit www.in.gov/legislative or call (800) 437-9136.

UI at a Glance

Maximum Weekly Benefit Amount: \$390

Minimum Weekly Benefit Amount: \$50

Benefit Length: 8-26 weeks

2001-2010			2011-2020		
Premiums are based on the first \$7,000 of wages			Premiums are based on the first \$9,500 of wages		
Rate	Rate	\$ Amount	Rate	\$ Amount	
Minimum	1.1%	\$77	0.5%	\$47.50	
New Employer	2.7%	\$189	2.5%	\$237.50	
Maximum	5.6%	\$392	7.4%	\$703	

* This information is subject to change per the US Congress and Indiana General Assembly. Due to HEA 1450 (2011) there is also a 7% interest surcharge added to each employer's premium for calendar year 2011 to pay the interest on the UI Trust Fund loan from the federal government. In years following, the interest surcharge percentage amount will be determined by DWD.

I. INTRODUCTION TO UNEMPLOYMENT INSURANCE

A. UI – In General

Unemployment Insurance is a federal-state program financed through federal and state employer payroll premiums. It is regulated under the Federal Unemployment Tax Act and the State Unemployment Tax Act.

Federal Unemployment Tax Act (FUTA)

The lingering effects of the Great Recession can still be felt every year when your Federal Unemployment Tax Act (FUTA) tax bill comes due. As you probably know, Indiana began borrowing from the federal government to pay unemployment insurance (UI) benefits in November, 2008.

Two years later, Indiana qualified as a “Credit Reduction State”, meaning the State had been borrowing from the federal government to pay UI benefits for two consecutive years. By 2012, 25 states were borrowing from the federal government to pay unemployment insurance benefits. In order to pay the principal of the loan, FUTA tax credits are decreased by the federal government, resulting in a tax increase to employers.

The US Department of Labor calculates FUTA taxes in the first quarter for the prior taxable year. The FUTA tax is 6.0% of the first \$7,000 in wages paid to each employee but employers paying their taxes in-full and timely receive a 5.4% credit. Therefore, in normal times, employers pay 0.6% in FUTA taxes. As part of the terms of the loan, the federal government reduces employer FUTA tax credits by 0.3% every year of borrowing. This calculation began in 2010 for Indiana, payable in 2011. Employers made an additional payment of \$21 per employee in 2011, \$42 the next year, and so on, until the repayment of the entire loan occurs.

Indiana subsequently acted to offset employer FUTA tax increases by changing state UI premium rates. As a result, in 2011, half of Hoosier employers experienced a net decrease in premiums, while the other half, who had a history of using the trust fund more, paid higher rates. This, combined with closing many UI eligibility loopholes, and the introduction of a fair weekly benefit calculation for UI recipients, resulted in a balanced solution to bringing solvency to Indiana’s Trust Fund and paying off the loan.

For the first time in over a decade, Indiana began paying out less in benefits from the Trust Fund than premiums paid in during 2012. Current Indiana Department of Workforce Development projections show the federal government loan will be repaid by mid-2016. If these projections hold true, there will be no additional FUTA payment in 2017. (Please refer to the payment schedule below.) The payable year indicates the due date of the payment, not the year on which the payment is based.

Payable Year	Basic Credit Reduction	Additional Payment/ Employee	Total FUTA Rate
2011	0.3%	\$21	1.10%
2012	0.6%	\$42	1.40% thru 6/30/11 1.20% after 7/1/11
2013	0.9%	\$63	1.50%
2014	1.2%	\$84	1.80%
2015	1.5%	\$105	2.10%
2016	1.8%	\$126	2.4%
2017*	0%*	\$0*	0.6%

*Projected

State Unemployment Tax Act (SUTA)

Employers pay SUTA premiums to the state. Premiums are paid by the employer without deduction from the wages of an employee.

Factors such as number of former employees receiving benefits, voluntary payments, and the transfer of all or part of an existing Indiana business impact the rate. Your rates may also be affected by how long you have been subject to SUTA, your recent reporting, and late payments.

Contributions are deposited into the state UI Trust Fund. The money from this fund is used only to pay UI benefits to those eligible. For the purpose of this manual, all premium rates discussed refer to the UI premiums paid to the state under SUTA.

Certification

The IRS requires DWD annually to report all wages and all premiums paid by each employer for a particular calendar year. DWD is also required to report rates and whether or not payments were timely.

If the wages and payments you reported on your annual IRS Form 940 do not match what you reported and paid to DWD, you may receive a **discrepancy letter** from the IRS or DWD requesting an explanation. You must either file a corrected IRS 940 or correct your wage information with DWD. Wage information corrected by a DWD audit or posted to an account as a result of the estimation process cannot be adjusted by the employer. If DWD has determined that you are operating a single employing unit under multiple federal employer identification numbers (FEIN), please contact DWD to set up unique location codes for each reporting unit to facilitate manual federal certification.

Method of Payment

The two methods of payment under SUTA are reimbursement and contribution. DWD also classifies employers using these terms. Reimbursement is covered in [Section II-G](#).

Regular premium payments are considered contributions. Employers paying regular premiums based on established rates are called “contributing employers.” Most employers pay premiums (contributions) at a specified rate on a quarterly basis. All contributing employers pay at a rate based on their “experience.” Premiums must be paid on or before specific due dates or the employer is subject to interest charges, late payment penalties and collection costs.

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II. GETTING STARTED

A. Employer Qualifications

Individuals and businesses that pay wages in Indiana are required to open a state unemployment account with DWD. Only the person or legal entity that actually paid the wages is able to open an account with the department.

Registering new entities that are commonly owned, managed, or controlled by existing Indiana employers is subject to certain limitations and may be subject to additional reporting requirements. For additional information on commonly owned, managed, or controlled entities, please see section X - F.

In general a business is not considered an employer and is not required to open a state unemployment account with DWD if it does not meet the criteria defined below. If you have questions about employer qualifications, please contact DWD at (800) 437-9136 and choose option 2.

Definition of Employer

You are liable for UI premiums under the Indiana Department of Workforce Development Act (**DWD Act**) and considered an **employer** if **ANY** of the following apply to you:

Regular Business Entity (Ind. Code § 22-4-7-1)

- You have liability to pay one dollar (\$1) or more in remuneration to a covered worker

Complete Acquisition (Ind. Code § 22-4-7-2(a))

You have acquired all or the vast majority of the assets of an organization, trade or business, and you use these in the continuance of a trade or business. For the purpose of employer qualification, the workforce of an existing business may be considered to be an asset of the business.

Partial Acquisition (Ind. Code § 22-4-7-2(b))

You have acquired a distinct and separate portion of an organization, trade, or business, and use it in the continuance of a trade or business. For the purpose of employer qualification, the workforce of an existing business may be considered to be an asset of the business.

Entity with FUTA Liability (Ind. Code § 22-4-7-2(f))

You are liable for any federal UI premiums (FUTA, see section I-A) in another state. This makes you immediately liable when you have employees employed in Indiana.

Voluntary Election (Ind. Code § 22-4-7-2(d))

You elected to be subject to the DWD Act to the same extent as any other employer, assuming you do not meet any of the other definitions of employer listed in this section. Certain exclusions apply.

Agricultural Employer (Ind. Code § 22-4-7-2(e))

- You have agricultural employees and pay \$20,000 or more in wages in a calendar quarter, or
- You have 10 or more agricultural employees for some part of a day for 20 weeks during a calendar year

II. GETTING STARTED (continued)

Note – if you operate both an agricultural enterprise and a non-agricultural enterprise under the same employer identification number, you must keep separate accounting for your payroll related to the work being performed and must report any non-agricultural wages under the appropriate qualification section. Failure to keep separate records may result in all wages paid being re-classified as covered employment under Ind. Code §22-4-7-1.

Governmental Employer (Ind. Code § 22-4-7-2(g))*

Service performed by an individual to any government entity, for any amount of wages. Government employers are required to pay UI premiums starting with the first dollar of payroll.

Exclusions include: elected officials, members of a legislative or judiciary body, members of the state National Guard or Air National Guard, employees serving on a temporary, emergency basis, and individuals designated in major non-tenured policy-making or advisory positions.

Not-for-Profit Employer (Ind. Code § 22-4-7-2(h))*

You are a corporation, community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of your activities involve providing athletic facilities or equipment), or for the prevention of cruelty to children or animals (26 U.S.C. 3306(c)(8), 501(c)(3));

No part of your net earnings go to the benefit of any private shareholder or individual.

You employ four or more individuals in 20 different weeks during the same calendar year. There is no minimum dollar amount associated with this qualification, and the workers do not need to perform services on the same day or at the same time.

Additional exclusions apply to churches, conventions of churches, associations of churches and to businesses that are primarily operated for religious purposes and which are supervised, managed, controlled, or principally supported by a church.

* If you are a Governmental or Not-for-Profit employer you may opt to become a Reimbursable Employer, as opposed to an employer paying premiums. See [Section II-G](#) for more details.

Domestic Employer (Ind. Code § 22-4-7-2(i))

You hired household help of any kind and paid a total of \$1,000 or more in wages in any calendar quarter in a calendar year.

PEO – Professional Employer Organization (Ind. Code § 22-4-6.5)

A PEO must register with DWD specifically as a Professional Employer Organization and must make an election at the time of qualification to be treated as either a single employer for internal and client employees (Employer Level), or to be treated as multiple employing units for internal and client organizations (Client Level).

If the PEO fails to make a timely election, or fails to register as a PEO with DWD, the PEO will automatically be treated as a client level PEO.

A PEO at the employer level qualifies on the first dollar of payroll to any internal or client employee. A PEO at the client level qualifies for a separate account only if the PEO has internal employees with work localized to Indiana.

Commonly owned, managed, or controlled PEOs must make one election for all affiliated PEOs and may maintain only one employer level account.

See [Section XIII](#) for a chart listing special types of employment and payments and their status regarding UI premium liability.

II. GETTING STARTED (continued)

B. Employee Qualifications

An employee is an individual that performs a service for you in the normal course of your business and receives payment for that service. In order for this individual to be eligible for UI benefits, the individual must be an **employee**, not an **independent contractor**.

Individuals will be considered **independent contractors** for the purposes of the UI **ONLY IF ALL** of the following apply:

- The individual is free from control and direction in connection with the performance of their service, and
- The service is performed outside your usual course of business, and the individual's usual area of employment is not within your business, and
- The individual is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as the work she/he does for you or is a sales agent who is paid on commission only and has complete control over his/her own time and effort.

Unless **EACH** of the above apply to the individual, that individual will be considered an **employee**.

NOTE: It is the **right to control** that is important. It is not necessary that the control is ever exercised. Employment is determined by state law and not by recognition of independent contractor status by the IRS. Employment as defined for UI purposes is different than it is defined for IRS purposes, workers compensation, etc. If you have questions about a specific work relationship, please call (800) 437-9136 and choose option 2.

C. Multi-State Employment

If an employee performs all duties in one state their wages are reportable to that state. If an employee performs duties in more than one state the following criteria are used to determine in which state to report wages:

- Report wages to the state from which the employee has a base of operations if some part of the work is performed in the same state as the base of operations. The base of operations can be a corporate office, regional office, legal address of a sole proprietor, etc. If there is no base of operations, or work is not performed in the same state as the base of operations,
- Report wages to the state from which the employee is directed and controlled if some part of the work is performed in the same state as the origin of the direction and control. If there is no work performed in the state where direction and control originates,
- Report wages to the state in which the employee resides if some part of the work is performed in the state of residence. If none of these conditions apply, contact DWD at 800-437-9136 option 3.

II. GETTING STARTED (continued)

D. Employer Registration

If you are an “employer” as defined in [Section II-A](#), you must register with DWD during the first quarter you are liable to pay premiums according to the requirements above. Please note that you should provide both a mailing address and the physical address where the work is preformed if those are not the same.

You can register online using our online Uplink Employer Self Service program, at <https://uplink.in.gov/ESS/ESSLogon.htm>. The Uplink Employer Self Service System gives you immediate access to services and information online 24 hours a day, 7 days a week.

Uplink Employer Self Service allows you to do the following online:

- Register as a new employer
- Review and maintain unemployment insurance account information
- Submit quarterly unemployment insurance contribution reports
- Make payments by e-check and credit card (certain fees apply)

If you are an employer with an existing SUTA account number be sure to check the ‘Yes’ option button on the first screen after clicking ‘New User’ on the Employer Self Service logon screen. To register an existing account, you will need your FEIN number, your SUTA number, and the total gross wages from your last quarter.

You may also register by completing State Form 2837 (Report to Determine Status), which is located at www.in.gov/dwd/2406.htm, or call DWD at (800) 437-9136 and request the form be mailed to you. If you choose to complete a paper copy of this form it must be mailed to:

Indiana Department of Workforce Development
10 N. Senate Ave., RM SE 005
Indianapolis, IN 46204-2277

DWD will give you an individual account number when you qualify. If correct premiums are not paid on time interest and penalties will be charged as outlined in [Section VI-D](#). If you need to change the authorized employer representative for Uplink Employer Self Service please use the “forgot user name” and then “forgot email” options. See <http://www.in.gov/dwd/2724.htm> for instructions.

E. Required Poster

All employers liable for UI premiums must prominently display the Unemployment Insurance informational poster provided by DWD. You can download the poster at <http://www.in.gov/dwd/2455.htm>. Posters should be posted in multiple locations at each work site so that every employee can adequately view. When asked, you must give employees information about all UI rights and benefits under the law.

If you do not have a permanent common worksite that is regularly visited by all employees DWD will provide you with individual notices for employees.

F. New Hire Reporting/Preventing Fraud

Under IC 22-4.1-4-2 and the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) all public, private, non-profit and government employers are required to report all newly hired employees, or employees returning to work after a break of at least 60 days, within 20 days of hire (this should be the first actual date of work). Failure to do so could result in a fine of \$25 per employee not reported, or up to \$500 if it is discovered the failure to report was part of a conspiracy between the employer and employee.

II. GETTING STARTED (continued)

Why is new hire reporting important?

Reporting your new hires helps protect your account and other employers against fraudulent unemployment claims.

How do I report new hires?

1) Gather information

The information you will need to gather includes:

- Employee name
- Employee's mailing address
- Employee's Social Security Number (SSN)
- Date of hire
- Date of birth
- Eligibility for medical insurance

2) Create the report

- Visit www.in-newhire.com. Instructions will guide you through the process.

3. Submit the report

- You can submit reports via any method discussed on the new hire website (listed above.)
- Your payroll service can also report your new hires. (It is your responsibility to make sure the payroll service completes this process.)

G. New Employer Premium Rate

New employers, except employers acquiring other employers, governments, and employers with a NAICS code beginning with 23, pay premiums at the **2.5%** rate.

Beginning in 2014, the new employer rate for employers with NAICS beginning with 23 (construction companies) is the lesser of 4.0 or the average rate for all construction companies. The new construction company rate for 2015 is 3.82%.

The premium rate for new government employers is 1.6%.

New employers may qualify for a merit rate after they have completed **BOTH** of the following:

- Register as an employer subject to the Act for 36 consecutive calendar months ending on June 30th of the year immediately prior to the merit rate year (Requirement A)
- Report some wages in each of the three 12 month periods ending on June 30th of the year immediately prior to the Merit rate year (Requirement B)

To qualify for the lowest possible premium, employers must meet both requirements A and B and have no delinquent quarterly reports or payments. (Requirement C)

If the above criteria have been met, the employer is eligible for an **experience rate**, also known as a **merit rate**. Experience rates are detailed in [Section VI-A](#).

H. Reimbursable Employers

Not-for-profit and governmental employers may choose to be a reimbursable. This means they reimburse the UI Trust Fund for benefit payments to their former employees instead of making regular premium payments.

II. GETTING STARTED (continued)

Become a reimbursable employer by:

- Providing DWD a copy of your Internal Revenue Service (IRS) 501(c)(3) exemption status letter, or an application for exemption status; **and**
- Submitting a completed “Election to Pay Tax” form, DWD 1065, located at www.in.gov/dwd/2406.htm.

These forms must be submitted within 31 days of your original qualification date. Retroactive or late reimbursement elections are not allowed. If you fail to elect reimbursable status, you will automatically be a contributory employer. Governmental employers qualify on the day that they issue the first payroll check to an employee. Not for profit employers qualify on the last day of the quarter when they have the fourth employee in the twentieth week of the year.

Once an employer becomes a reimbursable employer the status is in place for a minimum of two calendar years. The election to be a reimbursable employer is in effect until revoked. An employer may revoke the election to be reimbursable by filing DWD form 1065 on or before December 1st in the year prior to the year the revocation is to be effective.

Reimbursable employers must also file quarterly reports UC-1 (reporting gross wages only) and UC-5 as described in [Section III](#).

Reimbursable employers are charged for all UI benefits, including extended benefits not reimbursed by a federal program, benefits expended in error, and benefits under appeal, paid to:

- Former employees
- Employees working reduced hours
- Laid-off employees

See [Section VII-C](#) for more information on how benefit payments are charged.

Choosing to reimburse instead of making regular premium payments obligates your organization to **pay _____ reimbursement invoices in full** by the due date regardless of any pending protests of charges. Penalties will be assessed to any late payments.

III. QUARTERLY EMPLOYER REPORTING

A. Quarterly Premium and Wage Reports (UC-1 and UC-5)

After you have been issued an account number, the Agency will mail a quarterly contribution report, UC1, to the last known business address of the employer or to the employer's correspondence agent. It is your responsibility to make sure that you receive and file the quarterly report on time. If you do not receive the report, a substitute form, UC1-S, can be obtained at <http://www.in.gov/dwd/2406.htm>.

Quarterly wage reports, UC5, should be filed electronically via Uplink Employer Self Service for most employers. If you experience any difficulty uploading your UC5 file, the file can be delivered to DWD via electronic media and uploaded for you by a wage records specialist. Instructions for using electronic media can be located at [http://www.in.gov/dwd/files/Quarterly Wage Report File Instructions \(4-5-11 ESS\).pdf](http://www.in.gov/dwd/files/Quarterly_Wage_Report_File_Instructions_(4-5-11_ESS).pdf). If you are unable to use the electronic payment options, a paper UC5A can be found at <http://www.in.gov/dwd/2406.htm> or requested by calling 800-437-9136 option 3.

B. Reporting Payroll

For UI premium purposes, if you are liable for any part of a calendar year, you are liable for the entire year and must report all wages for the entire calendar year. You will receive quarterly reports based on the information you provided DWD when you registered. If you receive a quarterly report for a quarter in which you have no wages to report, write "0" or "Nothing to Report" on the quarterly report and mail it back. If DWD determines that you failed to file any wage report, an estimate will be made based on internal policy. Benefits are determined based on each quarter's wages; therefore wages cannot be reported in only one quarter for the entire year. Wages must be reported for the quarter in which they were paid.

If you must make corrections to quarterly reports they must be made for each quarter in which an error was made, it is your responsibility to notify DWD of any changes in your address, adjustments to quarterly reports, or the selling, purchasing, or closing of your Indiana operations. Corrections and adjustments can be made by completing State Form 44954 (Employer's Contribution Adjustment Report) available at www.in.gov/dwd/2406.htm. Please mail the completed form to:

Indiana Department of Workforce Development
10 N. Senate Ave., RM SE 005
Indianapolis, IN 46204-2277

If you need assistance or more information, visit www.in.gov/dwd or call (800) 437-9136, and choose option 3.

C. Covered Employers

Your employees are covered as long as you meet DWD qualifications. If you fail to meet the qualifications for the preceding year, and you do not believe you will meet them again in the future, you have until the following January 31st to file an application to stop coverage. You must continue to file quarterly contribution and wage reports (UC1 and UC5A) until you are notified that your account has been made inactive.

For UI premium purposes, there is no distinction between a full-time employee and a part-time employee. If an employee works for any amount of time during a calendar week, you must report the remuneration paid.

There is also no distinction between S-Corporations and business corporations (C-corporations). All corporate officers must report all payments for services.

D. Quarterly Report Due Dates

All active employers must file a quarterly report no later than the report due date. Reports are mailed the third month of the quarter and are due as follows:

III. QUARTERLY EMPLOYER REPORTING (continued)

QUARTERLY WAGE AND CONTRIBUTION, UC-1 / UC-5 REPORT DUE DATES		
Quarter	Wages Paid in Period	Report Due Date (on or before)
First	January, February, March	April 30th
Second	April, May, June	July 31st
Third	July, August, September	October 31st
Fourth	October, November, December	January 31st

Failure to receive notice to file a report does not relieve you of the responsibility for filing the report on time. You can report this information online using Uplink Employer Self Service, located at <https://uplink.in.gov/ESS/ESSLogin.htm>. Employers who file reports after the due date are assessed penalties and interest.

E. Retroactive Payments

You must **notify DWD immediately** when you make a retroactive payment to an employee that would reduce the employee's benefit amount. Retroactive payments that may affect an employee's benefits include wages, vacation pay, severance pay, etc. Please report the week(s) during which both the retroactive payment and the UI benefit payment occurred. Report additional wages for prior quarters using SF44954. See section XIV for information on reporting payment to individuals collecting benefits.

Employers who fail to file complete quarterly reports or have any outstanding liabilities will be subject to a penalty premium rate for the following calendar year. The current penalty rate is your calculated premium rate PLUS 2%, for a maximum rate of 9.4% in addition to the solvency surcharge.

F. Paying the Amount Due

Payment of the total amount due should be sent with your quarterly reports. The amount due will include any applicable fees and administrative assessments. You should also include any penalties and interest due if the report is filed past the due date. DWD accepts payment by check or electronic check with no fee. Credit cards are accepted but there is a nominal fee for using this service. **The link in the upper right corner of your employer homepage on the Uplink Employer Self Service application will alert you to any reports or liabilities due on your account.**

IV. BUYING, SELLING, TRANSFERRING, OR REORGANIZING A BUSINESS

DWD determines acquisitions based on a **continuation** of all or a part of an existing trade or business between the previous ownership and the new ownership. If you intend to acquire all or part of an existing Indiana business and intend to use the acquired assets in the continuation of a business, then you should file an intent to acquire notice with DWD no less than 5 days prior to the intended transfer date. Once this notice has been filed, you are allowed limited access to information regarding the proposed disposer's UI experience balance and standing with the agency.

A determination of successorship does not require that the ownership of the corporation change or that the predecessor and successor share ownership, management, or control. For purposes of successorship, the transfer of the workforce can sometimes be considered to be a continuation of the previous business. If you have questions on the applicability of successorship rules to your company, please contact DWD at (800) 437-9136 option 2.

There are certain types of business reorganizations that may not be used to set up a new SUTA account in Indiana. In general, new entities created during the reorganization of a business are eligible to set up a new or separate SUTA account **only** if the new entity is an employer as defined in this document. Business entities created solely for accounting purposes or for allocating costs are not eligible to set up a new SUTA account and should use the original employer account number.

For additional information related to commonly owned, managed, or controlled entities, please see Section X-F.

Professional Employer Organizations (PEO) not registered as employers with DWD as described in [Section II-A](#), are required to report client accounts under the client's assigned SUTA account (client level). Using a PEO does not absolve a client employer of the responsibility to report the operational change as a potential disposer organization, and the PEO has specific reporting responsibility regarding client additions and deletions as a potential acquirer organization.

Contracting with a registered PEO as described in Section II-A for payroll reporting and payment purposes is considered to be a transfer of workforce and must be reported as a transfer by both the disposer, i.e. the client business, and the acquirer, i.e. the PEO.



A. Complete Transfer of Indiana Operations (Ind. Code § 22-4-7-2(a))

If you are new to the state of Indiana, or if you are already paying Indiana UI premiums, and you:

- Acquire (purchase, lease, or take control of) **substantially all** of the operational assets of an Indiana employer which results in the continuance of an organization, trade, or business in full or in part; or
- Are issued a new federal identification number, merge, incorporate, or reorganize your business in any manner,

Your employees immediately qualify for UI coverage. New employers take over the experience account balance and premium rate of the previous owner. If you are a current employer, you retain your current rate through the end of the calendar year of the acquisition, and then receive a blended rate for subsequent years. You may also use the wage data reported by the previous owner for computing the excess wages for the employees you retain.

All outstanding liabilities are also assumed by the new owner. If the new owner has notified the Agency of the intended transfer no less than five days in advance, the new owner is entitled to receive information on the standing of the disposer. Please contact DWD at (800) 437-9136 option 1 for additional information on employee standing. There is no specific state form for intended transfer notification at this time.

The new owner must complete State Form 2837 (SUTA Account Number Application and Disclosure Form). This form is required even if the new owner already has a SUTA number. The previous owner must complete State Form 46800 (SUTA Account Termination or Transfer Request). State Form 2837 is due to the agency no more than 30 days after to the transfer date. State Form 46800 is due no more than 30 days after the transfer has occurred.

If the transfer occurs after the beginning of a calendar quarter, both the disposer and the acquirer must file two quarterly reports: the UC-1 and UC-5. The previous owner must report the wages paid from the first date in the quarter until the transfer of ownership. These forms and the UI premiums are due immediately following the transfer of ownership.

Please always take care to file the current version of any state form. Use of older versions of a form may delay processing. These forms can be found at <http://www.in.gov/dwd/2406.htm>

B. Partial Transfer of Indiana Operations (Ind. Code § 22-4-7-2(b))

If you:

- Acquire (purchase, lease, or take control of by any means) a distinct and separate portion of an organization, trade, or business; or
- Transfer all or part of the workforce as an asset of the business.

You may use the wage data reported by the previous owner for computing the excess wages for the employees you retain.

The previous owner must transfer a proportionate amount of the experience balance and the merit rate based on the portion of the business being transferred. The new owner must complete State Form 2837 (SUTA Account Number Application and Disclosure Form). This form is required even if the new owner already has a SUTA number. The previous owner must complete State Form 46800 (SUTA Account Termination or Transfer Request).

State Form 2837 is due to the agency no more than 30 days after to the transfer date. This must be done within 30 days from the date of transfer of ownership, or not later than 10 days after notification from DWD. Failure to complete this form will result in the Agency making a determination of the portion of the prior business based on best information reasonably available of the previous owner's experience balance to the experience account of the new owner.

If the transfer occurs after the beginning of a calendar quarter, both the disposer and the acquirer must file two quarterly reports: the UC-1 and UC-5. The previous owner must report the wages paid from the first date in the quarter until the transfer of ownership. These forms and the UI premiums are due immediately following the transfer of ownership.

The new owner files the UC-1 and UC-5 from the date of change of ownership to the end of the quarter on the due date, 30 days after the quarter ends. If the new owner has an existing DWD account, the new owner's merit rate will be retained for the calendar year of the change of ownership. These forms can be found at <http://www.in.gov/dwd/2406.htm>.

V. SEASONAL EMPLOYMENT

A. Seasonal Employment

Seasonal employment is service performed for a DWD approved seasonal employer during the approved seasonal period of less than 26 weeks. Employees cannot use seasonal wages to establish an unemployment claim outside the seasonal operating period.

You must inform DWD of the number of positions you have classified as seasonal within the approved seasonal portion(s) of your business. Opening and closing dates of each seasonal operation must also be specified. DWD provides special forms for this information. Please call (800) 437-9136, option 3, to request the forms.

You must keep an accurate account of wages paid to seasonal workers within the approved seasonal period. You should continue to report wages quarterly. DWD provides special wage reporting forms with coding specifically for seasonal employees.

UI benefits may be paid to individuals on the basis of service performed in seasonal employment only if the claim is filed within the approved seasonal operating period. If the claim is filed outside the seasonal operating period, benefits may be paid only on the basis of any non-seasonal wages.

B. Qualifying as a Seasonal Employer

A seasonal employer operates all or part of a business for recurring periods of less than 26 weeks in a calendar year due to either the seasonal nature of the business or climatic conditions. As a part of the application process, employers are required to submit information about the nature and function of all jobs that should be classified as seasonal and for all jobs that are not classified as seasonal.

It is very important that employers complete this job analysis carefully and completely. Seasonal status cannot be granted for any job which is not functionally different from a non-seasonal job. The location of the work is not a factor in this determination - only the work that is actually performed is taken into consideration.

As an example, there are employers that maintain rental properties that are open year round and rental properties that are open only during a distinct tourist season. During the tourist season, the employer hires staff for the purpose of housekeeping the properties that are only open during the tourist season. Because the duties being performed by these staff members are the same as the duties being performed by staff that perform housekeeping on the year round properties, this is considered a temporary increase in staffing and is not seasonal employment even though these workers only perform those duties in the facilities that are open during a seasonal period.

On the other hand, if the same employer hires security personnel to maintain the seasonal properties while they are not available for rental, the security personnel might qualify for seasonal status if the off season for these properties is less than 26 weeks each calendar year.

Employers may qualify for multiple seasonal periods, but the total of all seasonal periods must be less than 26 weeks each calendar year.

In order to be considered a seasonal employer for UI premium purposes, the employer must file Form 2003 (Request for Seasonal Determination Status) with DWD. DWD will issue a decision within 90 days of receiving the request.

After DWD approval, an employer assumes seasonal employer status effective the first day of the next calendar quarter.

In order to qualify as a seasonal employer for a portion of your business, that portion must be identifiable as a distinctly different operation. For example, a municipally owned golf course would be considered a distinctly different operation from the municipality. If it is in operation less than 26 weeks each calendar year, the golf course could qualify as a seasonal employer.

V. SEASONAL EMPLOYMENT (continued)

C. Loss of Seasonal Employer Status

If your seasonal operation exceeds 26 weeks in a calendar year, you must notify DWD within 30 days.

Seasonal status is automatically lost for the period of operation after that calendar quarter. Your employees can use the wages you paid in this period as regular wages to establish UI claims.

If you lost seasonal employer status you may apply for reinstatement in any calendar year after the year in which the designation was revoked.

VI. STATE PREMIUM RATE COMPUTATION

A. New 2019 Employer Premium Rates

You receive a notice from the Department of Workforce Development with your 2019 applied rate mailed to the legal address provided to the Agency. Your applied rate is a combination of your premium rate and the solvency surcharge. The solvency surcharge for 2019 is 0 percent of your premium. If you wish to estimate your rate, follow the steps below.

First, determine your Premium Rate:

How to Determine Your Premium Rate

Your premium rate will be determined based on the employer's individual experience account status as of June 30th of each year.

Your premium rate is determined by following these steps:

1. Determine your type of UI premium rate (new employer, penalty or merit)
 2. Determine your experience rate ratio
 3. Determine your premium rate from the applicable schedule.
 4. Determine your Applied Premium Rate (your premium rate multiplied by 1.00 to reflect the interest surcharge)
-

1. Determine your type of UI premium rate.

There are three types of UI premium rates:

New Employer Rate: A new employer rate of 2.5%, NAICS code 23 of 2.73%, or a government rate of 1.6% applies unless the following conditions are met. New employers are exempt from the solvency surcharge.

1. You have been subject to paying UI premiums for the past 36 months prior to June 30.
2. You have reporting liability in each of the three 12 month periods immediately preceding June 30.
3. You are not subject to the penalty rate.

Penalty Rate: Any employer, new or merit-rate, can be assessed the penalty rate. The penalty rate is your rate as calculated in step 1 or 3 plus 2%. You are subject to the penalty rate if:

1. You fail to file any required quarterly report within 10 days of the specific date requested by Form 1171 (Merit Rate Delinquency Notice) sent by certified mail.
2. You fail to pay the premiums, interest and/or penalty charges owed for past quarters within 10 days of the specific date requested by Form 1171 (Merit Rate Delinquency Notice) sent by certified mail.
3. You fail to pay the premiums, interest and/or penalties charges owed by a predecessor account within 10 days of the specific date requested by Form 1171 (Merit Rate Delinquency Notice) sent by certified mail.

Merit Rate: Employers that no longer hold new employer status and are not subject to the penalty rate qualify for an experience-based merit rate.

A merit rate is computed based on:

- Your experience balance as of June 30th
- Your past 36 months' payroll

2. Determine your experience rate ratio

Your merit rate is based on the status of your DWD employer experience account. The experience account compares all premiums (contributions) paid into your account and all benefits charged against your account. Be sure to convert to a ratio (percentage) prior to comparing to the appropriate rate chart.

Reserve Ratio =	Experience account credit balance as of June 30 ----- Total taxable wages paid by the employer/predecessor during the 36 months immediately preceding June 30
------------------------	---

3. Determine your premium rate from the applicable schedule

Your experience account will have one of the following status designations:

- **Credit reserve balance** -Your state UI premiums paid exceed benefits charged to your account. You have a positive experience balance.
- **Debit reserve balance** -UI benefits charged to your account exceed state UI premiums paid into your account. You have a negative experience balance.

Be sure to convert to a percentage prior to comparing to the appropriate rate chart.

Rate Schedule for Accounts with a Credit Reserve Balance

Rate Schedule for Accounts with Credits Balance as of June 30		
As Much As	But Less Than	%
3.00		0.50
2.80	3.00	0.70
2.60	2.80	0.90
2.40	2.60	1.20
2.20	2.40	1.40
2.00	2.20	1.60
1.80	2.00	1.80
1.60	1.80	2.00
1.40	1.60	2.30
1.20	1.40	2.50
1.00	1.20	2.70
0.80	1.00	2.90
0.60	0.80	3.10
0.40	0.60	3.40
0.20	0.40	3.60
0.00	0.20	3.80

Rate Schedule for Accounts with a Debit Reserve Balance

Rate Schedule for Accounts with Debit Balance as of June 30		
As Much As	But Less Than	%
0.00	1.50	4.90
1.50	3.00	5.10
3.00	4.50	5.30
4.50	6.00	5.50
6.00	8.00	5.70
8.00	10.00	6.00
10.00	12.00	6.40
12.00	14.00	6.80
14.00	16.00	7.10
16.00	Or more	7.40

4. Next, determine your Applied Rate:

Determining your applied rate is very easy once you have determined your premium rate.

From step one, determine your rate type.

- If you are subject to the new employer rate, you are not subject to the solvency surcharge. Your applied rate is 2.5%, 2.73%, or 1.6% depending on your employer industry type.
- If you are subject to the penalty rate, but are also a new employer, you are not subject to the surcharge. Your premium rate is 4.5%, 4.73%, or 3.6% depending on your industry type.
- If you are a merit rated employer, multiply your premium rate above by 1.00 to determine your applied rate.

The surcharge for 2019 is 0 percent. The charts below convert the premium rate to applied rate for 2019.

Applied Rate Schedule for Accounts with a Credit Reserve Balance

Rate Schedule for Accounts with Credit Balance as of June 30				
As Much As	But Less Than	Premium Rate	Applied Rate	Penalty Rate
3		0.5	0.500	2.500
2.8	3	0.7	0.700	2.700
2.6	2.8	0.9	0.900	2.900
2.4	2.6	1.2	1.200	3.200
2.2	2.4	1.4	1.400	3.400
2	2.2	1.6	1.600	3.600
1.8	2	1.8	1.800	3.800
1.6	1.8	2	2.000	4.000
1.4	1.6	2.3	2.300	4.300
1.2	1.4	2.5	2.500	4.500
1	1.2	2.7	2.700	4.700
0.8	1	2.9	2.900	4.900
0.6	0.8	3.1	3.100	5.100
0.4	0.6	3.4	3.400	5.400
0.2	0.4	3.6	3.600	5.600
0	0.2	3.8	3.800	5.800

Rate Schedule for Accounts with a Debit Reserve Balance

Rate Schedule for Accounts with Debit Balance as of June 30				
As Much As	But Less Than	Premium Rate	Applied Rate	Penalty Rate
0	1.5	4.9	4.900	6.900
1.5	3	5.1	5.100	7.100
3	4.5	5.3	5.300	7.300
4.5	6	5.5	5.500	7.500
6	8	5.7	5.700	7.700
8	10	6	6.000	8.000
10	12	6.4	6.400	8.400
12	14	6.8	6.800	8.800
14	16	7.1	7.100	9.100
16	Or More	7.4	7.400	9.400

B. Voluntary Payments

Voluntary payments can be made by eligible employers within 30 days from the date on the face of the **annual** merit rate notice. Employer rate reassessments are not subject to voluntary payment offers. If you are eligible for a merit rate, have no delinquencies, and you are not already at the lowest rate for the calendar year, you will be offered an opportunity to buy down the contribution portion of your total premium. If you make the voluntary payment, the reduction to the surcharge amount will automatically be applied. Voluntary payments must be submitted with the voluntary payment offer form, must be submitted on or before the offer expiration date, and must be for no less than the full amount of the voluntary payment offered. Employers may pay more than the voluntary payment offer if they wish to increase their experience balance enough to buy down additional levels. It is not always in the best interest of the employer to make a voluntary payment. Voluntary payments cannot be refunded in full or in part, and only one voluntary payment can be made per year.

C. Premium Rate Summary

Your premium rate is determined based on the solvency of the UI Trust Fund as well as your individual account status. The fund ratio, which determines the rate schedule, is how the UI Trust Fund solvency is factored into the rate. The credit/debit reserve ratio incorporates your individual account status into the rate.

Many factors affect your premium rate. A rate increase may be the result of employee pay increases or more of your former employees receiving UI benefits, which decreases your experience account balance. Also, the UI Trust Fund suffers when statewide total benefits paid exceed total premiums collected. As a result, if the UI Trust Fund is not solvent all employers pay a higher rate in order to replenish the funds. Please read [Section VII-C](#), for more information on how UI Benefits are determined and how your account if affected.

VI. STATE PREMIUM RATE COMPUTATION (continued)

D. Collections and Legal Action

If you fail to pay your quarterly UI premiums timely, the following will occur:

- A penalty charge of 10% of the quarterly premium amount will be assessed;
- You will be charged 1% interest on the premium amount due for each month the amount is outstanding; and
- A penalty of 50% of the outstanding amount will be assessed if it is found that you committed fraud with the intent to evade payment.

If your quarterly report is sent without full payment, a "Notice and Demand" will be sent to you. This notice will detail all outstanding premiums, surcharge, interest, and penalties, which equals the total liability due for that quarter. Failure to pay a Notice and Demand will result in additional collection activities. **If you do not submit a written protest within 15 days from the date of the Notice and Demand, the assessment will become final and will be due. A three day grace period to allow for delivery time applies if the notification is mailed by DWD.** If you have questions concerning the amount, please contact DWD immediately at 800-437-9136 option 1.

DWD may acquire a lien on the delinquent employer's real estate and property for delinquent premiums, surcharge, interest, and penalty charges.

In Indiana, it is considered **fraud with the intent to evade** payment, a misdemeanor, for an employer to:

- Make a false statement to prevent or reduce benefit payments
- Encourage or induce an individual to waive or forego benefits rights
- Fail to testify or answer any lawful inquiry

The law also provides a penalty for any person who willfully violates any provision of the DWD Act or the rules and regulations of the UI Board.

DWD aggressively pursues delinquent accounts. Delinquent employers should either pay the amount due, or contact DWD as soon as possible to discuss payment options. Payment agreements are available to any employer that needs to arrange for payment over-time that has not previously defaulted on a payment agreement. Please contact DWD at 800-437-9136 option 1 for details on down payment and monthly minimums.

VII. YOUR EMPLOYER EXPERIENCE ACCOUNT

This section of the guide will explain how UI benefits are determined and how they affect your experience account. If you recently bought or sold any portion of your business see [Section IV](#) for important details regarding your experience account.

A. Your Experience Account

The contribution portion of all UI premiums are collected by DWD and deposited into the UI Trust Fund. An individual account record is maintained for every employer covered under the DWD Act.

Every time you pay UI premiums, voluntary payments, or reimbursements (if you are a reimbursable employer), the amount is posted to your account. The money drawn from your account is only for UI benefits paid to your former employees, employees working reduced hours, and laid-off employees. Your account is also assessed the annual Mutualized Benefit Charge. UI benefit payments are charged proportionately against **all** the accounts of a claimant's employers who paid that claimant wages during the "base period". (**Base Period is discussed below.**)

Your experience account may not be relieved of charges for any overpayments if those overpayments resulted from your failure to respond in a timely or adequate manner to DWD's requests for information related to the claim and you have a pattern of failing to respond to requests for information.

B. Qualifications for UI Benefits

In order to be eligible for benefits, an individual must:

- Earn sufficient wages during the base period;
- Be unemployed through no fault of their own; **and**
- Be able, available, and actively seeking full-time work.

Each of these criteria will be addressed in more detail below.

1. Sufficient Wages Earned During Base Period

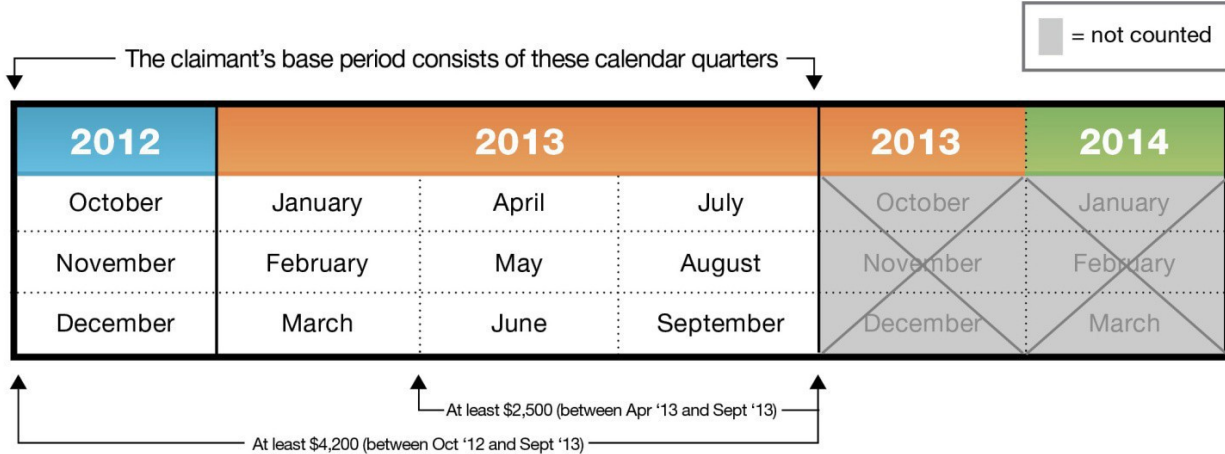
An individual's **base period** consists of the first four of the last five completed calendar quarters. To establish a valid claim, an individual must have total wages during the base period that are at least one and one-half (1.5) times greater than the claimant's highest quarter wages. The claimant must also have base period wages totaling at least \$4,200 with \$2,500 of those wages earned in the last six months of the base period.

Example: A claim started January 6, 2013 has a base period that starts in October 2011 and ends in September 2012. In order to qualify for benefits:

- The claimant must have earned total base period wages that are 1.5 times greater than their highest quarter wages
- The claimant must have earned at least \$4,200 during the base period (October 2011 through September 2012), **AND**
- The claimant must have earned at least \$2,500 during the last 6 months of the base period (April 2012 through September 2012).

VII. YOUR EMPLOYER EXPERIENCE ACCOUNT (continued)

IF A CLAIM IS FILED BETWEEN JANUARY 6, 2014 AND APRIL 6, 2014



During your **base period months**, you must have wages of \$4,200 of which \$2,500 must be in the last 6 months of the base period; also your total wages in the base period must be at least 1.5 times your highest quarter wages. (IC 22-4-14-5(c)(2))

Suppose the wages reported by the employer in the base period were:

2012	2013			2013	2014
Oct-Nov-Dec	Jan-Feb-Mar	Apr-May-June	Jul-Aug-Sept	Oct-Nov-Dec	Jan-Feb-Mar
\$7,000.00	\$8,500.00	\$7,500.00	\$7,000.00	\$9,250.00	\$9,250.00

The amount of the claimant's weekly payment depends upon the highest wages they were paid in any calendar quarter in your base period. The weekly benefit payment may not exceed \$390.00

To determine your weekly payment, divide the total wages earned in these 4 quarters by 52. Then, multiply the sum by 0.47. For example: $\$30,000 \div 52 = \$576.92 \times 0.47 = \$271$ (weekly benefit amount). The weekly benefit amount should be rounded down to the next whole dollar amount and should not exceed \$390. (IC 22-4-4-3(n))

VII. YOUR EMPLOYER EXPERIENCE ACCOUNT (continued)

2. Benefit Amount

To determine the maximum weekly benefit divide the total base period wages by 52. Then, multiply that number by 0.47. The weekly benefit amount should be rounded down to the next whole dollar amount. The WBA is based on the total wages earned in the base period.

- For example, if the total wages in the base period was \$30,000 then the WBA would be: $\$30,000 \div 52 = \$576.92 \times 0.47 = \$271$ (weekly benefit amount rounded down to the next whole dollar amount)

3. Unemployed Through “No Fault of Your Own”

Employees are only entitled to UI benefits if they are unemployed through no fault of their own. If the person quits voluntarily (without a good, work-related reason), is discharged for just cause, or is discharged for gross misconduct, that individual is not eligible for UI benefits. See [Section VII-C](#) for further explanation of just cause and gross misconduct.

4. Able, Available and Actively Seeking Work

Benefits can be denied or reduced if the individual:

- Refuses a suitable job offer
- Refuses or fails a pre-employment drug screening
 - You may report an individual who refuses or fails a drug test by filing a protest form, available online at www.in.gov/dwd/2465.htm
- Fails to follow up on a job referral made by their local WorkOne Center
- Does not show proof they are actively searching for work according to the DWD specified work search requirements
- Is temporarily not able to work due to illness, injury, leave of absence, or a suspension due to work-related misconduct.

A claimant's weekly benefit payment can be reduced by one-third (1/3) for each day they are unavailable.

i. Examples of Individuals NOT Eligible for UI Benefits

1. On-Call or As-Needed Workers During any Week They Work or Refuse Work

- **Statutory Authority:** IC 22-4-3-3 [effective July 1, 2011]
- **Definition of on-call or as-needed worker:** Those who are regularly and customarily employed on an on-call or as-needed basis and are paid during any week for services by an employer, or have work available from the employer. If working for an employer, the individual works whenever the employer requires and there is no set work schedule.
- **How it works:** On-call and as-needed workers are not eligible for unemployment benefits if they receive pay OR refuse work during any week.
- DWD must be able to determine whether the individual knew at the time of hire they would not have a set work schedule and hours would fluctuate according to need AND must be able to determine when individual worked or refused work during any week.

Below are some examples of items that may assist DWD in making this determination:

VII. YOUR EMPLOYER EXPERIENCE ACCOUNT (continued)

- 1) Evidence of individual's acceptance of offer to work.
 - Examples of evidence of individual's knowledge of on-call or as-needed position: Job description, job posting or written published policy about specific position
 - 2) Evidence showing that the individual was paid for services performed on behalf of the employer.
 - Examples of evidence for payment of earnings: individual's paycheck, direct deposit form, or warrant specifying the weeks the individual was paid; or
 - 3) Evidence that the individual declined available work at any point in time during the week or weeks at issue. This means evidence of
 - 1) when the employer notified the individual of available work AND
 - 2) when the individual failed to report to work.
 - **Examples of evidence of proper notification:** written communications with dates, times and number of available hours, or verbal testimony by the individual's supervisor reflecting the same information; established policy and procedures required to be followed to determine if work is available (i.e.: automated job lines or call in procedures).
- **Factors used to determine whether individual is an 'on-call' or 'as-needed' worker:**
 - 1) Whether individual accepted a position with knowledge of a flexible work schedule;
 - 2) Whether individual had a reasonable expectation of regular employment;
 - 3) Whether employer restricted pool of applicants on the job description to ensure the on-call or as-needed employee is available;
 - 4) Whether the employer established policies and procedures detailing how the employer would make work available to the individual;
 - 5) Whether the individual's position was regularly or customarily known to the general public as an on-call or as-needed position.

**This list is not limited to only the above factors. Click [HERE](#) to view DWD policy.*

2. Workers Employed at a Business During a Short-Term Shutdown or Unpaid Vacation

- Some examples of factors used by DWD to determine an employee is not eligible under this criteria for unemployment insurance benefits :
 - 1) A written contact between the employer and the employee providing notification for the short-term shutdown or unpaid vacation.
 - 2) The short-term shutdown or unpaid vacation was the result of the employer's regular policy or practice.
 - 3) The employee had a reasonable assurance of continued employment following the short-term shutdown or unpaid vacation.
 - The assurance is not required to be directly communicated, but may be inferred by past policies, practice, custom, etc.
 - 2) The employer voluntarily provided DWD with advance notice of the short-term shutdown or unpaid vacation.

VII. YOUR EMPLOYER EXPERIENCE ACCOUNT (continued)

3. Employees of Certain Head Start Programs Who are on Planned Breaks

(such as summer vacation)

- **Statutory Authority:** IC 22-4-14-7 [effective July 1, 2011]
- **Definition of employees of certain Head Start programs:** Individuals who work in an instructional, research or principal administrative capacity for a Head Start program that operates in connection with a local school system (educational institution), governmental entity or a nonprofit organization, and provide services to or on behalf of an educational institution are not eligible for unemployment benefits during planned breaks.
- **How it works:** A determination will be made as to whether the employee of a Head Start program is ineligible for benefits using some of the following criteria:
 - 1) Is the program integrated with a local school system or have the primary purpose of educating students?
 - 2) Does the program have an established educational curriculum that is taught to participants of the program?
 - 3) Does the program have a set academic calendar?
 - 4) If an individual does not work in an educational institution, do they work for a governmental entity or a nonprofit organization and provide services to or on behalf of an educational institution?
 - 5) Do the program employees have a reasonable assurance of employment once the scheduled vacation or break concludes?
- DWD must determine whether Head Start employees were aware of the academic calendar at the beginning of an academic term or at the time of hire.
Below are some examples of items that may assist DWD in making this determination:
 - 1) A copy of the academic calendar with start and end dates of academic terms, official and customary vacation periods, and holiday recesses.
 - 2) Evidence that the employee had reasonable assurance they would return to work to perform the same or similar services for Head Start at the beginning of the next academic term or end of the vacation/break period.
 - Examples of reasonable assurance that the employee would return to work :
Official letter from Head Start to the employee providing a return to work date, contract between Head Start and employee setting forth terms of employment.
 - 3) Employer must protest the DWD Separating/Base Period Employer Notice sent to the employer relative to the filing of a claim for unemployment benefits by an employee and must indicate:
 - Whether the local school system is exercising some direction and control;
 - Whether the teachers and assistants are required to have a specific educational background or specialized training;
 - Whether the teachers are required to prepare lesson plans; and
 - Whether the teachers receive their pay from a school system.

VII. YOUR EMPLOYER EXPERIENCE ACCOUNT

- **Some factors used to determine if a Head Start employee performed services for a local school system and/or in an educational capacity:**
 - 1) Whether the local school system is exercising some direction and control;
 - 2) Whether the teachers and assistants are required to have a specific educational background or specialized training;
 - 3) Whether the teachers are required to prepare lesson plans; and
 - 4) Whether the teachers receive their pay from a school system.

Click [HERE](#) to view DWD policy.

4. Employees Receiving a Voluntary Buyout

Employees who accept a voluntary buyout to resign or retire are not eligible for unemployment insurance.

ii. Deductible and Non-Deductible Income

Pension, Retirement, Annuity Distributions

Distributions from pension, retirement or annuity plans will not be counted as deductible income when an individual uses the distribution to satisfy a severe financial hardship resulting from an unforeseeable emergency that is the result of events beyond the individual's control.

Severance Pay

The amount received by an individual as compensation made under a valid negotiated contract or agreement in connection with a layoff or plant closure is deductible income and will be deducted from unemployment insurance benefits. For example, if a claimant is eligible for \$300 per week in UI benefits and receives \$200 per week in severance pay after a plant closure, the severance pay will be deducted from the claimant's weekly UI benefit. The claimant will collect \$200 per week in severance pay and \$100 per week in UI benefits.

C. How Your Former Employee's Benefit Claims Affect Your UI Experience Account

UI benefit payments are charged proportionately against the accounts of **all** base period employers based on the amount of wages paid by each employer (up to \$9250 per quarter). If an employee worked for two or more employers during the base period, the benefit payment charges are made first to the account of the most recent employer, then the next most recent and so on.

1. Partial UI Benefits Paid to a Current, Former or Laid-Off Employee

Individuals may qualify for partial benefits if their current employer reduces work hours to less than a regular full-time work week. If a person currently receiving UI benefits takes a new part-time job and earns less than their weekly UI benefit amount they may be eligible for partial UI benefits. These individuals must report their part-time wages on each weekly voucher. The experience accounts of the base period employers will be charged according to how benefits are paid, as described below.

VII. YOUR EMPLOYER EXPERIENCE ACCOUNT (continued)

a. Pay Earned from a New Part-Time Job

- If an individual earns pay equal to 20% or less of their weekly UI benefits from a new part-time job, no deduction of their weekly benefits will be made.
- If a claimant earns pay equal to more than 20% of their weekly UI benefits from a new part-time job, a dollar-for-dollar deduction will be made for all wages earned in excess of 20% of the individual's weekly benefit.

b. Pay Earned From a Current Employer that Reduced Work Hours

- If any wages are earned from an employer that reduced work hours, a dollar-for-dollar deduction will be taken from the individual's weekly benefit payment.

Examples:

- A person's weekly benefit amount is \$200. That individual earns \$50 per week working at a new part-time job. Since 20% of their \$200 weekly benefit amount is \$40, their benefits will be deducted \$10 weekly, reducing their payment to \$190 because that person made \$10 in excess of 20% of their weekly benefit amount. The experience account of the base period employers would be charged accordingly.
- If this same person earned \$40 or less per week from the part-time job, no deduction of weekly benefits would occur because \$40 or less per week would be 20% or less of their weekly benefits amount.
- If the \$50 was earned from a current employer who reduced weekly work hours, \$50 would be deducted weekly reducing their payment amount to \$150. The experience account of the base period employers would be charged accordingly.

Individuals working full-time are not eligible for UI benefits even if pay from their full-time job is less than they would receive in weekly benefits.

2. Voluntary Quits

Quitting voluntarily is considered a "disqualifying separation". Former employees that voluntarily quit will not be eligible for benefits the week the separation occurred and until they earn at least as much as their normal weekly benefit amount for eight weeks. After this period, the employee's maximum benefit amount will be reduced by 25% only once, regardless of the number of disqualifying separations in the base period. Accepting a voluntary buyout package is an example of a voluntary quit.

When a former employee re-qualifies after this period, base period wages are used to determine benefits. The benefits paid to this claimant are not charged to your experience account. Benefits are paid directly from the UI Trust Fund through the Mutualized Benefit Charge. See part C for details on how these charges work.

VII. YOUR EMPLOYER EXPERIENCE ACCOUNT (continued)

3. Discharge for Just Cause

Discharge for just cause is also considered a “disqualifying separation”. DWD must determine whether the employer had just cause to terminate the claimant’s employment.

Former employees that are discharged for just cause will not be eligible for benefits the week the separation occurred and until they earn at least as much as their normal weekly benefit amount for eight weeks. After this period, the employee’s maximum benefit amount will be reduced by 25% only once, regardless of the number of disqualifying separations in the base period.

When a former employee re-qualifies after this period, base period wages are used to determine benefits. The benefits paid to this claimant are not charged to your experience account. Benefits are paid directly from the UI Trust Fund through the Mutualized Benefit Charge. See part C for details on how these charges work.

“Discharge for just cause” means discharging (or firing) an employee with **complete documentation** and acknowledgement of understanding by the employee of the following:

- Falsifying employment documents to obtain employment
- Knowingly violating a reasonable and uniformly enforced employer policy or rule
- Attendance problems, if the employee cannot show good cause for absences or tardiness (attendance policy must be documented and understood by employee)
- Damaging the employer’s property through willful negligence
- Refusing to obey instructions
- Reporting to work under the influence of alcohol or drugs (drug use policy must be in effect, documented and acknowledged by the employee)
- Consuming alcohol or drugs at the workplace during working hours (drug use policy must be in effect, documented and acknowledged by the employee)
- Endangering the safety of self or co-workers
- Imprisonment following conviction of a misdemeanor or felony
- Any breach of duty reasonably owed to the employer

4. Gross Misconduct

“Gross misconduct” includes:

- Workplace felony
- Work-related class A misdemeanor
- Positive test for use of controlled substances, alcohol, or illegal substances
- Other specified circumstances as defined by the Indiana General Assembly in IC 22-4-15-6.1

5. Mutualized Benefit Charges

In addition to the direct benefit charges, once per year your experience account will be assessed **Mutualized Benefit Charges**. Each year, all benefit charges that are relieved from all employer accounts, as described previously, are totaled and charged proportionally to all premium-paying employers. DWD determines your company’s share of these charges by dividing your taxable wages by all taxable wages paid in the state. You will receive your annual Statement of Mutual Benefit Charges in conjunction with your annual premium notice. This is not a bill. The amount is deducted automatically from your experience account.

VIII. WHAT TO EXPECT IF A FORMER EMPLOYEE FILES A CLAIM

A. Separating and Base Period Employer Notice

Whenever an individual files an initial claim for benefits, their last employer and all of their base period employers are notified and asked to verify the reason for the claimant's unemployment. This notifies you that your experience account may be charged. You may then use state form 640P to protest a claimant's eligibility for benefits. The information you list on this form could affect the claimant's eligibility or any charges to you for benefits. Form 640P is available online at www.in.gov/dwd/2465.htm.

If you have been determined to be a successor employer, you will receive base period separation notices with regard to filing by employees of your predecessor. These notices are required so that you are aware of potential charges against the transferred experience balance, but you are not required to respond to the notice unless you have direct knowledge of the separation.

You must submit Form 501 (separating employer, located in Employer Self Service) or Form 640P (base period employer) if a former employee seeking unemployment benefits is unemployed because that person:

- Quit voluntarily or was absent for unknown reasons
- Was discharged for just cause (see [Section VII-C](#))
- Was discharged for gross misconduct (see [Section VII-C](#))
- Is not entitled to **ANY** pay or benefits from you
- Is ineligible for any reason listed in this handbook

Do not notify DWD if the employee was laid-off, unless that person is monetarily ineligible for any reason listed in this handbook, (e.g., vacation pay, etc.)

Protest form 640P should be faxed to DWD at (317) 633-7206, if possible.

Protests may also be submitted by mail to:

Indiana Department of Workforce Development
Attn: UI Claims Adjudication Center
10 N. Senate Ave., RM SE 113
Indianapolis, IN 46204-2277

Employers registered to use Employer Self Service may respond to Form 501, (the fact finding form) by using the links provided on the Employer Self Service homepage.

B. Determination of Eligibility

If you believe a former employee is not eligible for benefits and you submitted the form to protest benefits, all relevant facts will be reviewed by DWD. After this review is completed a "Determination of Eligibility" will be issued by DWD. The Determination of Eligibility form, UC-511, will be mailed to you and the employee.

VIII. WHAT TO EXPECT IF A FORMER EMPLOYEE FILES A CLAIM (continued)

C. Statement of Benefit Charges

Each month DWD sends a Statement of Benefit Charges (State Form 535) to employers whose accounts have been charged because benefits were paid to former employees. You should:

- Review the statement carefully
- Make sure the charges listed are correct
- Contact DWD as soon as possible if your charges are incorrect. Call toll-free (800) 891-6499 for general benefit questions

D. Combined Wage Transfer

If a former employee of your company is receiving UI benefits from another state and has wages reported from your company on their claim, it is called a "Combined Wage Transfer". There is no difference to your account whether your former employee lives in Indiana or elsewhere. DWD simply "combines" the wage information from Indiana employers pertaining to your former employee and "transfers" the information to the state in which your former employee is filing for UI benefits. You will receive a Statement of Benefit Charges, which notifies you that your former employee filed a claim for UI benefits and you are a base period employer. You will be asked to verify the reason the former employee is unemployed. This notice also informs you that your experience account may be charged. The information you report on this form could affect that person's eligibility for UI benefits or any charges to you for their benefits. You should use state form 640P to protest a former employee's eligibility for benefits. Reasons to protest a claim are listed in the previous section that explains the Separating and Base Period Employer Notice. Form 640P is available online at www.in.gov/dwd/2465.htm.

E. Filing an Appeal

The losing party may appeal this determination and request a hearing before an Administrative Law Judge (**ALJ**). The appeal and request for a hearing must be made in writing. Appeal instructions are located on the back of the Determination of Eligibility form. A separate letter requesting an appeal and hearing may be submitted instead of the form. To file an appeal complete the reverse side of the Determination of Eligibility form (UC-511), and send to:

UI Appeals

100 N. Senate Ave., Ste. N800
Indianapolis, IN 46204
Fax: (317) 233-6888

This must be done within 10 days from the mailing date on the form. The appeal period begins when DWD mails the Determination of Eligibility form, not when you (or the employee) receive the document. For more information on the appeals process, see [Section IX](#).

F. Wage Investigation

When a worker files a claim for Unemployment benefits, they are provided with a monetary determination which provides information on base period earnings from all employers. A worker may file an objection to the monetary determination on the basis of missing or incorrectly reported wages. This objection creates a condition called a "blocked claim". The claims person assisting with the worker will request proof of earnings and will verify other facts with the worker before escalating the objection to the wage investigation unit.

The wage investigation unit will examine the proof of earnings received from the worker, and will then contact the worker and the business to gather additional facts and evidence with regard to the nature of the relationship between the parties. It is very important that both the worker and the business respond to the investigator as the normal determination period for an investigation is 10 calendar days.

VIII. WHAT TO EXPECT IF A FORMER EMPLOYEE FILES A CLAIM (continued)

The investigator will analyze all facts and evidence provided and will make a written determination to the parties regarding the wages and employment of the worker. The parties have fifteen (15) days from the date on the face of the determination to protest the findings in writing.

IX. THE APPEALS PROCESS

A. Appeals

An employee or employer may appeal the initial determination for benefits. You may appeal a benefit determination to an Administrative Law Judge (**ALJ**). ALJ hearings are usually conducted over the telephone. This may also occur in person. If the ALJ does not rule in your favor you may then appeal to the Review Board, followed by the Indiana Court of Appeals.

Employers may appeal certain determinations made with regard to their SUTA account to a Liability Administrative Law Judge (LALJ). Liability appeals are limited to original determinations of qualification or successorship, original liability assessments, calculation of the premium rate, audit findings, investigation findings, and benefit charge posting. Please note, benefit charge posting and a determination that the claimant is eligible for benefits are not the same. The employer can protest only the order and percentage of charges posted against their experience balance as it relates to other employers in the base period through the LALJ.

1. Benefit Eligibility Appeals

The ALJs and Review Board have jurisdiction over benefit eligibility appeals. Employers or individuals appealing a Determination of Eligibility (UC-511) may request a hearing before an ALJ. ALJ hearings are informal, but the fundamental rules of evidence and procedure apply.

When there is a hearing, the parties involved have an obligation to be present with all relevant documents and witnesses. Relevant documents might include:

- Attendance records
- Performance reports
- Counseling records
- Work rules or policies
- Physician's statements
- Employment handbook (and signed employee acknowledgement documentation)
- Written policies and procedures (and signed employee acknowledgement documentation)

Documentation

- 1) It is important to create and adopt workplace policies and procedures. These should be documented in writing to eliminate confusion and doubt.
- 2) You should also adopt an Employee Handbook containing all policies and procedures and the appropriate enforcement steps.
- 3) Inform and train employees on policies, procedures, and your Employee Handbook.
- 4) Require employees to sign a document stating they understand and agree to the policies, procedures, and your Employee Handbook.
- 5) Enforce all policies uniformly and document all violations carefully.
- 6) Any noted violation of policies, procedures, or your Employee Handbook should be well documented by you with the date of infraction, and acknowledgement by you, the immediate supervisor, and employee, if possible.
- 7) Hearsay documents that are signed by a supervisor or manager of the employer who disciplined and witnessed the former employee's violations of policy, etc. are not accepted as evidence. The witness **must be present** in the hearing, just as any other judicial hearing.
- 8) All of the above can be used as evidence in an appeal.

IX. THE APPEALS PROCESS (continued)

The ALJ will make a decision based upon the evidence and testimony the parties present at the hearing. The ALJ will consider all evidence that would be admissible under common law and the statutory rules of evidence. Testifying witnesses should have personal knowledge (from their own first-hand experience) of the facts or circumstances. The ALJ can accept written statements, whether notarized or not, but will give them no weight because they are not subject to cross-examination or rebuttal.

2. Postponement of Hearings

Hearings are postponed in cases of emergency only. Any other request to postpone must be made as soon as possible and well in advance of the scheduled hearing date. Written request to postpone a hearing must be received by the ALJ at least three (3) days before the date of the hearing. A copy of the request must be sent to the other party. You must specify on the request that a copy was sent. ALJs will not automatically grant a postponement The ALJ will consider the merits of each request.

If you are the appealing party and fail to appear at the hearing and a request for postponement was not granted, the ALJ will dismiss the appeal. A "Notice of Dismissal" will be sent to both parties. You have seven (7) days from the mailing date of the Notice of Dismissal to file a written request with the ALJ for reinstatement of the appeal. Your request must include a good reason for your failure to appear.

3. Review Board Proceedings

The losing party may appeal the ALJ's decision. To appeal an ALJ decision regarding UI benefit eligibility, you must send a letter to the Review Board that states your desire to appeal and the reason for the appeal within 15 of the date the ALJ decision was mailed to you. This letter should specifically and concisely explain why you believe the ALJ's decision is wrong.



IX. THE APPEALS PROCESS (continued)

The Review Board does not handle appeals pertaining to premium liability. These must be directed to the Indiana Court of Appeals.

In most cases, the Review Board will examine the record of the ALJ hearing and will reach its decision based upon the ALJ hearing. The Review Board may grant a request to introduce additional evidence, **if** the appealing party shows good cause that the new evidence is relevant and explains why the new evidence was not previously presented to the ALJ. A request to introduce new evidence should be included with the letter requesting a Review Board appeal.

The losing party may appeal the Review Board decision by filing a request for an appeal with the Indiana Court of Appeals. A Review Board decision becomes final 30 days after the decision is mailed to both parties if neither party has filed an appeal request with the Indiana Court of Appeals.

B. Employer Liability Protests

Liability ALJs conduct hearings concerning employer coverage and premium liability. The LALJ's jurisdiction includes disagreements between employers and DWD regarding:

- Assessments for interest, taxes and penalties
- Transfers of an employer's experience balance and rates in cases of ownership transfers
- Protests related to worker classification
- Premium rates calculated by DWD
- SUTA Dumping (see [Section X-B](#))

You may protest an initial determination by mailing notice to:

DWD Tax Administration
ATTN: Director UI Tax Administration
10 N. Senate Ave. SE 202
Indianapolis, IN 46204

Protests should be filed on the form provided by the Agency. If you are not able to use the protest form, please submit your protest in writing and include the basis for your protest, the facts or evidence you relied on in determining that the actions of the agency were erroneous, a copy of the document that prompted your protest, and any supporting documents that you would like to have examined in support of your claim. If you are represented by counsel, please indicate the name and contact information for your representative and for you on the protest document.

The protest must be received within 15 days after the mailing date of the initial determination or notice being protested. The LALJ will set a date for the hearing and notify the interested parties. You can appear in person and have an attorney represent you, although representation is not required. Legal representation is at your own expense.

Employer protests of UI Tax determinations are with regard to the correct application of the Act to their SUTA liability and are not considered Tax Protests for purposes of the Indiana Court of Appeals. To be successful, the employer must show that DWD has incorrectly interpreted or applied the statute(s) to the facts surrounding their account. This may include the math underlying a calculation, as in the instance of a rate appeal or an appeal of a liability assessment, or it may be the application of the 1/2/3 test to employer / worker relationship in a compliance audit notice of findings. In each case, the employer must show the court that the application of the law is incorrect. When you are preparing your protest, please be sure to address the issue at the root of the determination. For example, if your premium increased because of claimant collection against your account, filing a protest of the rate calculation will not, generally, be successful in that the calculation of your rate does not give you an additional opportunity to protest a claim.

IX. THE APPEALS PROCESS (continued)

The Liability Administrative Law Judge is specifically prohibited from making a determination of qualification for UI Benefits. Please see section A of this chapter for information on appealing a UI claim decision.

The decision of the ALJ becomes final 30 days after the mailing date, unless there is a filing of a Notice of Appeal within the 30 days, and a subsequent case filed with the Indiana Court of Appeals. The Notice of Appeal delays the decision for 30 days.

C. Indiana Court of Appeals

Appeals to the Indiana Court of Appeals may be made if the appealing party disagrees with the Review Board or LALJ decision. These appeals are held under the same terms and conditions that govern appeals in all civil actions. (See www.in.gov/judiciary for more information.) The Court does not re-try cases, but it does clarify questions of law raised by court decisions

X. MAINTAINING INTEGRITY IN THE UNEMPLOYMENT INSURANCE PROGRAM

A. Reporting New Hires

Under IC 22-4.1-4-2 and the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) all public, private, non-profit and government employers are required to report all newly hired employees, or employees returning to work after a break of at least 60 days, within 20 days of hire (this should be the first actual date of work). Failure to do so could result in a fine of \$25 per employee not reported, or up to \$500 if it is determined the failure to report was part of a conspiracy between the employer and employee. You can report new hires at www.in-newhire.com.

Why is new hire reporting important?

Reporting your new hires helps protect your account and other employers against fraudulent unemployment claims.

B. Report UI Fraud

If someone receives UI benefits and they know they are not eligible it is considered fraud. One such example would be an individual that receives benefits while working full-time. Other examples of fraud include receiving benefits while working and receiving pay “under the table,” or receiving benefits under another individual’s name. You can report UI fraud:

- Online at <http://www.in.gov/dwd/2343.htm>
- Via mail at Department of Workforce Development, Benefit Payment Control Section, 10 North Senate Avenue, Room SE105, Indianapolis, IN 46204, or
- Via fax at (317)234-2932.

You do not need to provide your name or any other identifying information in order to report unemployment insurance fraud. However, we will not be able to contact you if we need to seek additional information about your complaint if you choose to remain anonymous.

Please provide as much detailed information as possible concerning your allegations:

- Include the name and address of the individual or business suspected of committing fraud
- Give the individual’s SSN as well as the name of the business where the individual has been employed during the last year (if available)
- Describe your complaint in detail and provide dates if possible

Penalties and interest are applicable to an individual who commits fraud. DWD assists in the prosecution of individuals who commit UI fraud.

C. Report Work Refusals

If an individual refuses a suitable job offer or refuses or fails a drug screening as a condition of employment, they are not eligible for unemployment benefits and will be liable to repay any benefits received after the refusal.

How to Report:

- Go to www.in.gov/dwd/2465.htm
- Complete the Employer Protest Form (640P) and check the “Work Refusal” box
- Fax form to (317)633-7206

X. MAINTAINING INTEGRITY IN THE UMEMPLOYMENT INSURANCE PROGRAM (continued)

What is a Valid Job Offer?

- Must be a genuine offer of employment (defined as suitable employment in IC 22-4-15-2)
- Genuine offer must include a job position and a timeline for acceptance
- If the offer is issued in writing, it creates substantiated evidence

DWD will make final determination on whether the offer was for suitable employment as defined in IC 22-4-15-2.

D. Employer Audits

A top priority for DWD is to protect the integrity of the UI Trust Fund. DWD diligently investigates and strives to prevent incorrect excess payments to claimants or “overpayments”. Overpayments drive up premiums and costs for employers. Additionally, DWD frequently audits employers to find those who abuse the system or do not pay their fair share. When employers abuse the system it also increases costs and premiums for other employers. UI Auditors placed throughout the state conduct random and targeted compliance audits of employers in order to ensure that all are complying with SUTA regulations and that DWD is consistent in our enforcement.

Employment Records

Per Indiana Code, you are required to keep accurate payroll and employment records. Records must show:

- Name and Social Security number of each employee
- Any cash paid to each employee per calendar quarter
- Payments other than cash to each employee
- Dates each employee worked
- The date wages were last paid
- Any reasons the employee left work
- Reasons for any lost time that affected employee wages
- Amount earned by each employee during each calendar week
- If each week worked was a full or part-time week
- The base of operations for each employee

Your records and reports to DWD are confidential and are not published or open to the public. If your account is selected for an audit, you will be notified in writing. Whenever possible, the audit will be scheduled at the convenience of the employer. Please inform the assigned auditor of any special considerations or requirements.

These records must be open at all times for inspection and must be retained for at least five years.

E. SUTA Dumping

SUTA dumping is the practice of trying to evade or deceive the UI system or personnel to qualify for a reduced premium rate. SUTA dumping has been illegal since January of 2006. DWD is committed to investigating, detecting, and preventing this practice. It is important to abide by the following to avoid running afoul of the SUTA dumping law:

1. Mandatory Transfers

UI experience account balances must be transferred whenever there is:

- Substantially common ownership, management or control between the parties
- One entity transfers all of its trade or business (including its workforce) to another entity
- See [Section II](#) regarding business reorganizations that do not constitute a transfer of trade or business because the newly established entity does not meet the requirement to be a separate employing unit.

2. Prohibited Transfers

A new employer acquiring the trade or business of an existing employer for the sole purpose of qualifying for a lower premium rate is not entitled to the previous owner's UI experience account. This practice results in higher rates for other employers and is not allowed. A new employer premium rate will be assigned. (See [Section IV](#)). Existing businesses are also prohibited from acquiring a different trade or business for the purpose of transferring their workforce to another account with a lower UI experience rating.

3. Penalties for SUTA Dumping

Any employer that knowingly violates or attempts to violate the law regarding SUTA Dumping will be subject to the highest premium rate for the current and following three years. If that employer is already at the highest tax rate or if the amount of the increase is less than 2%, a penalty of 2% of wages will be imposed for the current and following three years. Any person that advises an employer on how to carry out SUTA Dumping is subject to a civil penalty of up to \$5,000.

4. Why SUTA Dumping is Harmful

Under the experience rating system, you pay UI premiums at a rate that is based on the number of your former, current or laid-off employees receiving UI benefits. Employers with more employees receiving UI benefits pay higher premium rates. Employers with fewer employees claiming UI benefits pay less. Employers who engage in SUTA Dumping practices (or other tax schemes) to avoid paying their fair share unfairly shift the burden to other employers.

SUTA Dumping is harmful because it:

- Compromises the integrity of the UI system
- Results in an uneven playing field
- Increases rates for all employers
- Costs the UI Trust Fund millions of dollars each year

F. Commonly Owned, Managed, or Controlled Entities

With the enactment of the statutes and regulations generally referred to as SUTA dumping, an increased emphasis has been placed on the rights, duties, responsibilities, and reporting requirements of commonly owned, managed, or controlled entities. This section reviews the regulations, provides some practical guidelines on determining when an employer qualifies for multiple employing unit status, and discusses what happens during a rate assurance investigation. There are three regulations that employers should consider when they operate multiple businesses as if they were, or could reasonably be considered to be, a single enterprise. Please be aware that rate assurance investigations are a result of the requirement to prohibit and correct instances where SUTA dumping has occurred, but the intent to commit SUTA dumping is not required for DWD to make a determination that the employer is required to report and be rated as a single employing unit.

X. MAINTAINING INTEGRITY IN THE UNEMPLOYMENT INSURANCE PROGRAM (continued)

The Federal mandate to the Agency is to level the playing field so that similarly situated employers are given the same treatment, i.e. rates, under the Act. DWD will make necessary corrections related to eligibility for separate employer accounts without regard to the rate implication of such a decision. A credit to the employing unit for duplicate payment of wage base or a lower blended rate is as normal an outcome as a determination of additional contribution, surcharge, interest, and penalty described in 646 IAC 5-2-14.

646 IAC 5-2-12 Eligibility for separate employer account

Sec. 12. (a) For purposes of IC 22-4-10-4, any employing unit that is wholly or partially owned by another employing unit will not be eligible for a separate experience account if:

- (1) the employing units are so closely related that it would be appropriate to disregard the corporate structure under Indiana law; or
 - (2) one (1) of the employing units has failed to assume all of the requisite employment responsibilities necessary to provide its employees with employment.
- (b) Employing units not eligible for separate accounts are responsible for ensuring that their wages are reported under a single account.

646 IAC 5-2-13 Responsibilities of related entities

Sec. 13. (a) Where employing units are related because one (1) employing unit has created or acquired a separate employing unit with no existing experience account, the employing units are responsible for determining whether they are eligible for separate accounts before requesting a new account.

(b) Where employing units with properly acquired experience accounts become related and ineligible for separate accounts through acquisition or merger, the entities are responsible for reporting the acquisition or merger to the department. The department shall combine the experience balance of the two (2) accounts once it receives the report.

646 IAC 5-2-14 Rate recalculation and penalties

Sec. 14. If employing units that are not eligible for separate accounts obtain and use separate accounts, the department shall, once the error has been discovered, retroactively recalculate the employing units' experience rate as if the employing units had reported using a single account. The recalculation must be made not later than four (4) completed calendar years subsequent to the date that the contributions, penalties, or interest would have become due, except that this limitation shall not apply to any contributions, penalty, or interest that should have been paid with respect to any incorrect report filed with the department which report was known or should have been known to be incorrect by the employing unit. In addition, the employing units may be subject to the following penalties:

- (1) Penalties and interest as set forth in IC 22-4-29-1.
- (2) An increased merit rate under IC 22-4-11-2.
- (3) Criminal penalties set forth in IC 22-4-34-2.

1. Eligibly of Separate Accounts

In general, if an employer files SF2837 or registers their business via ESS, the employer is making an assertion that they qualify for separate employing unit status. There are certain actions that will trigger DWD to request additional information on eligibility for new or separate accounts. Those actions include, but are not limited to:

1. Sending in an ESS account recovery request and explicitly stating that the employer is operating several different FEIN numbers in Indiana and that a single responsible party is shared for all accounts.
2. A statement during the registration process that indicates no assets have been transferred but that separate employing unit status is requested for payroll purposes only.
3. Sending in multiple requests for new accounts where the responsible parties are all the same and the accounts are named something like: My new business 1; My new business 2; My new business 3. This will particularly raise questions if all of the businesses are registered to the same physical location or no physical location is provided and all of the addresses are PO Boxes. (Providing a physical address in addition to a mailing address is a requirement in registering an account.)
4. Filing an employer contribution adjustment report (SF44954), requesting that wages be moved between employers because the reports were co-mingled and now need to be separated.
5. SUTA Dumping Detection (SDDS) reports showing employee movement between entities.

X. MAINTAINING INTEGRITY IN THE UNEMPLOYMENT INSURANCE PROGRAM (continued)

Once separate employing unit status eligibility has been raised as an issue on the accounts, DWD will follow one of two paths depending on the reporting received from the employer to date. If no employee movement has been detected between the accounts, DWD will normally contact the employer to educate them on the regulations and to ask for additional information with regard to the nature and extent of the employer relationship. If employee movement has been detected between the accounts, DWD will normally initiate a rate assurance investigation to determine if mandatory or prohibited transfer activity has occurred and if the entities should be collapsed to a single employing unit with multiple locations.

Normally, if employing units are routinely moving employees between commonly owned, managed, or controlled employing units, the employing units do not qualify for separate accounts. Wage record movement is not, however, the only factor considered, and common ownership, management, or control is not sufficient to make a determination that the entities are a single employing unit. A common misperception is that the analysis of DWD does not extend beyond a determination of a parent / subsidiary relationship. While this relationship is a factor, it is not the single factor used in a determination.

Whenever possible, DWD makes a determination based on key documents and responses provided by the employing unit about their operations. In an investigation, we might interview employees, review grant applications, request copies of tax returns, review benefit programs, request information on human resources administration, interview tax preparers (internal or external), research public records, ask for fulfillment contracts, request asset purchase / asset sale documents, and (or) conduct a compliance audit for one or more of the employing units in question.

In a request for information, DWD will provide education on the factors to be evaluated and ask the employer to make an assertion in writing that they are aware of the requirements as explained and qualify for separate accounts. Unless further action is indicated at a later time, this determination will usually not be re-examined. If the determination does require re-examination for cause, the employer's assertions will be considered to be willfully made in the event that an investigation results in a determination that the employer knew or should have known that they were not entitled to separate employing unit accounts.

2. How to tell if your operations are so closely related as to disregard the corporate structure or if you have not assumed all of the responsibilities necessary to provide employment.

The following is a short list of general considerations used in making a determination. This list is not intended to be all inclusive and some factors are weighed more heavily than others. A final determination should be based on the preponderance of the facts.

- a. Does each employing unit have a revenue stream independent of related entities from which wages are paid?
- b. Is each employing unit separately incorporated?
- c. If operated as an LLC, is the LLC disregarded, per the IRS, to any of the other employing units?
- d. Do the entities file a consolidated tax return?
- e. Do the entities publish a consolidated P&L?
- f. If the entities are required to be audited for any business purpose other than taxes, whether publically or privately held, are the entities audited together?
- g. Does each employing unit have the ability to contract, to purchase, and /or to sell assets without approval of a centralized authority external to their business operation?
- h. Can any authority external to the employing unit make an independent decision to buy, sell, trade, contract, or discontinue operation related to the employing unit?
- i. Without regard to the employing unit's authority to contract, as a general practice of the related entities are contracts made through a central authority with assignment to the employing unit?
- j. Does the business jointly file for grants as a single enterprise?
- k. Is hiring centralized at any point including a shared website for accepting applications and posting available positions?

- I. Do the employing units have independently established human resource policies, procedures, manuals, personnel or is this function centralized as part of a shared services arrangement?

X. MAINTAINING INTEGRITY IN THE UNEMPLOYMENT INSURANCE PROGRAM (continued)

- m. Does the employing unit have its own benefits plan, or do employees of the overarching organization share a single benefits plan?
- n. What services, if any, are shared by multiple employing units on a reimbursement or pass through basis?
- o. What revenues, if any, are shared by multiple employing units on a proration or pass through basis?
- p. If employees wear uniforms, is the name on the uniform that of the overarching organization or of the specific employing unit?
- q. Are all the employing units operated out of the same physical location?
- r. Do the employing units have unique phone service or do they share a phone system?
 - i. If the employing units share a phone service, what business name is used in the greeting?
 - ii. If the employing units share a phone service, does the same person or group of people return calls for all of the employing units with regard to hiring, contracts, tax filing, customer complaints, and other general concerns?
- s. Without regard to the FEIN or business name on the face of the paystub, W2, or 1099, is payroll centrally processed for the entire organization?
 - i. If so, is payroll expense paid from a central account and apportioned to the employing units?
 - ii. If so, what compensation is made to the central processing division by each of the employing units, if any?
- t. Does each employing unit have its own bank account?
 - i. If so, are funds from the individual bank account swept in and out to or from a central bank account?

The purpose of this regulation is not to prevent or prohibit entities from operating their businesses in the manner they believe most beneficial, the purpose is to close loopholes that are known to facilitate rate manipulation. Each business unit can report under a separate location code, but the organization shares a single premium rate.

3. Rate Assurance Investigation

If an employing unit, or group of employing units, is believed to have violated the requirements in IC 22-4-10-6 to report the transfer of business operations between related or unrelated organizations, is believed to have established multiple accounts in error, or is believed to have violated the specific SUTA dumping statutes with regard to transfers, a rate assurance investigation may be initiated.

If your account is selected for a rate assurance investigation, you will be mailed a notice requesting that you contact the investigator at the telephone number provided within ten (10) business days to schedule a meeting. The meeting should be scheduled with a person of sufficient authority in the organization to bind the organization by their actions. The organization is responsible for determining the appropriate person to meet with the investigator.

The initial meeting is held at the convenience of the employer and may be in person or by telephone. The meeting should be scheduled within thirty days of the original request, but can be delayed at the request of the employer for up to sixty days.

During the initial meeting, the investigator will discuss the reasons underlying the investigation and will request that the employer provide information, facts, or documents about their business operations.

If, during the course of the initial meeting, the employer and the investigator reach a mutual conclusion as to the facts and applicability of certain statutes, the investigator will prepare and send a directed determination letter to the employer. The directed determination letter allows the employer fifteen days to consider to the conclusions and request further investigation. If the employer has not notified the Agency that they disagree with the directed determination, a final determination letter will be sent to the employer via certified mail or courier. The final

determination has protest rights attached, and the determination may be protested to the LALJ as described in Section IX-B.

X. MAINTAINING INTEGRITY IN THE UNEMPLOYMENT INSURANCE PROGRAM (continued)

If a further investigation is required, the investigator will make a written request for books and records that are generally kept in the normal course of business. If the employer does not keep a specific record of the type described by the investigator, please let the investigator know that the record is not available. As a courtesy to the employer, the investigator will usually also complete a compliance audit on one or more of the employing units as a part of the general investigation. This will prevent the same employing unit from being the subject of a random compliance audit for at least four years.

At the conclusion of the investigation, the investigator will schedule a wrap-up meeting with the employer to review the results and to provide the preliminary determination. This will be followed by a final determination notice which will be delivered to the employer by certified mail or courier. The final determination has protest rights attached and the determination may be protested to the LALJ as described in Section IX-B.

XI. FREQUENTLY ASKED QUESTIONS

What is Unemployment Insurance?

Unemployment Insurance (UI) is a federal-state program developed by the US Congress as a social program paid for by employers to give money to unemployed persons. Employers pay money into a trust fund that then distributes the money to those receiving benefits. Employees do not pay for or “pay into” this program. UI is regulated under the Federal Unemployment Tax Act (FUTA). The portions of the program delegated to the state under FUTA are regulated under the State Unemployment Tax Act (SUTA). Employees are eligible for unemployment benefits only if they are unemployed through no fault of their own and were NOT discharged for just cause or gross misconduct.

Who pays Unemployment Insurance?

Employers pay UI premiums or reimburse the UI Trust Fund for benefits paid once they meet the employer qualifications under Indiana Code § 22-4-7 (see [Section II-A](#)). UI premiums and reimbursements are paid to DWD. The payments are held in trust to pay UI benefits. UI premiums and reimbursements are not deducted from employees' wages.

Who is an Employer?

An employer is an individual or an organization that has the right to control an individual or individuals and pays that individual or individuals wages or compensation in exchange for the performance of services. Employers are subject to Indiana Code § 22-4-7. These qualifications are explained in [Section II-A](#).

What is a Reimbursable Employer? What do they pay?

A reimbursable employer is an employer that elects to directly reimburse the UI Trust Fund for benefits paid to former, current or laid-off employees. Not-for-profit organizations and government employers may choose to directly reimburse the UI Trust Fund for benefits paid. A not-for-profit organization must meet the criteria defined in the Internal Revenue Code, Section 501(c)(3) (see [Section II-G](#)). It must also provide a copy of the Internal Revenue Service (IRS) exemption letter, or application for exemption status, and submit a completed DWD Form 1065 (Election To Pay Tax or To Become Liable). Once an employer qualifies as a reimbursable employer, the status is kept for a period not less than two years. The election to be reimbursable is maintained unless the employer revokes the election by filing a form 1065 changing their election to contributory. Like employers that pay premiums, reimbursable employers must also report quarterly wages on the UC-1 and UC-5 reports. Reimbursable employers must directly pay the UI Trust Fund the exact amount of benefits paid to their former, current or laid-off employees.

Who is an Employee?

In general, an “Employee” is an individual who performs a service for a person or organization for payment. One should conclude an individual is an employee, as opposed to an independent contractor, if the person or organization the individual is providing the service for has the right to directly control the way in which the service is carried out by the individual performing the service, or if the work performed is in the normal course of the person or organization's business, or if the individual performing services is not independently established in the same trade or business as that performed for the individual or organization's business. It is the right to control that is important. The control does not ever need to be exercised to be a determining factor. “Employee” as defined for UI purposes is different than it is defined for IRS purposes, workers compensation, etc

What are Wages?

Wages are defined as compensation received for services performed. Wages include salaries, bonuses, commissions, vacation pay, retroactive pay increases, and any other payments made by an employer, unless defined otherwise. The term “Wages” also includes the cash value of any asset or service that is given to an employee as compensation for services.

XI. FREQUENTLY ASKED QUESTIONS (continued)

Who must register with the Indiana Department of Workforce Development (DWD)?

New employers subject to the DWD Act (see [Section II-A](#)) and any entity that acquires an existing business (change of operational control) must register with DWD. The acquiring employer is usually not allowed to use the prior owner's account number. It is considered a change of operational control any time a business changes from one type of ownership to another. The change from a sole proprietor to a corporation or a partnership is also considered a change of ownership. Changing stock ownership in a corporation is not considered a change of ownership. Whenever any change occurs please ask DWD if a new account is needed.

How do I register?

Once you are subject to UI law, you may file an application on State Form 2837 (Report To Determine Status) with DWD or register online via the Uplink Employer Self Service (ESS) application at <https://uplink.in.gov/ESS/ESSLogon.htm>. You will be given an individual employer account number and must begin filing quarterly contribution reports (form UC1) and quarterly wage reports (form UC5).

What will my rate be? What must I pay?

The new employer rate is 2.5%. The new construction employer rate is 4%. After at least 36 continuous months of liability, you may qualify for a **merit rate**.

Your **merit rate** is the variable rate your premiums are based on. It reflects how many of your former, current, or laid-off employees are receiving unemployment benefits, the number of people statewide receiving unemployment benefits the previous year, and your total taxable wages for the prior 36 months.

You pay the premium rate on the first \$9,500 of wages per employee, per year. Anything over \$9,500 is considered excess wages. Excess wages are exempt from UI premiums.

Do my workers qualify for UI coverage EVEN if I do not qualify as an employer under the DWD Act?

If you do not qualify as a covered employer, but want UI coverage for workers, you may apply for voluntary coverage. If voluntary coverage is approved, you keep coverage for your workers at least two years.

What records must I keep?

For UI purposes, you must keep records of:

- The beginning and ending date of each pay period
- Total wages paid during each pay period
- The number of employees each month
- Total number of employees each quarter
- Each employee's name, social security number and wages for each pay period
- The date each employee was hired, re-hired, or returned to work after a temporary lay-off
- The date each discharged employee was terminated and the cause of the termination.

My business is a corporation, and I am a corporate officer. Am I required to report the wages that I earn from my corporation?

Your corporation is a legal entity that employs you. Wages that you earn from the corporation must be reported to file an application for UI benefits in the future. The amount of UI benefits available to you will depend on the amount of wages you receive from the corporation and the conditions of your discharge from employment.

XI. FREQUENTLY ASKED QUESTIONS (continued)



In what type of situation can I treat my workers as independent contractors?

The status of your workers is determined by the nature of the relationship between the business and the worker.

A worker is not considered an employee and should be considered an independent contractor only if all of these apply to the individual:

- The worker is free from direct control and command of the person or organization they are providing a service or services for
- The worker is performing a service or services which are outside the usual course of the business of the person or organization they are providing the service or services for
- The worker is independently established in the trade or business related to the services provided and offers services in this trade to the general public.

XII. GLOSSARY

Many of the terms used in Indiana's Unemployment Insurance program have special meanings that may differ somewhat from those generally used. Below are some simplified definitions of common UI terms. These are not legal interpretations and are provided only as a guide.

Balance, (experience account)– The amount of money in an employer's experience account.

Base Period– The four consecutive calendar quarters used in determining an individual's eligibility for UI benefits.

This period is the first four quarters of the last five complete calendar quarters directly before the week an individual files a UI claim.

IF A CLAIM IS FILED BETWEEN JANUARY 6, 2014 AND APRIL 6, 2014

= not counted

The claimant's base period consists of these calendar quarters

2012	2013			2013	2014
October	January	April	July	October	January
November	February	May	August	November	February
December	March	June	September	December	March

At least \$4,200 (between Oct '12 and Sept '13)

At least \$2,500 (between Apr '13 and Sept '13)

During your base period months, you must have wages of \$4,200 of which \$2,500 must be in the last 6 months of the base period; also your total wages in the base period must be at least 1.5 times your highest quarter wages. (IC 22-4-14-5(c)(2))

Suppose the wages reported by the employer in the base period were:

2012	2013			2013	2014
Oct-Nov-Dec	Jan-Feb-Mar	Apr-May-June	Jul-Aug-Sept	Oct-Nov-Dec	Jan-Feb-Mar
\$7,000.00	\$8,500.00	\$7,500.00	\$7,000.00	\$9,250.00	\$9,250.00

The amount of the claimant's weekly payment depends upon the highest wages they were paid in any calendar quarter in your base period. The weekly benefit payment may not exceed \$390.00

To determine your weekly payment, divide the total wages earned in these 4 quarters by 52. Then, multiply the sum by 0.47. For example: $\$30,000 \div 52 = \$576.92 \times 0.47 = \$271$ (weekly benefit amount). The weekly benefit amount should be rounded down to the next whole dollar amount and should not exceed \$390. (IC 22-4-4-3(n))

XII. GLOSSARY (continued)

Benefit Year – The 52 week period UI benefits can be claimed. The benefit year begins the week an individual files a UI claim.

Calendar Quarter – Three month period ending March 31st, June 30th, September 30th or December 31st.

Computation Date – June 30th of the year immediately prior to the year for which a merit rate is effective.

Contributions – Mandatory unemployment insurance premiums. They are paid quarterly by employers.

Covered Employer – Employer subject to the Unemployment Insurance program. (See SUTA, FUTA, DWD guidelines.)

DWD – Indiana Department of Workforce Development.

Employer – An entity that pays covered wages to individuals. Employers are subject to the Unemployment Insurance program. (See [Section II-A](#) and [Section II-B](#))

Employing unit – An individual or organization that has one or more employees in Indiana. This includes a partnership, association, joint venture, estate, joint trust company, insurance company or a corporation. An employing unit may contain multiple entities (FEINs) if the entities are operated as a single enterprise.

Experience account – An employer's individual account maintained by DWD that is credited for UI premium payments and voluntary payments. This account is charged for UI benefit payments to former employees and mutualized benefit charges.

FUTA – Federal Unemployment Tax Act. The law that regulates the federal portion of the Unemployment Insurance program.

Initial Claim – The first application (claim) for UI benefits made by an individual. This process determines if the individual is eligible for benefits.

Merit Rate – The rate employers qualify for, based on experience, when they no longer are considered new employers and are not subject to the delinquent rate. Merit rates are computed based on your past 36 months wages and your own account status as of each June 30.

Mutualized Benefit Charges – Each year, all benefit charges that are relieved from employer accounts are totaled and charged proportionally to all premium-paying employers. DWD determines your company's share of those charges, (**Mutualized Benefit Charges**) by dividing your taxable wages by all taxable wages paid in the state.

Reimbursable employer – Employers who directly reimburse the UI Trust Fund for all UI benefits paid to former, current, and laid-off employees instead of making regular premium payments.

SUTA – State Unemployment Tax Act. The law that regulates the state portion of the Unemployment Insurance program.

UI – Unemployment Insurance.

Voluntary payment – An additional payment made by employers to obtain a lower premium rate.

Wages – Compensation paid by an employer to an individual for services rendered.

XII. SPECIAL TYPES OF EMPLOYMENT AND PAYMENT

The following chart will help you determine whether special types of employment and wages are covered employment. Taxable is used to indicate covered employment even if the employer has the option to elect to make reimbursement.

SPECIAL TYPES OF EMPLOYMENT AND WAGES – ARE THE WAGES TAXABLE?	
Type of Employment / Wages	UI Tax Status
Advances against future earnings	Taxable
Agricultural Labor	Taxable, if: You have agricultural employees and pay \$20,000 or more in a calendar quarter; OR You have 10 or more agricultural employees for some part of a day in each of 20 weeks during a calendar year
Aliens, Resident:	
Services performed in the U.S.	Taxable
Services performed outside of the U.S.	Exempt, unless: Performed in connection with an American vessel or aircraft and performed under contract; or Alien is employed on such a vessel or aircraft when it touches a U.S. port.
Annuities: Payments made by the employer into a fund for retirement or death benefits under a plan offered to all employees or a certain class or classes of employees	Exempt
Back Pay: Wages paid as a result of a dispute related to employment	Taxable
Bonuses	Taxable
Cafeteria Plan: Deductions under Internal Revenue Code section 125	Taxable, if the employee chooses cash. If the employee chooses another benefit, the treatment is the same as if the benefit was provided outside of the plan.

Commissions	Taxable unless the worker is a sales person paid solely by commission who is the master of their own time and effort or an insurance agent receiving remuneration solely by commission
Corporate Officer Payments: Corporate officers performing a service for the corporation (including sub-chapter S-corporations)	Taxable
Cosmetologists or Barbers: Who are licensed, contract with a shop, are free from control and direction of the shop owner, own or lease equipment, receive payment from clientele, and acknowledge in writing that they are not covered by UI.	Exempt
Deceased Worker:	
1) Wages paid to beneficiary or estate in year of worker's death	Taxable
2) Wages paid to beneficiary or estate after calendar year of worker's death	Exempt
Deferred Compensation:	Taxable
Dependent Care Assistance Programs: (Limited to \$5,000 annually, \$2,500 if married filing separately)	Exempt, to the extent that it is reasonable to believe the amounts are excludable from gross income under Internal Revenue Code section 129.
Disabled Workers: Wages paid after year in which worker becomes entitled to disability insurance benefits under the Social Security Act	Taxable
Director Fees: Fees paid to directors of a corporation for attending meetings of the board of the directors	Taxable
Employee Benefit Expense Reimbursement:	
1) Amounts not exceeding specified government rate for per diem or standard mileage	Exempt
2) Amounts in excess of specified government rate for per diem or standard mileage	Taxable
Family Employees:	
1) Child employed by parent (or partnership in which each partner is a parent of the child)	Exempt – Until child reaches age of 21
2) Spouse employed by sole proprietor	Exempt
3) Parent employed by sole proprietor	Exempt
Foreign Government or International Organization	Exempt
Foreign Service by U.S. Citizens	
1) As U.S. government employees	Exempt
2) For foreign affiliates of American employers and	Exempt, unless on American vessel or aircraft and performing work under contract made in

other private employers	U.S., or employee is employed on vessel when it touches a U.S. port
Holiday Pay	Taxable
Home Workers (industrial, cottage industry) 1) Common law employees 2) Statutory employees	Taxable Exempt
Hospital Employees: Interns	Exempt
Household Employees: Domestic service in private homes, college clubs, fraternities, and sororities	Taxable if total cash wages are \$1,000 or more (for all household employees) in any quarter in the current or preceding calendar year.
Insurance for Employees: 1) Accident and health insurance premiums under a plan or system for employees and their dependents generally or for a class or classes of employees and their dependents 2) Group term life insurance costs	Exempt Exempt
Insurance Agents or Solicitors: Full-time life insurance salesperson or other salesperson of life, casualty, or other varieties of insurance	Taxable if employee is not paid solely by commissions.
Leave-Sharing Plans: Amounts paid to an employee under a leave-sharing plan	Taxable
Limited Liability Companies (LLCs): Payments made to member workers of member-managed LLC where the workers do not also manage, and all LLCs electing to be taxed as corporations	Taxable
Newspaper Carriers and Vendors: Newspaper carriers under age 18 and newspaper and magazine vendors buying at fixed prices and retaining receipts from sales to customers	Exempt
Officers or Shareholders of an S-Corporation	Taxable
Non-Profit Organizations	Taxable unless specifically excluded
Officers or Shareholders of a Corporation: Distributions and other payments made by a corporation to a corporate officer or shareholder to the extent the amounts are reasonable compensation for services to the corporation by the officer or shareholder	Taxable
Partner or Sole Proprietor: Distribution of profits to general or limited partners of a partnership or to a sole proprietor	Exempt

Railroads: Payments subject to the Railroad Retirement Act	Exempt
Religious/Church	Exempt
Retirement and Pension Plans: 1) Employer contributions to a qualified plan 2) Elective employee contributions and deferrals to a plan containing a qualified cash or deferred compensation arrangement (e.g., 401(k))* *Please see Publication 15-A of the Social Security Administration for more information on employer contributions	Exempt Taxable
Salespersons: 1) Common law employees 2) Statutory employees	Taxable Taxable, except as noted for commissions
Severance, Termination, or Dismissal Pay	Taxable
Sick Pay	Taxable for the first 6 months following the month the employee last worked
State/Local Governments and Political Subdivisions (Employees of): 1) Payments, (including salary and wages) to most elected and appointed officials 2) Election Workers	Taxable except as noted Exempt Exempt
Student, Scholars: Student enrolled and regularly attending classes, performing services for a private school, college, or university; auxiliary non-profit organization operated for and controlled by school, college, or university; or public school, college, or university	Exempt
Tips or Gratuities reported in writing to employer	Taxable
Vacation: Paid vacation for employee	Taxable
Worker's Compensation	Exempt

ARE YOU DOING EVERYTHING TO PROTECT YOUR BUSINESS FROM HIGHER TAXES?

Help prevent Improper Payment of Unemployment Insurance (UI) Benefits

Did you know...

- As a business, you fund UI Benefits through premiums .
- The U.S. Department of Labor estimates last year more than 12% of UI benefits were paid improperly, totaling nearly \$13.7 billion.
- The most common reason for improper payments is due to inaccurate or missing information.
- Improper payment of benefits is a serious problem that can result in higher UI premiums to all employers.



What exactly are "improper" payments?

Improper payment of UI benefits means that a claim for benefits was paid in error due to the claimant or employer providing inaccurate information , or when information like the current employment status of a claimant is not received in a timely manner.

What can you do to prevent improper UI payments?

Be an active partner Help reduce employer costs by taking three critical steps:

1. Report all new hiring and re-hired employees within 21 days.
 - Timely reporting helps prevent payment of ineligible UI claims after an individual has returned to work. You can report new hires online at www.in.gov/dwd/2614.htm .
2. Respond promptly to any Request for Verification of Weekly Earning from the department.
 - A prompt response will help prevent improper payment of UI benefits.
3. Provide complete and accurate Employee Separation Information to the department.
 - Costly appeals and improper payments are avoided by providing separation information to determine claimants eligibility for benefits.

The Cost and Consequences of Non-Compliance

Companies that fail to comply with state and federal UI requirements face a number of preventable costs and consequences , including:

- Lost revenue paid to ineligible claimants
- Increases in employer UI premiums
- Possible fines and penalties

In addition to following the UI requirements for reporting employee information, employer partnership with the UI program is just a good business practice.

For more information, please visit www.in.gov/dwd/2614.htm