

State of Tennessee  
Department of Labor and Workforce Development  
Division of Employment Security

# HANDBOOK FOR EMPLOYERS

*January 25, 2013*



*This handbook has been prepared to provide a simplified explanation of the premium and benefit provisions of the Tennessee Employment Security Law and does not take precedence over the law or regulations.*

The TN Department of Labor and Workforce Development is committed to principles of equal opportunity, equal access, and affirmative action. Auxiliary aids and services are available upon request to individuals with disabilities.

## FOREWORD

The United States Congress enacted the unemployment insurance laws during the Great Depression. The theory was then and remains true today that putting money into the hands of the unemployed helps the unemployed, his family, his community, his state and the nation as a whole.

The idea is to replace about half of lost income so the unemployed can pay for necessities during short terms of unemployment. At the same time, goods and services continue to be bought and sold in the community, helping the local economy remain stable. Other government programs, such as welfare and food stamps, are less strained since unemployment is, in effect, a prepaid insurance policy. An unemployed worker with some income is less likely to move to another community to find a job, so the workforce in the area remains stable.

Most employers who have workers in Tennessee are liable to pay the state unemployment insurance premiums and the Federal Unemployment Tax (FUTA). State premiums are paid quarterly.

The Tennessee Department of Labor and Workforce Development's Division of Employment Security designed this Handbook to help employers understand the unemployment insurance system, to help make compliance with the unemployment insurance laws as simple as possible, and to help the employer benefit from the unemployment insurance system.

If you have any questions or need help, contact your area's Employer Accounts Office listed in the [Directory](#) of this Handbook or call the toll-free help-line: 1-800-344-8337 and select 1 (call 615-741-2346 if out of state).

You can also visit the Tennessee Department of Labor and Workforce Development Web Site at:

[www.tn.gov/workforce](http://www.tn.gov/workforce)

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## **INTRODUCTION**

Unemployment insurance provides benefits to unemployed workers who have lost their jobs through no fault of their own. The Tennessee Department of Labor and Workforce Development's Division of Employment Security administers the unemployment insurance program in Tennessee.

Unemployment insurance is a joint federal-state program. State laws must conform to certain standards in the Federal Unemployment Tax Act (FUTA) which is administered by the U.S. Department of Labor. Each state is able to establish laws and regulations within the federal guidelines, which meet the state's own employment and unemployment needs.

All state premiums go into the Tennessee Unemployment Compensation Trust Fund. The Trust Fund is funded entirely by the state premiums and is used solely to pay unemployment benefits to unemployed workers who have worked in Tennessee and lost their jobs through no fault of their own. All administrative costs of the Tennessee unemployment insurance program are paid by the federal government from FUTA taxes.

The information in this Handbook does not take precedence over law or regulations and is subject to change at any time as a result of law revisions, court rulings, the Attorney General's interpretations, new federal requirements and agency procedural changes. We have noted the sections of the law where appropriate for reference purposes only.

## **SOCIAL SECURITY NUMBER**

It is imperative that the worker's social security number be included in any matter dealing with unemployment insurance. All records pertaining to an individual are filed by social security number. Extreme care should be taken in recording the social security number on all employer records and any reports relating to an individual's employment, as this is the only means by which a worker's records in the department can be located.



## DIRECTORY

Account Number	615-741-2486 or call your local Employer Accounts Office listed below	
Appealing a Claim for Benefits	615-741-1857, FAX 615-741-8933	
Appealing a Premium Rate	615-741-2486, FAX 615-741-7214	
Audits	call your local Employer Accounts Office listed below	
Benefit Charges	615-741-2223	
Benefit Overpayments	615-741-2606, FAX 615-253-5331	
Benefits, Claims for	call 1-800-576-3467 for where to go or call to file a claim in your county	
Career Centers	<a href="http://www.tn.gov/labor-wfd/cc/cccounty.htm">http://www.tn.gov/labor-wfd/cc/cccounty.htm</a>	
Claims Offices	<a href="http://www.tn.gov/labor-wfd/Claimants/benefitoffices.html">http://www.tn.gov/labor-wfd/Claimants/benefitoffices.html</a> By telephone 615-532-0800 or toll free 1-877-813-0950, or by Internet <a href="http://www.tn.gov/workforce">www.tn.gov/workforce</a> and go to File Unemployment Claim If you reside in Fayette, Lauderdale, Shelby and Tipton counties you may file a claim for benefits at your nearest local office or file via the Internet.	
Commissioner's Designee	615-741-2736, FAX 615-741-0290	
Customer Service Unit	Toll-Free Phone: 1-855-286-7417, Local Phone: 615-532-5110	
Employer Accounts Offices	<a href="http://www.tn.gov/workforce/article/employer-accounts-offices">http://www.tn.gov/workforce/article/employer-accounts-offices</a>	
Memphis Employer Accounts Office 1309 Poplar Avenue Memphis, TN 38104 P. O. Box 41378 Memphis, TN 38174-1378	Fayette, Shelby, Tipton	901/543-7546 FAX 901/543-7882
Humboldt Employer Accounts Office 1481 W. Mullins Street Humboldt, TN 38343 P. O. Box 386 Humboldt, TN 38343-0386	Benton, Carroll, Chester, Crockett, Decatur, Dyer, Gibson, Hardeman, Hardin, Haywood, Henderson, Henry, Lake, Lauderdale, McNairy, Madison, Obion and Weakley	731/784-7666 FAX 731/784-7537
Nashville Employer Accounts Office 2232 Rosa Parks Blvd. Nashville, TN 37245-4100	Cannon, Cheatham, Davidson, Dickson, Houston, Humphreys, Montgomery, Robertson, Rutherford, Stewart and Sumner	615/741-2621 FAX 615/741-3472
Columbia Employer Accounts Office 230 E. James Campbell Blvd., Suite 112 Columbia, TN 38401	Bedford, Coffee, Franklin, Giles, Hickman, Lawrence, Lewis, Lincoln, Marshall, Maury, Moore, Perry, Wayne and Williamson	931/380-2507 FAX 931/380-2586
Chattanooga Employer Accounts Office 1301 Riverfront Parkway, Suite 202 Chattanooga, TN 37402 P. O. Box 231 Chattanooga, TN 37401-0231	Bledsoe, Bradley, Grundy, Hamilton, McMinn, Marion, Meigs, Polk, Rhea and Sequatchie	423/634-6220 FAX 423/634-6354

Cookeville Employer Accounts Office  
580 S. Jefferson Ave.  
Cookeville, TN 38501  
P. O. Box 696  
Cookeville, TN 38503-0696

Clay, Cumberland, DeKalb,  
Fentress, Jackson, Overton,  
Pickett, Putnam, Smith, White,  
Van Buren, Warren, Macon, Trousdale  
and Wilson

931/526-3531  
FAX 931/528-6447

Knoxville Employer Accounts Office  
1610 University Avenue  
Knoxville, TN 37921  
P.O. Box 2031  
Knoxville, TN 37901-2031

Anderson, Blount, Campbell,  
Claiborne, Cocke, Grainger,  
Hamblen, Jefferson, Knox,  
Loudon, Monroe, Morgan, Roane,  
Scott, Sevier and Union

865/594-6380  
FAX 865/594-6357

Johnson City Employer Accounts  
206 High Point Drive  
Johnson City, TN 37601  
P.O. Box 90  
Johnson City, TN 37605-0090

Carter, Greene, Hancock, Hawkins,  
Johnson, Sullivan, Unicoi and  
Washington

423-952-2261  
Fax -423-952-6057

Employment Statistics 615-741-2284  
Fraud 615-741-2606 toll-free: 1-800-344-8337 email: [esadmin.fraud@state.tn.us](mailto:esadmin.fraud@state.tn.us)  
Labor Market Information 615-741-2284  
Labor Standards 1-866-588-6874  
Liabilities Questions 615-741-2486 or call your local Employer Accounts Office

LMI Central Office 220 French Landing Drive 1-615-741-2284, FAX 1-615-532-9434  
Nashville TN 37243-1002

Mass Separation <http://www.state.tn.us/labor-wfd/Employers/employers.shtml>  
New Employer 615-741-2486 or call your local Employer Accounts Office  
Other Employer Issues email: [employment.security@tn.gov](mailto:employment.security@tn.gov)  
Partial Claims System email: [account.partials@tn.gov](mailto:account.partials@tn.gov)  
Premium Rates 615-741-2486 or call your local Employer Accounts Office

SIDES E-Response email: [sides.helpdesk@tn.gov](mailto:sides.helpdesk@tn.gov)  
SIDES 615-532-5110 or toll-free: 1-855-286-7417

Toll-free help line 1-800-344-8337 (inside Tennessee only)

TTY/Callers with hearing impairments may use Tennessee Relay Service is 711

#### Wage and Premium Reports

Correcting 615-741-1619 or call your local Employer Accounts Office  
Electronic Reporting 615-741-2346  
Forms, Paper 615-741-2486 or call your local Employer Accounts Office  
Questions 615-741-2486 or call your local Employer Accounts Office  
Internet Reporting <https://tdlwd.tn.gov/tnpaws>

Tennessee Department of Labor and Workforce Development  
**Labor Market Information Field Analysts**

**April Mitchell**  
362 Carriage House Drive  
Jackson, TN 38305

Phone: (731) 660-6608  
Fax: (731) 981-8501  
Email: [April.Mitchell@tn.gov](mailto:April.Mitchell@tn.gov)

**Jackson MSA & Southwest**  
**Chester**, Decatur, Gibson, Hardeman, Hardin, Haywood, Henderson, **Madison**, McNairy, Perry counties

**Nicole Whitmore**  
362 Carriage House Drive  
Jackson, TN 38305

Phone: (731) 660-6607  
Fax: (731) 981-8501  
Email: [Nicole.Whitmore@tn.gov](mailto:Nicole.Whitmore@tn.gov)

**Memphis MSA & Northwest**  
Benton, Carroll, Crockett, Dyer, **Fayette**, Henry, Houston, Humphreys, Lake, Lauderdale, Obion, **Shelby, Tipton**, Weakley counties

**Jeremy Thompson**  
220 French Landing Drive  
Nashville, TN 37243

Phone: (615) 253-6989  
Fax: (615) 532-8701  
Email: [Jeremy.Thompson@tn.gov](mailto:Jeremy.Thompson@tn.gov)

**Nashville MSA**  
**Cannon, Cheatham, Davidson, Dickson, Hickman, Macon, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson** counties

**Amy Webb**  
580 S. Jefferson Avenue  
Suite A  
Cookeville, TN 38501

Phone: (931) 528-8565  
Fax: (931) 528-6447  
Email: [Amy.Webb@tn.gov](mailto:Amy.Webb@tn.gov)

**Upper Cumberland**  
Clay, Cumberland, DeKalb, Fentress, Jackson, Morgan, Overton, Pickett, Putnam, Scott, White counties

**Patrick Todd**  
220 French Landing Drive  
Nashville, TN 37243

Phone: (615) 741-5304  
Fax: (615) 532-8701  
Email: [Patrick.Todd@tn.gov](mailto:Patrick.Todd@tn.gov)

**Chattanooga MSA & Lower Middle TN**  
Bedford, Coffee, Franklin, Giles, Grundy, **Hamilton**, Lawrence, Lewis, Lincoln, **Marion**, Marshall, Maury, Moore, **Sequatchie**, Wayne counties

**Larry Green**  
311 Martin Luther King Blvd  
Chattanooga, TN 37401-2088

Phone: (423) 634-0186  
Fax: (423) 634-6316  
Email: [Larry.Green@tn.gov](mailto:Larry.Green@tn.gov)

**Cleveland MSA and Southeast**  
Bledsoe, **Bradley**, McMinn, Meigs, Monroe, **Polk**, Rhea, Roane, Van Buren, Warren counties

**Mary Bowman**  
206 High Point Drive  
Johnson City, TN 37601-1504

Phone: (423) 952-6062  
Fax: (423) 952-6055  
Email: [Mary.Bowman@tn.gov](mailto:Mary.Bowman@tn.gov)

**Johnson City & Kingsport-Bristol MSAs**  
Campbell, **Carter**, Claiborne, Cocke, Greene, Hancock, **Hawkins**, Johnson, Sevier, **Sullivan, Unicoi, Washington** counties

**Field Analyst Supervisor:**

**Mattie S. Miller**  
220 French Landing Drive  
Nashville, TN 37243

Phone: (615) 253-6954  
Fax: (615) 532-8701  
Email: [Mattie.Miller@tn.gov](mailto:Mattie.Miller@tn.gov)

**MSAs assigned to Central Office:**

**Clarksville MSA** (Montgomery and Stewart counties)  
**Knoxville MSA** (Anderson, Blount, Knox, Loudon and Union counties)  
**Morristown MSA** (Grainger, Hamblen and Jefferson counties)

Note: MSA Counties are in **Bold** and Underlined.  
Revised: 11/15/12

## DEFINITIONS

**2% Penalty Rate for SUTA Dumping** - The penalty rate levied against employers who have engaged in SUTA Dumping violations.

**Administrator** - Administrator of the Division of Employment Security within the Tennessee Department of Labor and Workforce Development.

**Assessment** - The determination of the amount of premiums due based upon available information when an employer fails to file his quarterly Wage Reports (LB-0851) and Premium Reports (LB-0456).

**Base Period (Alternate)** - The Alternate Base Period is the last four completed calendar quarters immediately preceding the day the claimant files for benefits.

**Base Period (Standard)** - The first four of the last five completed calendar quarters immediately preceding the establishment of a claimant's benefit year.

**Base Period Employer** - Any employer employing the worker during the worker's base period.

**Benefits** - Unemployment insurance payments to eligible claimants.

**Benefit Week** - The seven-day period ending Saturday at midnight.

**Benefit Year** - The 52-consecutive-week period beginning with the first day of the calendar week in which an individual files the first valid claim for benefits.

**Calendar Quarter** - A period of three months ending March 31, June 30, September 30, or December 31.

**Calendar Week** - The seven-day period ending Saturday at midnight.

**Claimant** - An individual who has applied for unemployment insurance benefits.

**Client (of a Professional Employer Organization)** - Any person who enters into a professional employer agreement with a professional employer organization.

**Commissioner** - The Commissioner of the Tennessee Department of Labor and Workforce Development.

**Computation Date** - December 31 of each year. The reserve ratio computed as of this date is applicable for a 12-month period beginning the following July 1.

**Contributions** - (see Premiums)

**Department** - The Tennessee Department of Labor and Workforce Development.

**Dependence Allowance** - A claimant may be eligible for dependency benefits for each benefit week of an additional sum of \$15 for each minor child not to exceed a total of \$50.

**Division** - The Division of Employment Security within the Department of Labor and Workforce Development.

**Employer** - Any employing unit that has met a condition of liability for unemployment insurance.

**Employer Account Number** - The eight-digit number (0000-000-0) assigned by the Department that is used for recording and filing all premium and benefit information related to each employer's account. Enter your Employer Account Number on all remittances to the Department and refer to this number in all correspondence concerning an account.

**Employer Accounts Auditor** - An employer's personal contact with the Department of Labor and Workforce Development's Division of Employment Security. There are approximately 60 auditors working out of the eight Employer Accounts Offices throughout Tennessee. One is assigned specifically to your area.

An Employer Accounts Auditor's duties include the auditing of employer's records, collecting delinquent monies and reports, determining employer liability, keeping the employers in his area updated on changes in unemployment insurance laws and policies, and assisting employers with problems or questions concerning unemployment insurance. Call your Employer Accounts Auditor when you need assistance. Your auditor will be happy to help you in any way he can. The Employer Accounts Offices are listed in the Directory of this Handbook. Employer Accounts Auditors carry identification issued by the Department. Employers should not hesitate to ask for proper identification.

**Employer Accounts Office** - Office from which Employer Accounts Auditors work. The eight Employer Accounts Offices are listed in the Directory of this Handbook.

**Experience Rating** - A system under which premiums received from an employer are related to benefit charges and taxable wages to determine the employer's premium rate.

**Extended Benefits** - Benefits payable for up to 13 additional weeks during periods of high unemployment. Extended benefits are payable to individuals who have exhausted their entitlement to regular benefits.

**FUTA** - The Federal Unemployment Tax paid to the federal government by the employer.

**Interested Parties** - The Commissioner, the claimant, the separating employer, and all base period employers.

**Jobs4TN** - (<https://www.jobs4tn.gov/>) - State of Tennessee's premier job resource with an average of 90,000 Tennessee jobs. Jobs4TN Online also creates and posts resumes, searches for qualified employees in your city, and gives valuable labor market information.

**Labor and Workforce Development Office** - The local office where an employer calls to list a job opening and an unemployed worker goes to file a claim for unemployment insurance benefits and/or to register with Job Service for assistance in finding employment. For the nearest local office call 1-800-576-3467 or go to <http://www.tn.gov/labor-wfd/Claimants/benefitoffices.html> for the nearest benefit office or <http://www.tn.gov/workforce/topic/find-local-help> for the nearest Career Center or Job Service Office.

**Partial Claim** - An employer-filed claim for an employee who worked less than full-time and earned some wages, but less than the employee's weekly benefit amount. Employers now file partial claims and mass layoffs via an Agency APS internet-based program.

**Predecessor** - An employer acquired by another employer.

**Premiums** - Payments made by the employer into the Unemployment Compensation Trust Fund.

**Professional Employer Organization** - Any person engaged in the business of providing professional employer services, regardless of the use of the term or conducting business as a "professional employer organization," "PEO," "staff leasing company," "registered staff leasing company," "employee leasing company," "administrative employer," or any other name.

**Protest** - A request for review of any decision made regarding a claimant's eligibility for benefits or regarding an employer's liability status, or any action affecting an employer's account.

**Reserve Ratio** - The difference between cumulative premiums paid and cumulative benefits charged divided by the average annual taxable payroll for the three most recent calendar years ending on the December 31 computation date.

**Separating Employer** - The worker's most recent employer prior to his filing a claim for benefits. The Separating employer may or may not be a base period employer.

**Separation Notice** - A form that the Tennessee Employment Security Rules require every employer to give to every employee at the time the employee's employment terminates. Separation Notices are available online at [www.tn.gov/labor-wfd/](http://www.tn.gov/labor-wfd/) or by calling our toll-free help-line 1-800-344-8337.

**SIDES - State Information Data Exchange System**

**SIDES E-Response (<http://www.tn.gov/labor-wfd/sides/index.html>)**

A program known as State Information Data Exchange System (SIDES) sends and receives employer requests for separation information electronically. This information exchange is secure and allows an employer to begin the response process the first day of the claim filing.

**Successor** - An employer that has acquired the organization, trade, business, or substantially all the assets of an employer.

**SUTA Dumping** - The illegal act of employers moving employees from company to company to avoid paying unemployment insurance premiums at their true rate and to fraudulently acquire a lower rate.

**Tax (Federal)** - (see FUTA)

**Tax (State)** - (see Premiums)

**Taxable Payroll** - All taxable wages paid by an employer to all employees during a calendar year.

**Taxable Wages** - Wages paid to covered employees up to \$9,000 per worker per calendar year. If the Trust Fund balance on June 30 or December 31 of any year is less than \$900 million the taxable wage base is \$9,000. If the Trust Fund balance is above \$900 million, but less than \$1 billion on June 30 or December 31 of any year, the taxable wage base is \$8,000. If the Trust Fund balance is over \$1 billion on any June 30 or December 31 of any year, the taxable wage base is \$7,000.

**TNPAWS** - Internet reporting system to file Wage and Premium Reports over the Internet <https://tdlwd.tn.gov/tnpaws/>

**Trust Fund** - The Unemployment Compensation Trust Fund established by Tennessee Employment Security Law to which all state unemployment premiums are paid and from which all unemployment benefits are paid.

**Unemployed** - A worker is considered “unemployed” in any calendar week during which he earns no wages or in any calendar week of less than full-time work during which he earns wages that are less than his weekly benefit amount.

**Unemployment Insurance** - The joint federal-state program that provides for payment of benefits to the unemployed and that collects premiums and wage information from employers to pay for the benefits and to determine an individual’s eligibility for unemployment benefits.

**Unemployment Insurance Toll-Free Help-Line Number: 1-800-344-8337** - The toll-free automated attendant number for you to call if you have questions concerning unemployment insurance. This automated attendant can be called weekdays between 9:00 a.m. and 5:30 p.m. Eastern Time, and between 8:00 a.m. and 4:30 p.m. Central Time (call 1-615-741-2486 if out of state).

**Wage Protest** - An investigation initiated by a claimant who believes his wages were not reported correctly.

**Waiting Period** - The calendar week, after filing a valid claim that establishes a benefit year, during which the claimant received no wages or has received wages less than his weekly benefit amount. The claimant is not paid benefits for the waiting period unless and until the claimant is certified for benefits in the claimant's waiting period and in each of the three consecutive weeks immediately following the claimant's waiting period.

The claimant will get credit for the waiting week that ends on Saturday at midnight regardless of the day of filing the claim during the previous week.

**Week of Unemployment** - A calendar week during which a worker performed less than full-time work and earned less than his weekly benefit amount.

## **EMPLOYER ACCOUNTS PROVISIONS**

### **APPLYING FOR AN EMPLOYER ACCOUNT NUMBER (Rule 0800-10-03-.01)**

The Report to Determine Status, Application for Employer Number (LB-0441), is the application for an Employer Account Number for unemployment insurance purposes.

Every employing unit in Tennessee, regardless of the number of workers, is required to complete and file this report to determine the status of their liability for unemployment insurance in Tennessee. If the employing unit is liable for unemployment insurance in Tennessee, the employing unit will be assigned an eight-digit (0000-000-0) Employer Account Number. This Employer Account Number is used for recording and filing all unemployment insurance premium and benefit information relating to each employer's account. Enter this number on all unemployment insurance remittances to the Department and refer to it in all correspondence concerning your account.

Each professional employer organization which has one or more individuals in a co-employment relationship under a professional employer agreement with a client in Tennessee is assigned an Aggregate State Number. The professional employer organization must make certain that an Application for Client Number is filed for each client having one or more employees in co-employment in Tennessee. (See PROFESSIONAL EMPLOYER ORGANIZATIONS, Aggregate State Numbers and Client Account Numbers)

The Report to Determine Status, Application for an Employer Account Number, for nongovernmental premium paying employers, as well as applications for government and nonprofit employers and clients of Professional Employer Organizations are located on our web site, [www.tn.gov/workforce](http://www.tn.gov/workforce).

[\*Report to Determine Status, Application for an Employer Account Number\*](#)  
[\*Report to Determine Status – State and Local Government\*](#)  
[\*Report to Determine Status – Nonprofit Organizations\*](#)  
[\*Application for Client Number\*](#) (for clients of a Professional Employer Organization)

In addition, Report to Determine Status applications may be obtained by calling your Labor and Workforce Development Employer Accounts Office listed in the Directory in this Handbook or by calling toll-free: 1-800-344-8337 and pressing 1 or call (615)741-2486 if in the Nashville area or out of state).

## **LIABILITY**

### **Date of Liability (Rule 0800-10-01-.03)**

An employer becomes liable as of January 1 of the year in which his employment first meets the liability requirements in the law. Wage and Premium Reports must be filed on all wages paid during the calendar year in which the employer became liable, and premium payments are due on all taxable wages.

### **Who Is Liable (T.C.A. Section 50-7-205)**

All employers doing business in Tennessee are subject to the provisions of the Tennessee Employment Security Law and Regulations. Liability depends on the type and nature of the business, the number of workers employed, and the amount of wages paid.

An employer is liable under the Tennessee Employment Security Law if the employer:

1. has a total payroll of \$1,500 or more in any calendar quarter of the current or preceding calendar year, or
2. employs one or more persons during some part of a day in each of 20 weeks in the current or preceding calendar year. The weeks do not need to be consecutive, and both full-time and part-time workers are counted, or
3. is a “successor” to all or part of the business of an employer already liable (see Mergers and Successorships), or
4. is liable under the Federal Unemployment Tax Act (FUTA) and has at least one employee in Tennessee, regardless of the number of weeks employed or amount of payroll, or
5. is an agricultural employer who pays \$20,000 or more in wages in any calendar quarter or employs 10 or more persons for some part of a day in each of 20 weeks in the current or preceding calendar year. The weeks do not

need to be consecutive, and both full-time and part-time workers are counted, or

6. is a domestic employer who pays as much as \$1,000 in cash wages in any calendar quarter in the current or preceding calendar year, or
7. is a state or local government unit or political subdivision, or
8. is a nonprofit employer who employs four or more persons for some part of a day in each of 20 weeks in the current or preceding calendar year and is exempt under Section 501(c)(3) of the Internal Revenue Code. The weeks do not need to be consecutive and both full-time and part-time workers are counted. Officers of a nonprofit corporation are counted even if such officers do not receive remuneration for their services from the nonprofit corporation.

#### **Mergers and Successorships (T.C.A. Section 50-7-403(b)(2))**

##### **Definition of Successor**

A successor is an employer who acquires the organization, trade, business or substantially all the assets of another employer. In such cases, if there is a transfer of experience, the total experience rating factors of the predecessor are transferred to the successor (see EXPERIENCE RATING).

A successor can also be an employer who acquires a part of the business of another employer. In such cases, if there is a transfer of experience, only the experience of the portion of the business acquired from the predecessor is transferred to the successor. (If the predecessor remains in business and retains a portion of the reserve, the predecessor will be assigned a new account number).

Professional Employer Organizations and their clients are not successors unless there is common ownership, management or control (see PROFESSIONAL EMPLOYER ORGANIZATIONS, Professional Employer Organizations and their Clients are Normally Not Successor Employers).

##### **Notification of Change in Ownership Required**

Whenever there is a change of ownership, the employers must notify the Department by the end of the calendar quarter following the calendar quarter of acquisition (see *Application for Transfer of Experience Rating Record*).

When the change of ownership requires a mandatory transfer of experience, failure to notify the Department timely could result in severe penalties and punishments (see *Mandatory Transfers of Experience* and see SUTA DUMPING, Punishments and Penalties for SUTA Dumping Violations).

No voluntary transfer of experience will be approved unless filed timely (see Other Successors).

##### **Mandatory Transfer of Experience (Section 50-7-403(b)(2)(C) and (D))**

Federal and State Law require the successor to acquire the experience rating factors of the predecessor employer's trade or business and the liabilities of the predecessor employer if, at the time of the transfer, there is any common ownership, management or control of the two employers.

“Trade or business” includes the employer's workforce.

“Common ownership, management or control” includes any individual who has at least a 10% ownership interest in or participates in the management or control of the predecessor's trade or business and who has a relative who has a 10% ownership interest in or participates in the management or control of the successor's trade or business. "Relative", for these purposes, means spouse, child, stepchild, adopted child, grandchild, son-in-law, daughter-in-law, parent, stepparent, parent-in-law, grandparent, brother, sister, half brother, half sister, stepbrother, stepsister, brother-in-law, sister-in-law, aunt, uncle, nephew and niece.

(For the penalties and punishments for violation of T.C.A. Section 50-7-403(b)(2) see SUTA DUMPING, Punishments and Penalties for SUTA Dumping Violations).



## **Other Successors**

A successor with no common ownership, management or control with that of the predecessor may acquire the experience of the predecessor (if the successor is continuing the business of the predecessor) by timely requesting a transfer of the experience rating factors of the predecessor (see EXPERIENCE RATING).

A transfer of experience will not be made if the Administrator determines that a substantial purpose of the transfer of the trade or business was to obtain a reduced rate of premiums. In such cases, the experience rating factors of the employers involved will be combined into a single account and a single premium rate assigned to such account as of the date of the transfer. In determining whether a business was acquired, or a transfer of a trade or business, or portion thereof, was made solely or primarily or substantially for the purpose of obtaining a lower rate of premiums, the administrator will use objective factors which may include the cost of acquiring the business, whether the person or employing unit continued the business enterprise of the acquired business, how long such business enterprise was continued, or whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to the acquisition.

If a transfer has been approved and it is later determined that the transfer was made solely to obtain a lower premium rate, the employer will be assigned the rate(s) he would have had without the transfer for each quarter effective back to the date of transfer. The employer will then owe the Department the additional premiums, interest and penalties, and could also be subject to the 2% penalty for SUTA Dumping and other punishments (see SUTA DUMPING, Punishments and Penalties for SUTA Dumping Violations).

## **Application for Transfer of Experience Rating Record**

Requests for transfers of experience are made on the Application for Transfer of Experience Rating Record (LB-0483). Such transfers must:

1. be signed by both the predecessor and successor, and be notarized, and
2. be submitted before the end of the quarter following the calendar quarter in which the acquisition occurred, and
3. be based on an acquisition with a reasonable business purpose as determined by the Administrator, other than the purpose of obtaining a lower premium rate, and
4. in the case of partial transfers, show the percentage of reserve, as agreed to by the successor and predecessor, to be transferred to the successor.

Application for Transfer of Experience Rating Record (LB-0483) forms can be obtained from your Employer Accounts Office, listed in the Directory or by contacting Employer Services, Tennessee Department of Labor and Workforce Development, Division of Employment Security, 220 French Landing Drive, Nashville, Tennessee, 37243-1002. Call toll-free: 1-800-344-8337 and press 1 or call (615)741-2486.

A transfer form is also on our website: [www.tn.gov/workforce](http://www.tn.gov/workforce)

## **[Application for Transfer of Experience Rating Record](#)**

### **Common Paymaster (T.C.A. Section 50-7-206(d))**

Tennessee recognizes a common paymaster for unemployment insurance wage reporting and premium paying purposes. Federal law also recognizes the common paymaster for Federal Unemployment Insurance (FUTA) purposes.

Under a common paymaster, if two or more *related* corporations CONCURRENTLY employ the same individual and such individual is paid by only one of the corporations (the common paymaster), Tennessee unemployment insurance premiums are paid only on the first \$9,000 paid to this individual by the common paymaster.

Title 26, Section 31.3121(s) - 1 of the Code of Federal Regulations provides that corporations are generally related when one or more of the following are true:

1. The corporations are members of a "controlled group of corporations", as defined in Section 1563 of the Internal Revenue Code (i.e., parent-subsidiary corporations, brother-sister corporations).

2. In the case of a corporation that does not issue stock, 50% or more of the members of one corporation's board of directors or other governing body (or the holders of 50% or more of the voting power to select such members) concurrently hold more than 50% of that power with respect to the other corporation.
3. 50% or more of one corporation's officers are concurrently officers of the other corporation.
4. 30% or more of one corporation's employees are concurrently employees of the other corporation.

**Terminations and Inactive Accounts** (T.C.A. Section 50-7-405)

Once liability is established, all employers are subject to the Employment Security Law for at least two calendar years, regardless of the number of employees, as long as they employ workers.

An employer may request termination of coverage as of January 1 of any calendar year if he employed workers or paid wages to a lesser extent than required by law for the purpose of establishing liability during the previous calendar year. Such request must be submitted in writing to the Administrator before April 1 of the year it is to take effect. Termination requests should be sent to:

Administrator, Division of Employment Security  
Employer Services  
Department of Labor and Workforce Development  
220 French Landing Drive  
Nashville, TN 37243-1002

An employer who anticipates no payroll for two or more calendar quarters may request that his account be made inactive so that he does not have to continue submitting Wage and Premium Reports. When such an employer again has a payroll, he should notify Employer Services. An employer retains his reserve balance while his account has an inactive status.

Questions concerning inactive and terminated accounts can be directed to your Employer Accounts Auditor at your local Employer Accounts Office listed in the Directory of this Handbook or by calling (615)741-2486.

**PROFESSIONAL EMPLOYER ORGANIZATIONS** (Section 62-43-109(a) of the Tennessee Professional Employer Organization Act)

**Aggregate State Numbers and Client Account Numbers** (Section 62-43-109(c)(1) of the Tennessee Professional Employer Organization Act)

Each professional employer organization, which has one (1) or more individuals in a co-employment relationship under a professional employer agreement with a client in Tennessee, is assigned an Aggregate State Number. The professional employer organization must make certain that an Application for Client Number (LB-0910) is filed for each client having one or more employees in co-employment in Tennessee.

The Application for Client Number (LB-0910) is on the Department's Web site or may be obtained from a local Employer Accounts Office listed in the Directory of this Handbook. You may also call 1-800-344-8337 and select option 1 or call (615)741-2486.

[Application for Client Number](#)

The Application for Client Number must provide:

1. The professional employer organization's Aggregate State Number, name, address and phone number,
2. The client's name, trade name, mailing address, physical address in Tennessee, phone number and federal employer ID number,
3. The name and address of the client's owner, partners, corporate officers, limited liability company members, managers (if board managed) or general partners,
4. A signature of the client's principal or attorney in fact,
5. A brief description of the client's major business activity, listing any products produced or sold, or service provided, and

6. Any other information which may be required by the Commissioner of the Department of Labor and Workforce Development.

The professional employer organization must notify the Department of Labor and Workforce Development in writing of any additions or deletions of clients during the quarter in which such changes occur. Send the notification to Employer Services, Tennessee Department of Labor and Workforce Development, Division of Employment Security, 220 French Landing Drive, Nashville, Tennessee, 37243-1002 or fax to (615)741-7214.

### **Wage and Premium Reports for Professional Employer Organizations and Their Clients**

The Tennessee Professional Employer Organization Act provides that a professional employer organization must keep separate records and must file separate quarterly Wage Reports (LB-0851) and Premium Reports (LB-0456) for each client under each client's Client Number. The client's premium rate each quarter will be the premium rate for the staff leasing company's Aggregate State Number.

### **Professional Employer Organizations and Their Clients Are Normally Not Successor Employers (T.C.A. Section 50-7-403(b)(2)(K))**

Unless there is some degree of common ownership, management or control between a professional employer organization and its client, the professional employer organization shall not be considered a successor employer, within the meaning of Tennessee Employment Security Law, to any client and shall not acquire the experience history of any client.

The client, upon terminating its relationship with the professional employer organization, shall not be considered a successor employer, within the meaning of the Tennessee Employment Security Law, to the professional employer organization and shall not acquire any portion of the experience history of the aggregate reserve account of the professional employer organization with whom there is not any common ownership, management or control. There will be a transfer of experience in cases where there is common ownership, management or control between the client and the professional employer organization.

Any professional employer organization or client of a professional employer organization who violates these successor provisions is subject to the punishments and penalties under T.C.A. Section 50-7-403(b)(2)(G) (see SUTA DUMPING, Punishments and Penalties for SUTA Dumping Violations).

### **Professional Employer Organization Experience Rating and Aggregate Reserve Ratios**

In order to determine an experience rated professional employer organization's Aggregate State Number's premium rate the Department:

**Deducts** all benefits charged to the Aggregate State Number of the professional employer organization for all years ending on the December 31 computation date. (This includes benefit charges that were paid to individuals in co-employment of each client for all the years each client was a client of the professional employer organization.)

**From** the total of all the premiums paid on both the taxable wages of the professional employer organization and on the taxable wages of all the clients of such professional employer organization for all years during which the professional employer organization has been subject to the Tennessee Employment Security Law, and for all the years each individual client has been a client of the professional employer organization as of December 31.

The difference is the professional employer organization's Aggregate State Number's AGGREGATE RESERVE.

The professional employer organization's AGGREGATE RESERVE is divided by:

The professional employer organization's average taxable payroll for the three most recently completed calendar years as of December 31 **plus** the average taxable payroll of each client for that portion of the three (3) year period during which such client was a client of the professional employer organization.

The quotient is the professional employer organization's AGGREGATE RESERVE RATIO (a percentage figure).

A professional employer organization's AGGREGATE RESERVE RATIO will be in effect for the four quarters beginning the following July 1.

The position of the professional employer organization's AGGREGATE RESERVE RATIO on the applicable Premium Rate Chart determines the premium rate for the professional employer organization's Aggregate State Number (see PREMIUMS AND TAXES, Premium Rate Chart).

The balance in the Unemployment Compensation Trust Fund on June 30 and December 31 of any year determines which of the six Premium Rate Tables will be used to assign the premium rate for a professional employer's organization Aggregate State Number for the immediately following two calendar quarters.

### **New Employer Premium Rates for Professional Employer Organizations' Aggregate State Numbers**

New employer premium rates apply to the Aggregate State Numbers of professional employer organizations which do not qualify for rates based on their own experience.

An Aggregate State Number will not qualify for a rate based on its own experience if it has not been chargeable with benefits for thirty-six consecutive months ending on the December 31 computation date. An Aggregate State Number, which does not qualify for a rate based on its own experience, will be assigned the new employer premium rate based upon the reserve ratio of such professional employer organization's 2-digit classification of the North American Industry Classification System (NAICS) as provided in Section 50-7-403(b)(1)(B) (see **PREMIUMS AND TAXES, New Employer Premium Rates**).

### **Joint and Several Liability between Professional Employer Organization and Client**

A client shall be jointly and severally liable with a professional employer organization for premiums for each of such client's individuals in co-employment unless the professional employer organization has posted a corporate surety bond with the Administrator of the Division of Employment Security of the Tennessee Department of Labor and Workforce Development in the amount of \$100,000 for so long as said bond remains in force (call 1-615-741-2346).

### **SUTA DUMPING<sup>1</sup>** (T.C.A. Section 50-7-403(b)(2))

#### **Explanation**

In 2005, Tennessee passed Public Chapter 357 to detect, prevent and severely penalize employers for SUTA Dumping. This law was mandated by the Federal SUTA Dumping Prevention Act of 2004, and is intended to save law abiding employers millions in unemployment insurance costs.

SUTA dumping is a scheme perpetrated by some companies and their representatives to move employees from company to company to avoid paying unemployment insurance premiums at their true rate and to fraudulently acquire a lower rate. This practice undermines the integrity of the unemployment insurance system. When some employers do not pay their fair share, unemployment insurance premium rates increase for employers who do not manipulate the system.

SUTA Dumping has always been contrary to the law, but the 2005 legislation strengthened Tennessee's existing law and provided for increased efforts for the prevention and detection of SUTA dumping. It also provided penalties sufficiently severe to discourage employers who might be tempted to manipulate their premium rates (see Punishments and Penalties for SUTA Dumping Violations on the following page).

#### **Examples of SUTA Dumping**

1. Shell company purchased. A business with a large payroll and a high unemployment insurance premium rate purchases a shell company with a low premium rate and transfers its payroll to the purchased entity to get the lower premium rate.
2. Affiliated shell company transaction to gain a lower premium rate. A new company is registered and a small payroll is reported each year until a low unemployment insurance premium rate is achieved. Once the low premium rate is achieved, large payroll amounts from another related company are transferred into the newer account.
3. Shifting payroll to avoid benefit charges. Before a layoff, an employer with the same common ownership, management or control as a smaller employer, transfers his soon to be laid off workforce to the smaller employer, so that when the workers are laid off, most or all the benefit charges will be charged to the smaller employer. The smaller employer then goes out of business or operates with a reduced workforce, and the larger employer's premium

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<sup>1</sup> State Unemployment Tax Act

rate is not affected by benefit charges. *NOTE: While this would apply mostly in states who charge 100% of benefits to the separating employer, it could happen in Tennessee if the employer anticipated the layoff a year or more ahead of time.*

4. New employer rate. An employer with a high unemployment insurance premium rate files an application for a new employer account number to get the lower new employer rate. The payroll is then transferred to the new account.
5. Employee leasing company or Professional Employer Organization (PEO) shifting clients' accounts. An employee leasing company or PEO with a high unemployment insurance premium rate shifts clients' payrolls to an account number affiliated with a related PEO with a lower premium rate.
6. Shifting clients from an employee leasing company or a PEO and then shifting them back again three years later. An employee leasing company or PEO with a high unemployment insurance premium rate registers its clients with a new employee leasing company or PEO, and then, after three years when the premium rates go up, brings them back under the original employee leasing company or PEO at the new employer rate.
7. Payroll parking. Two unrelated businesses, for a fee, negotiate to have all or part of the payroll of the business with the higher premium rate "parked" in the other business's account and reported at a lower unemployment insurance premium rate.
8. Partial reserve account acquisition for the purpose of reducing the average taxable wages. A new employer applies for a partial transfer of the reserve account balance of another employer. A minimal portion of the average taxable wages is acquired along with the other reserve ratio factors. The related entity then shifts employees into the new account, thereby spreading a reduced average taxable payroll to each entity, which results in lower premium rates in future years

#### **Punishments and Penalties for SUTA Dumping Violations**

Effective January 1, 2006, when the Department discovers an employer has engaged in a form of SUTA dumping:

1. Both the predecessor and successor employers will be assigned the actual applicable premium rate, effective back to the first quarter of violation, and will immediately owe the difference between the premiums determined to be due at the applicable premium rate and the premiums previously paid plus all interest owed on the difference.
2. Both the predecessor and the successor will be subject to a 2% penalty rate, as explained below, and
3. Persons involved will be subject to a Class A misdemeanor with a maximum sentence of 11 months, 29 days imprisonment and a maximum fine of \$2,500.
4. In addition, any person who advises others to violate the law, or who violates the law but is not an employer against whom the 2% penalty rate can be levied, is subject to Class A misdemeanor charge plus a civil monetary penalty of up to \$50,000.

The 2% penalty rate for a SUTA dumping violation is levied on the taxable wages reported during a calendar year. Both the successor employer and the predecessor employer will be subject to this penalty. The 2% penalty rate applies to each quarter starting with the quarter in which the SUTA dumping infraction first took place and continues through the three premium rate years following the first July 1 after the date on which the Department made the determination of the infraction.

Example: If the infraction began January 1, 2009, but was not discovered until January 1, 2011, the 2% penalty rate would take effect beginning January 1, 2009, and apply to all four quarters of 2009 and 2010 and the first two quarters of 2011. Then, beginning July 1, 2011, it would continue to apply to the four quarters of the rate year ending June 30, 2012, the four quarters of the rate year ending June 30, 2013, and the four quarters of the rate year ending June 30, 2014, for a total of twenty-two quarters.

The 2% penalty is in addition to the employer's premium rate, and the penalty payments will not be included as credit for premiums paid when calculating the employer's rate.

As mandated by federal and state law, Tennessee aggressively looks for all violators.

To notify the Department of possible SUTA dumping, call 1-615-741-2346 or contact your local Employer Accounts Office listed in the Directory on page 2 of the Handbook for Employers.

### **SUTA Dumping Detection**

Tennessee utilizes a highly sophisticated computer program provided by the U.S. Department of Labor designed to detect suspicious transfers of experience (see Mergers and Successorships) and shifts in employees both in the present and in the past. Staff is trained in the detection of SUTA dumping and the enforcement of this Act, and any suspicious action is thoroughly investigated. It is a top priority of the Department to protect honest employers by insuring that every employer pays his fair share, instead of shifting his tax responsibilities onto other employers.

For questions about SUTA dumping, to make arrangements to bring your account into compliance or to ask about possible SUTA dumping activity, call (615)741-2346 or contact your local Employer Accounts Office listed in this Handbook.

### **WHO ARE EMPLOYEES?**

#### **Employee or Independent Contractor**

Before you can know how to treat payments you make for personal services rendered to you, you must first know the business relationship that exists between the person performing those services and yourself.

People such as lawyers, contractors, subcontractors, public stenographers, auctioneers, etc., who follow an independent trade, business, or profession in which they offer their services to the general public, are generally not employees. However, whether such people are employees or independent contractors depends on the facts in each case. The general rule is that an individual is an independent contractor if you, the employer, have the right to control or direct only the result of the work and not the means and methods of accomplishing the result.

An employer must generally withhold income taxes, withhold and pay social security and Medicare taxes, and pay unemployment taxes on wages paid to an employee. An employer does not generally have to withhold or pay any taxes on payments to independent contractors.

To help you determine whether an individual is an employee, first use the seven common law factors shown below. These factors indicate whether sufficient control is present to establish an employer-employee relationship. The degree of importance of each factor varies depending on the occupation and the context in which the services are performed. It does not matter that the employer allows the employee freedom of action, so long as the employer has the right to control both the method and the result of the services. When the seven common law factors discussed below are applied, and the employer, in error, treats an employee as an independent contractor, the employer will be held liable for all taxes, penalties, and interest which result. The burden of proof is upon the employer to show that an individual is indeed an independent contractor.

Seven common law factors indicating whether an individual is an employee or an independent contractor:

1. **The Right to Control** - A person who controls or has the right to control the terms and conditions under which a worker performs services is perceived to be an employer.
2. **Right to Termination** - A worker who can be separated at any time is usually perceived to be an employee. An independent contractor can be discharged only for breach of contract. Conversely, a worker may terminate his relationship at any time, while an independent contractor may terminate only upon completion of contract or breach thereof by the other party.
3. **Method of Payment** - A worker paid at regular intervals at a fixed rate is evidence of employee status.
4. **Freedom to Select and Hire Helpers** - Independent contractors are usually responsible for hiring, supervising, and paying any helpers they need to complete a job. They would generally be unfettered in the selection of such helpers.
5. **Furnishing Tools and Equipment** - A person who furnishes their own tools and equipment necessary to perform a job is generally perceived to be an independent contractor while one who is furnished tools and equipment is generally perceived to be an employee.

6. Self-scheduling of Workers - working hours suggests independence on the part of the worker.
7. Freedom to Render Services to Other Entities - is indicative of independent contractor status.

In addition to the common law test, the Tennessee Employment Security Law establishes a further test for determining whether or not a worker is an employee within the meaning of unemployment legislation. This test, known as the ABC test, is found at T.C.A. Section 50-7-207(e):

Service performed by an individual shall be deemed to be included service (i.e., employment) for purposes of this section irrespective of whether the common law relationship of master and servant exists, unless and until it is shown to the satisfaction of the Administrator that:

1. Such individual has been and will continue to be free from control and direction in connection with the performance of such service, both under any contract for the performance of service and in fact;
2. Such service is performed either outside the usual course of the business for which the service is performed, or is performed outside of all the places of business of the enterprise for which the service is performed; and
3. Such individual is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that involved in the service performed.

Services performed by an individual, providing services as a leased-operator or owner-operator of one or more vehicles under contract to a common carrier engaged in interstate commerce, is excluded service, regardless of whether a common law employer-employee relationship exists and regardless of whether the requirements of the ABC test listed above are met.

**Inclusions** (T.C.A. Section 50-7-207(b))

Persons engaged in the following types of activities are considered “employees” under the Tennessee Employment Security Law, and employers must report these persons on their quarterly unemployment insurance Wage Report (LB-0851) and Premium Report (LB-0456). The covered employees are

1. An officer of a corporation;
2. Any individual who, under the usual common-law rules applicable in determining the employer/employee relationship, has the status of an employee;
3. Agent drivers or commission drivers who receive remuneration from their employer for delivering laundry or dry cleaning, provided qualifications defined in Section 50-7-207(b)(2)(C)(ii) of the law are met;
4. Traveling or city salesmen who work full-time for an employer soliciting orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for resale or for supplies for use in their business operations, provided qualifications defined in Section 50-7-207(b)(2)(C)(ii) of the law are met;
5. Employees of state and local governments not specifically excluded from coverage. (See Exclusions);
6. Employees of a religious, charitable, educational, or other organization, provided the organization is exempt under Internal Revenue Code Section 501(c)(3) and the organization had four or more employees working some portion of a day in each of 20 different calendar weeks during a calendar year;
7. Officers and crewmembers of American vessels or aircraft, provided qualifications defined in T.C.A. Section 50-7-207(d)(5) of the law are met;
8. Employees on whose earnings employers are required to pay Federal Unemployment Tax (FUTA);
9. Agricultural workers working for an agricultural employer who pays \$20,000 or more in wages in any calendar quarter or employs 10 or more persons for some part of a day in each of 20 weeks in the current or preceding calendar year, provided qualifications defined in Section 50-7-207(b)(7) are met; and
10. Domestic workers working in a private home, local college club, or local chapter of a college fraternity or

sorority and employed by an employer who paid \$1,000 or more in cash wages to domestic workers in any calendar quarter in the current or preceding calendar year.

**Exclusions (T.C.A. Section 50-7-207(c))**

Some employers are excluded from the premium paying provisions of the law by the definition of employment.

Persons engaged in the following types of activities are not considered “employees” under the Tennessee Employment Security Law. Employers do not report these persons on their quarterly Wage Reports (LB-0851) and Premium Reports (LB-0456) and these persons will not be counted in determining whether the employer has sufficient employment to be liable under the Tennessee Employment Security Law.

1. Services for certain nonprofit organizations operated exclusively for religious, charitable, scientific, literary, educational purposes, if the organization has fewer than four employees and is exempt under Internal Revenue Code Section 501(c)(3);
2. Services performed by an individual in the employ of his son, daughter, or spouse, and services performed by a child under the age of 18 in the employ of his father or mother;
3. Railroad employment;
4. Services performed in the employ of a school, college, or university by a *student* attending such school, college or university, or by the *spouse* of such student, provided qualifications defined in T.C.A. Section 50-7-207(c)(8) of the law are met;
5. Services performed by a student who is enrolled at a nonprofit or public educational institution that combines work experience with academic instruction in a full-time program for school credit at such institution;
6. Services performed by a full-time student in the employ of an “organized camp” provided qualifications defined in T.C.A. Section 50-7-207(c)(13) of the law are met;
7. Services performed by insurance agents working solely on commission;
8. Services performed by a real estate agent working solely on commission, provided qualifications defined in T.C.A. Section 50-7-207(c)(11) of the law are met;
9. Services performed by “direct sellers” working solely on commission, provided qualifications defined in T.C.A. Section 50-7-207(c)(12) of the law are met;
10. Work performed on foreign vessels;
11. Services performed by certain individuals on fishing boats when such individual receives a share of the catch instead of cash, provided qualifications defined in T.C.A. Section 50-7-207(c)(14) of the law are met;
12. Governmental services performed by (a) an elected official or a person appointed to fill the unexpired term of an elected official, (b) a member of the state National Guard or Air National Guard, or (c) an individual serving in a nontenured policymaking or advisory position;
13. Services performed by an inmate committed to a custodial or penal institution;
14. Services performed in the employ of a church or convention or association of churches;
15. Services performed in the employ of an organization which is operated primarily for religious purposes and which is operated, controlled, or principally supported by a church or by a convention or association of churches;
16. Services performed by certain product demonstrators, provided qualifications defined in T.C.A. Section 50-7-207(c) (15) of the law are met;

*NOTE: These workers are only excluded under Tennessee Law. They are not excluded under federal law, so employers must pay the full 6.0% Federal Unemployment Tax (FUTA) on these employees if the employer does not elect to report and pay Tennessee unemployment taxes on these workers.*



17. Services performed by individuals engaged in the trade or business of delivering or distributing newspapers or shopping news, provided qualifications defined in T.C.A. Section 50-7-207(c)(12) of the law are met;
18. Services performed by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to T.C.A. Sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act;
19. Government services performed by an employee serving on a temporary basis in the case of fire, storm, snow, earthquake, tornado, flood or similar emergency;
20. Services performed by member of a limited liability company operating as a partnership, by an individual owner of a business (sole proprietor) or by a partner in a partnership; and
21. Services performed by an election official or election worker if the amount of wages paid such individual for such services were less than \$1,000 during the calendar year.

## HAVING EMPLOYEES IN MORE THAN ONE STATE

### In Which State(s) is an Employer Liable?

When an employer has employees who work in another state or work in more than one state, it is important that the employees must be reported to the correct state(s).

It can sometimes be confusing as to which state(s) an employee should be reported, and in some cases this decision must be made on an individual basis or worked out between Tennessee and the other state.

General guidelines and examples are shown below, but if there is any question, write Tennessee Department of Labor and Workforce Development, Employer Services, Division of Employment Security, 220 French Landing Drive, Nashville, Tennessee 37243-1002, or call (615)741-2486 for a decision.

The guidelines below are “TESTS” listed in the order of priority. Use the first test that applies to the individual employee’s situation when determining to which state the employee’s wages should be reported. If no test applies or if you are not sure, contact the Department at the address and phone number above.

TEST (1) — *the localization of services test*—Wages are reported and premiums are paid to the state in which the service is performed.

**Example:** An employer in Tennessee has a store in Tennessee and a store in Kentucky with employees at each store. The employer will need a state unemployment insurance Employer Account Number for each state. Employees working in Tennessee will be reported to Tennessee, since their services are localized in Tennessee. The employees working in Kentucky will be reported to Kentucky, since their services are localized in Kentucky.

If an employee works the first six months of the year in Tennessee and the last six months in Kentucky, the employer will report the employee to Tennessee for the first two calendar quarters of the calendar year and to Kentucky for the last two calendar quarters.

TEST (2) — *the employee base of operations test*—Wages are reported and premiums are paid to the state in which the employee has his base of operations and performed some services.

**Example:** An employer in Tennessee has a salesman working out of his home in Alabama. This salesman calls on customers in Alabama, Georgia, and Mississippi. Since there is no localization of service (TEST 1), the employer will need an Alabama unemployment insurance Employer Account Number and will report all of this salesman’s wages to Alabama, since the employee’s base of operations is in Alabama and the employee performs some services in Alabama.

TEST (3) — *the employer base of operations test* — Wages are reported and premiums are paid to the state from which the service is directed or controlled if the employee performed some service in that state.

**Example:** An employer in Tennessee is a construction contractor. All employees are hired by, paid from, and receive instructions from the home office in Tennessee. The employees live in various states and work on construction sites as needed in Tennessee, Alabama, and Georgia. Since there is no localization of service (TEST 1) and no employee base of

operation (TEST 2), the employer would report these workers to Tennessee, since the employer's base of operations is in Tennessee and the employees performed some services in Tennessee.

TEST (4) — *place of residence test* — Wages are reported and premiums are paid to the state in which the employee lives if some service is performed in that state.

**Example:** An employer in Tennessee hires a guitarist who lives in Alabama to perform with a band playing engagements in Alabama, Georgia and Mississippi. Since there is no localization of service (TEST 1), and no employee base of operation (TEST 2), and the employee did not perform any services in Tennessee, the employer's base of operations (TEST 3), the employer will need an Alabama unemployment insurance Employer Account Number and the employer will report the employee's wages to Alabama, since the employee's place of residence is in Alabama and the employee performed some services in Alabama.

### **Things to Know When You Have Employees in More than One State**

1. **Liability:** If an employer is liable to make unemployment insurance payments to any state or to the federal government, that employer is automatically liable in all states from the date of his first payroll in each new state.
2. **Refunds:** Tennessee gives full refunds on premiums paid to Tennessee that should have been paid to another state except for premiums paid on wages which have been used in the determination of a claim for benefits. (See Correcting Reports under WAGE AND PREMIUM REPORTS).
3. **Taxable wages:** When an employer has an employee who worked in more than one state during a calendar year, the taxable wages the employer paid taxes on for the employee in other states are used in calculating the taxable wages of that employee in Tennessee.

*NOTE: Tennessee's taxable wage base is \$9,000; however, many states have a higher wage base. Check with each state before filing reports.*

4. **State Laws and Procedures:** The unemployment insurance laws in most states are similar, but they do vary. Contact the unemployment insurance agency in the state in which you are filing to get the correct information on application and filing procedures, taxable wage bases, tax rates, benefit charges, and any other information necessary for compliance with the other state's laws. You may get the name and address of a state's unemployment insurance agency by calling (615)741-2346.
5. **Elections:** State laws may be in conflict regarding the state to which you must report an employee. In some cases, an employer will have an employee who can be reported to several states. In some of these situations an employer may be allowed to "elect" to report the employee to a certain state. Election forms must be obtained from the state in which the employer wants to report the employee, and the election must be approved by that state and every state in which the employee performs services.
6. **When in Doubt, Contact the Division of Employment Security:** If you are unsure of where to report an employee, write: Department of Labor and Workforce Development, Employer Services, 220 French Landing Drive, Nashville, Tennessee 37243-1002, or call (615)741-2486.

### **PREMIUMS AND TAXES (T.C.A. Sections 50-7-402 and 50-7-403)**

The Tennessee unemployment insurance program is financed solely by employer premiums paid to the state and employer federal unemployment taxes paid to the Internal Revenue Service.

Most employers pay for their unemployment insurance in two parts: one to the state and one to the federal government.

State and local governmental employers and nonprofit employers (if they qualify under Section 501(c)(3) of the Internal Revenue Code) have the option of paying premiums or reimbursing the state dollar for dollar for benefits charged to them. These government and nonprofit employers are not subject to the Federal Unemployment Tax (FUTA). (See REIMBURSING EMPLOYERS)

A reimbursing employer who wishes to change to premium paying must notify the Department by May 31st of the year during which they intend to change. Any change from reimbursing to premium paying will be effective on July 1st of that year, and the employer must calculate the \$9,000 wage base from zero as of July 1.

## **Taxable Wage Base**

Currently, Tennessee employers only pay unemployment premiums to Tennessee on the first \$9,000 the employer pays to each covered employee in a calendar year (see WAGE AND PREMIUM REPORTS, Reporting Wages). However, depending on the balance in the Unemployment Compensation Trust Fund the taxable wage base can be as low as \$7,000.

## **Federal Unemployment Tax Act (FUTA)**

The Federal Unemployment Tax Act (FUTA) currently provides for a 6.0 percent tax on taxable payroll (the first \$7,000 paid to each employee during a calendar year) to be paid to the Internal Revenue Service. This money is used to pay the state and federal unemployment insurance and Job Service administrative costs and the federal share of the extended benefit program.

An employer subject to the FUTA tax is allowed a 5.4 percent offset credit against the FUTA tax - resulting in a net payment of 0.6 percent in FUTA taxes. To be eligible for the full 5.4 percent offset credit, an employer must pay his state premiums for the previous year in full by January 31. If the state premium is not paid, the employer must pay the full 6.0 percent FUTA tax. Payment of the full FUTA tax will not relieve the employer from state premiums.

The FUTA tax rate is subject to change annually. Go to [www.irs.gov](http://www.irs.gov) for up-to-date information.

## **State Premiums (T.C.A. Section 50-7-403)**

Premium rates for Tennessee employers vary from .01 percent to 10.60 percent, depending on an employer's use of the system and the balance in the Unemployment Compensation Trust Fund (see EXPERIENCE RATING).

### **[Premium Rate Chart for Nongovernmental Employers](#) [Premium Rate Chart for Governmental Employers](#)**

An employer's premiums are due within the month following the end of each calendar quarter, and payments are submitted with the employer's Wage Report (LB-0851) and Premium Report (LB-0456) (see WAGE AND PREMIUM REPORTS).

If a newly liable Tennessee employer has filed reports and paid another state or federal agency in error, that employer has until the end of the month following the month in which notification of liability to Tennessee is given to file reports and pay premiums due to Tennessee without interest and penalty charges.

Premiums can be paid by check through the mail or electronically (see WAGE AND PREMIUM REPORTS, Paying Premiums Electronically by Automated Clearing House (ACH) Credit).

## **New Employer Premium Rates (T.C.A. Section 50-7-403(b)(1)(B))**

All premium paying employers who do not qualify for a rate based on their own experience are considered new employers and are assigned a new employer rate. New employer rates also apply to Aggregate State Numbers of those professional employer organizations that do not yet qualify for a rate based on their own experience (see PROFESSIONAL EMPLOYER ORGANIZATIONS, New Employer Premium Rates for Aggregate State Numbers).

New nongovernmental employers are assigned a new employer rate based on the reserve ratio of their industry grouping. The new employer rates fluctuate for each twelve month period beginning each July 1 to reflect the change in the industry grouping reserve ratios.

*NOTE: When completing the Report to Determine Status, Application for Account Number (LB-0441), it is very important for the new employer to provide sufficient information about their business so that the Department can correctly determine the employer's industry classification. If the Department cannot determine an employer's industry classification, the Department will assign the new employer the rate for the industry grouping with the highest new employer rate.*

New employer premium rates for new nongovernmental employers are based on the North American Industry Classification System (NAICS). If a NAICS industry grouping's reserve ratio is less than zero percent (-0.0%), new nongovernmental employers in that NAICS industry grouping are assigned the premium rate for their NAICS 2-digit industry grouping. All other new nongovernmental employers are assigned a 2.7 percent new employer rate. The reserve ratio of each 2-digit NAICS is determined for each classification by:

Totaling all premiums paid by all employers within the same classification, who were active anytime within the thirty-six consecutive months ending on the previous December 31, for all years during which these employers have been subject to the Tennessee Employment Security Law and subtracting from that total, the total of all benefits charged to the accounts of those employers for all years and dividing the difference by the average taxable payrolls of those employers for the three (3) most recent calendar years ending on the previous December 31.

The North American Industry Classification System (NAICS) 2-digit industry groupings are:

#### **NAICS 2-Digit Industry Codes**

- 11 Agriculture, Forestry, Fishing, Hunting - growing crops, raising animals, harvesting timber, and harvesting fish and other animals from farms, ranches, or the animals' natural habitats
- 21 Mining - extracting naturally occurring mineral solids, such as coal and oil, liquid materials, such as crude petroleum; and gases, such as natural gas; and beneficiating (e.g. crushing, screening, washing, and flotation) and other preparation at the mine site, or as part of mining activity
- 22 Utilities - generating, transmitting, and/or distributing electricity, gas, steam, and water and removing sewage through a permanent infrastructure of lines, mains and pipe
- 23 Construction - erecting buildings and other structures (including additions); heavy construction other than buildings; and alterations, reconstruction, installation, and maintenance and repairs
- 31 Manufacturing - mechanical, physical or chemical transformation of the following materials, substances or components into new products: food; beverage and tobacco; textile; apparel; leather and allied product manufacturing
- 32 Manufacturing - mechanical, physical or chemical transformation of the following materials, substances or components into new products: wood products; paper; printing and related support activities; petroleum and coal products, chemical manufacturing; plastics and rubber products; nonmetallic mineral products manufacturing
- 33 Manufacturing - mechanical, physical or chemical transformation of the following materials, substances or components into new products: primary metal, machinery, computer and electronic products; electrical equipment, appliances, and components; transportation equipment; furniture and related products; and miscellaneous manufacturing
- 42 Wholesale Trade - selling or arranging for the purchase or sale of goods for resale; capital or durable nonconsumer goods; and raw and intermediate materials and supplies used in production, and providing services incidental to the sale of the merchandise
- 44 Retail Trade - retailing of merchandise generally in small quantities to the general public and providing the service to the sale of the merchandise in the following: motor vehicle and parts dealers; furniture and home furnishings stores; electronics and appliance stores, building material and garden equipment and supplies dealers; food and beverage stores, health and personal care stores, gasoline stations; and clothing and clothing accessories stores
- 45 Retail Trade - retailing of merchandise generally in small quantities to the general public and providing the service to the sale of the merchandise in the following: sporting goods, hobby, book, and music stores; general merchandise stores; and nonstore retailers
- 48 Transportation and Warehousing - providing air transportation; rail transportation; water transportation; truck transportation; transit and ground passenger transportation; pipeline transportation; scenic and sightseeing transportation; and transportation support activities
- 49 Transportation and Warehousing - providing postal service; couriers and messenger; housing and storage
- 51 Information - distributing information and cultural products, providing the means to transmit or distribute these products as data or communications, and processing data including: publishing industries, motion picture and sound recording industries, broadcasting and telecommunications industries, information services and data processing services
- 52 Finance and Insurance - creating, liquidating and changing ownership of financial assets (financial transactions) and/or facilitating financial transactions
- 53 Real Estate, Renting and Leasing - including renting, leasing, or otherwise allowing the use of tangible or intangible assets (except copyright works) and providing related services

- 54 Professional, Scientific and Technical Services - performing professional, scientific and technical services for the operations of other organizations
- 55 Management of Companies and Enterprises - holding of securities and enterprises, for the purpose of owning controlling interest or influencing their management decision, or administering, overseeing, and managing other establishments of the same company or enterprise and normally undertaking the strategic or organizational planning and decision making of the company or enterprise
- 56 Administrative and Support and Waste Management and Remediation Services - performing routine support activities for the day-to-day operations of other organizations
- 61 Educational Services - providing instruction and training in a wide variety of subjects
- 62 Health Care and Social Assistance - providing health care and social assistance for individuals
- 71 Arts, Entertainment and Recreation - operating or providing services to meet varied cultural, entertainment and recreational interest of their patrons
- 72 Accommodation and Food Services - providing customers with lodging and/or preparing meals, snacks, and beverages for immediate consumption
- 81 Other Services (except Public Administration) - providing services not elsewhere specified, including repairs, religious activities, grant-making, advocacy, laundry, personal care, death care and other personal services

**WAGES** (T.C.A. Section 50-7-213; Rule 0800-10-04-.01)

**Definition**

All remuneration paid for personal services from whatever source (salaries, commissions, bonuses, drawing accounts, fees, vacation pay, and wages in lieu of notice) are considered “wages” for unemployment insurance purposes.

Payments made to employees in a medium other than cash are also considered “wages,” except for meals, lodging, and clothing when furnished for the employer’s convenience and on his premises (see Meals, Lodging, and Clothing).

**Meals, Lodging and Clothing** (Rule 0800-10-04-.11, Rule 0800-10-04-.12)

Meals and lodging are not considered wages if they are furnished for the employer’s convenience and on the employer’s premises. This includes goods, rent, lodging, food, and clothing. Where not agreed upon by the employer and the employee, the minimum value of board furnished as part of the remuneration is

Breakfast - \$ .75	Lunch - \$1.25	Dinner - \$2.00
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The minimum value of lodging is \$30.00 per month, \$7.50 per week, or \$1.50 per day.

**Tips** (T.C.A. Section 50-7-213(a))

All tips, including allocated tips reported to the employer for IRS purposes, are considered wages.

**Severance Pay**

Any severance pay provided during any week a claimant is receiving unemployment compensation is disqualifying. The law change allowed for a time period until July 1, 2012, in which an employer could have notified the Commissioner/Agency that the company will have a mass separation for employees or that the company is closing. Any separations occurring currently on or after July 1, 2012, covered by the employer’s notice to the Agency, the severance pay will not be disqualifying.

Severance is further defined by the ES law change to equate that the amount of money received by the claimant is equivalent to the wages the employee/claimant would have earned/received if the employee/claimant was working during that week.

Any week(s) with respect to which the claimant receives or is entitled to severance pay will be denied.

Any notice after July 1, 2012, or separations that were not included in a pre-July 1, 2012 notice, the severance pay is immediately disqualifying. A claimant may, if otherwise eligible, reopen the claim after the severance pay period has completely expired. Any one dollar of severance pay in any UI week would be disqualifying.

These wages are reported by employers to the Agency and can be used to establish monetary eligibility for a future claim base period. However, these wages cannot be used to remove any 5X or 10X re-earnings requirements.

#### **Sick Pay and Medical Expenses** (T.C.A. Section 50-7-213(d))

Sick pay (payments for sickness or accident disability) and medical expense pay (payments for medical or hospitalization expenses in connection with sickness or accident disability) are treated as follows:

1. Sick pay and medical expense pay made under a workers' compensation law are never considered wages, whether or not paid under a plan.
2. Sick pay, whether or not made under a plan, is wages through the first six months following the last calendar month in which the employee worked for the employer.
3. Medical expense pay made under a plan is not wages through the first six months following the last calendar month in which the employee worked for the employer.
4. Medical expense pay not made under a plan is wages through the first six months following the last calendar month in which the employee worked for the employer.
5. Sick pay and medical expense pay, whether or not made under a plan, is not wages after the expiration of six calendar months following the last calendar month in which the employee worked for such employer

When sick pay or medical expense pay are considered wages, employees will receive credit for these payments in determining their benefits (see **BENEFIT PROVISIONS, CLAIMS FOR BENEFITS**).

#### **Gifts and Bonuses** (T.C.A. Section 50-7-213(a))

When a gift or bonus is presented to an employee and the amount of the gift or bonus, or the employee's eligibility for it, is based on the length, quality, or quantity of service, or on the amount of profit the employer enjoyed, such gift or bonus is considered wages.

#### **Deferred Compensation** (T.C.A. Section 50-7-213(a))

Deferred compensation is wages and is reportable and subject to premiums at the time it is deducted from the employee's pay. This includes employee salary reduction contributions to cash or deferred plans under 401(k), 403(b), 457 or any other similar plan under the Internal Revenue Code.

#### **Cafeteria Plans** (T.C.A. Section 50-7-213(a))

Employee salary reduction contributions to a qualified cash or deferred arrangement or to a cafeteria plan are wages and are reportable and subject to premiums at the time they are paid into the plan.

#### **Back Pay Awards** (T.C.A. Section 50-7-303(e))

- (1) For unemployment insurance benefit purposes, the amount of back pay constitutes wages paid in the period for which it was awarded. Any employer who is a party to a back pay award settlement due to loss of wages is required to report to the division of employment security within thirty (30) days of the ruling:
  - (A) The amount of the award settlement;
  - (B) The name and social security number of the recipient; and
  - (C) The calendar weeks for which the back pay was awarded.

- (2) It is the intent of the general assembly that no overpayment of benefits shall be established as a result of a back pay award.

#### **EXPERIENCE RATING (T.C.A. Section 50-7-403)**

The purpose of experience rating is to make certain that individual employers pay their fair share of unemployment insurance costs and to insure Tennessee's Unemployment Compensation Trust Fund will have adequate reserves to pay unemployment insurance benefits.

Under Tennessee's unemployment insurance experience rating system, an employer's premium rate is based on his own unemployment insurance experience. The more unemployment benefits charged against an employer's account, in relation to the amount of unemployment premiums the employer has paid, the higher the employer's premium rate will be. Premium rates can be as low as .01% for employers who have paid considerably more premiums than they have been charged in benefits. Premium rates can be as high as 10.0% for employers who have significantly more benefit charges than they have paid in premiums.

#### **How and When an Employer Qualifies for Experience Rating (T.C.A. Section 50-7-403(f))**

To qualify for experience rating, an employer's account must have been chargeable with benefits and subject to premiums for 36 consecutive calendar months ending on the computation date (December 31 of each year).

#### **How an Employer's Premium Rate is Computed (T.C.A. Section 50-7-403(b)(1))**

Except in the case of professional employer organizations and their clients (see PROFESSIONAL EMPLOYER ORGANIZATIONS, Professional Employer Organization's Experience Rating and Aggregate Reserve Ratios), an experience rated employer's premium rate is determined by:

1. Totaling all premiums paid by that employer for previous years as of January 31 and
2. Deducting from that total all benefits charged to that employer as of December 31,
3. The difference equals the employer's RESERVE,
4. The employer's RESERVE is then divided by the employer's average taxable payroll for the three most recent calendar years as of December 31 to arrive at the employer's RESERVE RATIO (a percentage figure).

An employer's RESERVE RATIO will be in effect for the four-quarter period beginning July 1.

The position of the employer's RESERVE RATIO on the applicable Premium Rate Table on the Premium Rate Chart determines the employer's premium rate (see PREMIUMS AND TAXES, Premium Rate Chart).

The balance of the Unemployment Compensation Trust Fund on June 30 and December 31 of any year determines which one of six Premium Rate Tables will be used to assign nongovernmental employers their premium rates for the immediately following two calendar quarters.

Governmental employers' premium rates are determined by the Premium Rate Chart for Governmental Employers.

#### **Notice of Employer Premium Rate**

The Notice of Employer's Premium Rate (LB-0482) is sent to employers during the first quarter of the new rate year. This notice shows the employer's experience as of the previous December 31, the employer's reserve ratio that will be in effect for the third and fourth quarters of the calendar year in which the notice is received and the first and second quarters of the following calendar year, and shows the employer's premium rate for the third and fourth quarters of the current year. If there is a rate change effective January 1 of the following year due to a change in the Premium Rate Table, employers will receive a notice in January informing them of the change and providing them with their rate for the first two quarters of the new calendar year.

#### **[Notice of Employer Premium Rate](#)**

#### **Appealing Your Premium Rate (T.C.A. Section 50-7-403(n))**

An employer should check the Notice of Employer's Premium Rate (LB-0482) closely for errors upon receipt. You have 30 days to appeal your premium rate if, based on what was reported to the Department, your premium rate notice has an

error in premiums paid, benefits charged, or taxable payroll or if calculations are incorrect. An appeal does not change any cutoff dates for filing reports or claims for adjustment or refund.

The appeal must be in writing and must be received within 30 days of the mailing of the Notice of Employer's Premium Rate. Send your protest to the Department of Labor and Workforce Development, Employer Services Unit, 220 French Landing Drive, Nashville, Tennessee 37243-1002, requesting a review and recomputation of your premium rate. If you have any questions call the Employer Services Unit at (615)741-2486 prior to sending your appeal.

After 30 days no premium rate will be changed until the next premium rate year.

### **REIMBURSING EMPLOYERS (T.C.A. Section 50-7-403(h))**

Governmental employers and nonprofit employers (qualifying under Section 501(c)(3) of the Internal Revenue Code) have the option of electing to become reimbursing employers rather than premium-paying employers.

Reimbursing employers are essentially self-insuring. They are required to reimburse the Department dollar for dollar for their proportionate share of benefits paid to a former employee (see **BENEFIT PROVISIONS, CHARGING OF EMPLOYER FOR BENEFITS**).

Reimbursing employers are not experience rated and do not pay FUTA taxes, so they do not pay any of the costs of administering the unemployment insurance program.

### **Reporting Wages**

Reimbursing employers must report wages paid to their employees on the quarterly Wage Report (LB-0851) and Premium Report (LB-0456) (see WAGE AND PREMIUM REPORTS), by Internet at <https://tdlwd.tn.gov/tnpaws> (see WAGE AND PREMIUM REPORTS, Filing Wage and Premium Reports on the Internet (TNPAWS)). Reimbursing employers with 250 or more employees must file their Wage Reports electronically (see WAGE AND PREMIUM REPORTS, Filing Wage Reports Electronically (mandatory with 250 or more employees)).

On the Premium Report, reimbursing employers report their *Total Number of Workers as of the 12th of Each Month of the Quarter* in the center of the report and report their *Total Wages* on line 1.

Reimbursing employers do not report *Excess Wages, Net Taxable Wages, or Premiums Due*.

[Wage Report](#)

[Premium Report](#)

### **Benefit Payments and Charges**

Claimants who worked for reimbursing employers receive the same benefits in the same manner as claimants who worked for premium paying employers, and benefits are charged to reimbursing employers in the same manner as benefits are charged to premium-paying employers.

Reimbursing employers reimburse the Department dollar for dollar for all benefits charged to them regardless of the reason for the separation of the former employee.

Reimbursing employers are not eligible for a benefit noncharge as are premium-paying employers. (see **BENEFIT PROVISIONS, CHARGING OF EMPLOYER FOR BENEFITS**). When a nonprofit employer or a governmental employer elects to reimburse for their portion of benefits, they enter into an agreement with the Department that they will pay back any benefits paid to their former employees. When an employer enters into that contract they give up statutory rights to the noncharge (T.C.A. 50-7-403(d)(1)(B)(iii) and (C)(ii)).

Reimbursing employers do not pay the Federal Unemployment Tax (FUTA), which pays the administrative cost of the unemployment program, and they do not pay premiums toward building the Trust Fund. In exchange, they take a risk that benefits could be paid to their former employees and they will have to reimburse the Department dollar for dollar for those benefits.

A worker who quit or was discharged by a reimbursing employer can become eligible for benefits if he removes the imposed disqualification. In such event, the reimbursing employer would be charged for benefits paid. A Time Sensitive Employer Notice of Claim Filed (LB-0502) is sent to the reimbursing employer at this point in case the



employer wants to make a job offer to the individual rather than pay the unemployment benefit charges.

Reimbursing employers reimburse the Department for their share of benefits even when the benefits were a result of an overpayment (benefits paid in error to a claimant). Once the Department has received repayment of the overpayment from the claimant, the Department will credit the employer's account. The employer can either request a refund or have the repaid overpayment applied to future benefit charges.

### *Time Sensitive Notice of Claim Filed*

## **RECORD KEEPING AND AUDITS**

### **Record Keeping (Rule 0800-10-03-.10)**

An employer is required to keep records in connection with his business deemed by the Commissioner to be necessary for the effective administration of the law.

An employer's records must show the following information:

1. Period covered by the payroll
2. Place of employment within the state
3. Scheduled hours per day or week

Records must be kept on each individual employee showing:

1. Social Security number and name
2. Date hired, rehired, and terminated
3. Full-time weekly wage
4. The number of hours for which he was paid (except for workers paid on salary)
5. Gross wages in each pay period and total wages for all pay periods in a calendar quarter
6. Value of any remuneration other than cash
7. Any special payments (bonuses, gifts, prizes, etc.)

*IMPORTANT: These records must be maintained for the most recent seven-year period.*

### **Audits of Employer Records (T.C.A. Section 50-7-701; Rule 0800-10-03-.10)**

Tennessee is required by the federal government to audit the records of a portion of Tennessee's covered employers each year to insure that they are in compliance with the federal and state unemployment insurance laws. The majority of the employers audited are picked at random by a computer. Audits are also done when there is reason to believe that an employer may be out of compliance with the unemployment insurance laws.

The Department's Employer Accounts Auditors have the right to audit any employer's records to determine liability, verify payroll information, correct improper reports, or obtain delinquent quarterly reports.

If an audit discloses an underpayment of premiums, the auditor will collect additional premiums and interest due. If there is an overpayment, the auditor will assist the employer in applying for a refund or credit adjustment.

An employer may file an application for a review and redetermination of an audit by the Department in accordance with T.C.A. Section 50-7-404(i) if he does not agree with the Employer Accounts Auditor's findings. For information call (615) 741-2346.

Employer Accounts Auditors are issued identification by the Department. Employers should not hesitate to ask for proper identification.

## **WAGE AND PREMIUM REPORTS**

### **Filing** (Rule 0800-10-01-.02)

The Tennessee Department of Labor and Workforce Development, Division of Employment Security Wage Report (LB-0851) and Premium Report (LB-0456) and any premiums due are submitted to the Department quarterly and are due within one month after the end of each calendar quarter. The Wage and Premium Reports and any premiums due become delinquent after January 31, April 30, July 31, and October 31 for the respective calendar quarters. Timely wage reporting and premium payments will prevent costly interest and penalty charges and will prevent assessments (see ADDITIONAL CHARGES, PENALTIES AND ENFORCEMENT).

The Wage and Premium Reports are mailed to employers each calendar quarter. Read the instructions carefully before completing the reports. Return the original to the Department with your premium payment.

#### [Wage Report](#)

#### [Premium Report](#)

There are three ways to file Wage Reports:

1. On the paper form you receive in the mail (see Filing Wage Information on Plain Paper), or
2. By Internet (see Filing Wage and Premium Reports on the Internet (TNPAWS) <https://tdlwd.tn.gov/tnpaws>), or
3. Electronically - this is mandatory with 250 or more employees (see Filing Wage Reports Electronically).

There are two ways to pay your premiums:

1. by check with your paper Premium Report (or with your payment coupon if filing via the Internet) or
2. electronically by Automated Clearing House (ACH) Credit (see Paying Premiums Electronically by Automated Clearing House (ACH) Credit).

A professional employer organization must keep separate records and file separate Wage and Premium Reports for each client under each client's individual employer account number (see PROFESSIONAL EMPLOYER ORGANIZATIONS, Wage and Premium Reports for Professional Employer Organizations and their Clients).

An employer is not relieved of his responsibility to submit reports and pay premiums due if he does not receive his report forms. If you do not receive your Wage and Premium Report forms contact your Employer Accounts Office listed in the Directory of this Handbook, or call toll-free number 1-800-344-8337 and press 1 or call (615)741-2486. When requesting reporting forms, employers must give their eight-digit Tennessee Employer Account Number for unemployment insurance to ensure the reports will have the correct premium rate.

### **Reporting Total Monthly Employment**

In the center of the Premium Report are blocks for reporting the number of workers who were on an employer's payroll during the first, second, and third months of the quarter. This information is mandatory. The U.S. Department of Labor Statistics, the U.S. Department of Commerce, and the U.S. Unemployment Insurance Service use this information in a number of national statistics. Employers must report all full-time and part-time employees who worked during or received pay for the payroll period that included the 12th of the month. Enter zero (0) if there was no employment in the payroll period that included the 12th of the month.

### **Reporting Wages** (Rule 0800-10-03-.10)

Wages must be listed by social security number and employee name on the Wage Report. When listing an employee's name, give the employee's first initial, followed by the employee's middle initial and the first six letters of the last name. Wages are reported on the Wage Report and Premium Report in the calendar quarter in which the wages are paid, not the calendar quarter in which the wages are earned.

For example: if an employee worked for you the last week in June, but was not paid for that work until the first week in July, the wages paid for his work in the last week of June would be reported on your third quarter Wage Report and Premium Report, rather than your second quarter report.

The taxable wage base in Tennessee for unemployment insurance purposes is \$9,000, meaning premiums are paid on only the first \$9,000 paid to each employee by an employer during a calendar year.

All wages (as defined in T.C.A. Section 50-7-213) paid to each employee during a calendar quarter must be shown on the Wage and Premium Reports even though some of these wages may be in excess of the \$9,000 wage base. Total wages paid each employee are needed because both a claimant's unemployment benefit eligibility and the amount of benefits a claimant can receive are based on his total wages.

Employers must total the wages on each page of the Wage Report and write the total as indicated at the bottom of each page of the report.

*The Wage Report and Premium Report are designed to be processed on scanning equipment that uses Intelligent Character Recognition. The data provided on these reports may be machine printed or hand-printed. **It is extremely important to follow the instructions included with the reports.** On the report form, hand-print boxes designate the areas to be completed by each employer.*

### **Filing Wage Information on Plain Paper**

Some employers, with fewer than 250 wage items, prefer to attach a wage listing to their quarterly report instead of printing individual employee wage information directly on to the Wage Report (Form LB-0851). Wage items can be printed on plain paper. Please follow all the instructions below and the example on page 32 for printing lists of employee wages that can be read by our scanning equipment.

1. Type your Employer Name, Employer Account Number and applicable quarter and year across the top of the page. This information must be printed less than an inch from the top of the page.
2. Print employee information only once on the listing and in columns in the order shown below.

Information required (See the example <a href="#">Filing Wage Information on Plain Paper</a> )	shown on the first line
Social Security Number	111111111
First Name (first initial preferred)	A
Middle Initial	B
Last Name (first six letters preferred)	EMPLOY
Total Wages Paid This Quarter	1000.00

3. Use only Standard 8.5" x 11" white, 20lb (minimum) plain office paper.
4. All employee information must be machine printed, double-spaced and printed on only one side of the paper.
5. Print data length-wise (portrait-style) on the page with no more than 24 employees per page.
6. Print all information on the page in a Fixed-Pitch Font Type and 12-Point Font Size.  
Examples, in order of preference, are OCR-A, OCR-B, Courier New, Line Printer and MS Line Draw.  
*NOTE: Dot Matrix printing cannot be read by the Department's scanning system.*
7. Do not use hyphens in Social Security Numbers.
8. Right justify wage amounts and use a decimal, but **do not** use commas and dollar signs.
9. Do not include employees with a zero or negative quarterly wage amounts.
10. Print a page total below the last wage amount.
11. Top, bottom, left and right margins must be set at 1 inch. Print all employee information within the 1-inch margins. Set Tab stops between the columns of wage data at a minimum of 1/2 inch apart.
12. IMPORTANT: Sign and date the agency-provided Wage Report and return the Wage Report to us with the Total Wages for the entire report entered in the correct field and attach your wage list.

If you have any questions about wage reporting on plain paper, contact our Wage Records Unit at (615) 741-3280.

### [Filing Wage Information on Plain Paper](#)

#### **Filing Wage Reports Electronically (mandatory with 250 or more employees) (T.C.A. Section 50-7-404(c)(3) and (4))**

Every employer with 250 or more employees and every employer agent who reports the wages of 250 or more employees are required by law to report their wage information by magnetic media.

To meet this requirement, employers can file their reports on magnetic tape, diskette or CD, or on the Internet (see Filing Wage and Premium reports on the Internet (TNPAWS)).

The penalty for subject employers and subject employer agents who do not report electronically is \$50 per month for each wage report that is not filed on magnetic media. The penalty is imposed until the time the employer begins complying with the law. Once the employer or the employer agent begins complying with the law, penalties for past quarterly reports will cease to accrue. The maximum penalty for each quarterly report is \$500.

Employers with fewer than 250 employees are also encouraged to report wage information electronically. Employers should realize a substantial benefit in reducing paper handling costs, and the Department will benefit from increased efficiency in operations.

To begin reporting by magnetic tape, diskette or CD, call (615)741-3280 or write: Tennessee Department of Labor and Workforce Development, Employer Accounts Operations, 220 French Landing Drive, Nashville, Tennessee 37243-1002.

#### **Filing Wage and Premium Reports on the Internet (TNPAWS) <https://tdlwd.tn.gov/tnpaws>**

The Tennessee Premium and Wage Reporting System (TNPAWS) allows employers to complete the quarterly unemployment Premium and Wage Report via the Internet. All employers with a valid access code can file using TNPAWS. An access code is assigned to every eligible employer and is printed on your Premium Report (LB-0456) to the right of line 1 (Total Wages). For security reasons, the access code will change every year and will only be provided on the Premium Report.

To report via the Internet, go to the TNPAWS home page, <https://tdlwd.tn.gov/tnpaws>, to register a User Name and Password and begin the filing process. An employer may choose to file a “No Payroll” report, or a Premium and Wage Report. A “No Payroll” report can be filed quickly and without incurring postal charges. If a Premium and Wage Report is filed, the employer must enter the monthly employment figures, each employee’s Social Security Number, Name, and Gross Wages.

The employee wage information entered into TNPAWS is retained from one quarter to the next, thus eliminating the task of entering the same data quarter after quarter. In subsequent quarters, the employer adds and/or deletes employees to prepare their current quarterly report.

TNPAWS calculates total, excess, and taxable wages before determining the premium amount due. Employers may override the excess wage calculation, if they so choose, before submitting their report. A confirmation number is assigned to each report to notify the user that the information has been successfully transmitted. The employer is prompted to print a copy of the report for their records, and if premiums are due, the employer is prompted to print the payment coupon.

Employers can pay their premiums by mailing a check with the payment coupon or paying by ACH Credit (see Paying Premiums Electronically by Automated Clearing House (ACH) Credit, below). If paying by check, the employer should enclose the payment coupon. The payment coupon ensures that the employer’s remittance will be applied to the submitted report. Failure to include the payment coupon could result in your account not being properly credited.

#### **Paying Premiums Electronically by Automated Clearing House (ACH) Credit**

Employers may elect to pay their premiums electronically by Automated Clearing House (ACH) Credit instead of writing and mailing a check.

To begin paying by ACH Credit, an employer first must submit an Electronic Funds Transfer Agreement and make arrangements with their financial institution.

Employers must use the specified format provided on the Department's web site at [www.tn.gov/workforce](http://www.tn.gov/workforce) when initiating payments by ACH Credit. Select Employers, then Employer Services, Premium and Wage Reporting, then click on Automated Clearing House link.

The Electronic Funds Transfer Agreement can be printed from the Department's web site or the TNPAWS home page at <https://tdlwd.tn.gov/tnpaws>.

For questions concerning electronic payment of premiums, call (615)741-2346.

### [Electronic Funds Transfer Agreement](#)

#### **Extension of Time to File** (Rule 0800-10-01-.05)

An extension of time to file Wage and Premium Reports and to pay premiums may be granted by the Administrator, if good cause for the delay is shown. This extension shall not exceed 30 days.

To receive an extension of time, an employer must submit his request in writing before the due date for the quarter involved. Requests should include the employer's Employer Account Number and the reason for needing an extension of time. Send requests to Tennessee Department of Labor and Workforce Development, Employer Accounts Operations, 220 French Landing Drive, Nashville, Tennessee 37243-1002. If you have any questions regarding this matter, call (615) 741-2346.

#### **“No Payroll” Reports**

Every covered employer must file a Wage Report and Premium Report each calendar quarter. If an employer's business temporarily closed and/or if the employer did not pay any wages during the calendar quarter, the employer still must file the report for that calendar quarter. In such instances the employer can simply write “No Payroll” in a conspicuous place on both the Wage Report and Premium Report.

Failure to file “no payroll” reports on time will result in penalty charges and could result in an assessment of taxes being made (see ADDITIONAL CHARGES, PENALTIES AND ENFORCEMENT).

#### **Underpayments and Overpayments**

The Department mails monthly statements of outstanding debit balances (underpayments) and monthly statements of outstanding credit balances (overpayments) to employers who have an underpayment or overpayment.

If the employer has an overpayment, a credit will show on the statement with a minus (-) sign after the amount due. You can deduct the credit amount shown on the statement from your premiums due for a future quarter.

*NOTE: Any outstanding credit or debit balance on a predecessor's account when there is a mandatory transfer of experience will be reflected in the balance shown on the successor's statement.*

#### **Correcting Reports** (T.C.A. Section 50-7-404(f))

Do not make corrections for errors made on previous Wage and Premium Reports on the current quarter's Wage and Premium Report.

Please do not submit an amended Wage and Premium Report. Employers must file either a Claim for Adjustment or Refund (LB-0459) or a supplemental Wage Report (LB-0851) and Premium Report (LB-0456).

[Claim for Adjustment or Refund](#)  
[Wage Report](#)  
[Premium Report](#)

Make any corrections and adjustments as shown below:

ERROR	HOW TO CORRECT
over reported total and/or taxable wages	complete the Claim for Adjustment or Refund (LB-0459)
under reported total AND taxable wages	complete a supplemental Wage Report and Premium Report (LB-0851, LB-0456)
under reported taxable wages only	complete the Claim for Adjustment or Refund (LB-0459)
under reported total wages only	complete a supplemental Wage Report and Premium Report (LB-0851, LB-0456)
employees reported that are not covered by unemployment	complete a Claim for Adjustment or Refund (LB-0459)
omission of employee(s) from report	complete a supplemental Wage Report and Premium Report (LB-0851, LB-0456)
employees reported to TN that should have been reported to another state	complete a Claim for Adjustment or Refund (LB-0459) and provide proof of the report and payment to the other state
employees reported to another state that should have been reported to Tennessee	complete a supplemental Wage Report and Premium Report (LB-0851, LB-0456) (see "NOTE" below)
omission of social security number(s)	submit list of name(s) and social security number(s)

If the correction results in additional premiums due, send in your payment with your supplemental reports.

If the correction results in an overpayment, a credit will be issued to apply against future premiums. An employer cannot make a deduction on a Premium Report for overpaid premiums from prior quarters until the Department has issued the credit to the employer.

Cash refunds will be issued upon request if the credit is greater than the projected premiums due for the next four quarters. Requests for cash refunds must be in writing.

A Claim for Adjustment or Refund Form (LB-0459) is located on our website [www.tn.gov/workforce](http://www.tn.gov/workforce).

**[Claim for Adjustment or Refund](#)**

In addition, Claim for Adjustment or Refund (LB-0459) and supplemental Wage Report (LB-0851) and Premium Report (LB-0456) forms may be obtained from your local Employer Accounts Office or from Department of Labor and Workforce Development, Employer Services, 220 French Landing Drive, Nashville, Tennessee 37243-1002, or by calling toll-free: 1-800-344-8337 and pressing 1 or by calling (615)741-2486.

Include on all correspondence the name of the employing unit as it is on file with the Department, the Employer Account Number and the calendar quarter(s) and year(s) affected by the corrections.

A request for a refund must be made within three years of the payment.

There is no time limit for a request for refund when the premiums were erroneously paid to Tennessee and should have been paid to another state.

*NOTE: If premiums that should have been paid to Tennessee were paid to another state in error, the premiums are still due Tennessee. There will be no interest charge if the premiums are paid to Tennessee within the month following the month in which the employer was notified that the employees should have been reported to Tennessee. Contact the state to which the premiums were paid in error to receive a refund for those premiums.*

## **ADDITIONAL CHARGES, PENALTIES AND ENFORCEMENT**

### **Interest Charges** (T.C.A. Section 50-7-404(a))

If premiums are not paid by the due date, the employer will be charged interest at the rate of one and one half (1.5%) percent per month or portion of a month.

### **Penalty Charges** (T.C.A. Section 50-7-404(c)(3))

If either the quarterly Premium Report or the quarterly Wage Report is not filed by the date due, or if an employer intentionally files an incomplete quarterly Premium Report or an incomplete quarterly Wage Report, the employer will be charged a penalty at the rate of \$10 per month or portion of a month up to a maximum of \$50 per delinquent report.

Employers with no payroll during a quarter must still file Wage and Premium Reports and must file these reports on time to avoid penalty charges.

The penalty for not reporting wages by magnetic media when required to do so is \$50 per report, per month, up to a maximum of \$500. (see **WAGE AND PREMIUM REPORTS, Filing Wage Reports Electronically**).

*NOTE: There is also a SUTA Dumping penalty of 2% of an employer's taxable payroll levied against employers who have engaged in SUTA Dumping violations. (see **SUTA DUMPING, Punishments and Penalties for SUTA Dumping Violations**).*

### **Assessments** (T.C.A. Section 50-7-404(c))

#### *1. Assessments for Failure to File Wage and Premium Reports*

When an employer continues to refuse to submit his Wage Report (LB-0851) and Premium Report (LB-0456) after notices and warnings, the Department assesses the employer's account for premiums due.

The assessed premiums for each quarter due are the greater of \$50 or the assessed amount for the quarter. The assessed amount is based on the employer's most recent taxable wage information available and the employer's premium rate for the quarter.

The Department notifies an employer of a pending assessment by certified mail. An employer has thirty days to file reports or file a written letter of protest to the Commissioner before the assessment becomes final.

Once an assessment becomes final, the employer must pay the assessed premiums in full plus any interest and penalty due.

#### *2. Jeopardy Assessments*

The Commissioner can assess an employer's account before premiums become due if the Commissioner determines that a delay would jeopardize collection. The amount of a jeopardy assessment is immediately due and payable.

### **Liens** (T.C.A. Section 50-7-404(b))

A lien will be placed on the assets of an employer if the employer has not paid his delinquent premiums, interest charges, or penalties after due notice.

### **Injunctions** (T.C.A. Section 50-7-404(d))

In extreme cases where an employer continues to refuse to comply with the law, the Department may petition the courts to issue an injunction prohibiting the employer from doing business in Tennessee until he has complied with the law.

## **Revoking Corporate Charters and Dissolving Limited Liability Companies (T.C.A. Section 50-7-404(k))**

The Commissioner has the power to revoke the charters of corporations and to dissolve limited liability companies that do not comply with the unemployment insurance law by failing or refusing to file any quarterly report or to pay any fees, premiums, penalties, or interest due for a period of 90 days or more.

## **MULTIPLE WORKSITE REPORT**

Employers conducting business operations in more than one location in Tennessee are requested to complete a Multiple Worksite Report (BLS-3020) each quarter.

The Tennessee Department of Labor and Workforce Development's Division of Employment Security, Labor Market Information, in cooperation with the U.S. Department of Labor, Bureau of Labor Statistics, uses information from the Multiple Worksite Report for various economic studies.

The worksite level data gathered from this report is necessary to accurately measure area economic activity. Labor Market Information also uses this data to prepare summaries for economic research, new location studies, and wage analysis.

Each quarter the Department mails the Multiple Worksite Reports to employers who have more than one physical location in Tennessee. The Multiple Worksite Report comes printed with the trade name and the address of all the employer's known worksites. Instructions for completion of the report are on the back of the form. The average completion time for this form is 22 minutes.

If you have employees in more than one physical location in Tennessee and are not receiving this form, write Tennessee Department of Labor and Workforce Development, Labor Market Information, 220 French Landing Drive, Nashville, TN 37243-1002, or call 615-741-2116 to begin reporting.

[http://www.bls.gov/cew/forms/mwr\\_tn.pdf](http://www.bls.gov/cew/forms/mwr_tn.pdf)

## **Report Your Data on the Web**

You now have a new, more convenient and paperless way to report your data. You can find the instructions that explain how to take advantage of this alternative reporting method by accessing our Web site:

<http://www.bls.gov/cew/cewmwr05.htm> or go straight to <https://IDCF.BLS.GOV>

and enter the ID and password located on your form.

If you choose Web-reporting option, please note the following:

Once you submit your data on the Web, you will no longer receive paper forms to complete. Each quarter we will send you a reminder e-mail that data collection for the quarter has begun.

As the deadline for submitting your data on the Web approaches, we will send you reminder e-mails.

If you want to convert back to paper reporting at any time or have any problems, you can contact us by email at [mwr.helpdesk@bls.gov](mailto:mwr.helpdesk@bls.gov).

We hope you will take advantage of this alternative reporting option.

## **POSTING OF NOTICES (Rule 0800-10-03.-09)**

Employers covered by the Tennessee Employment Security Law are required to post notices in appropriate locations in their establishment and distribute material to workers in their employ as such information is furnished by the Department of Labor and Workforce Development's Division of Employment Security.

Employers may receive the poster "[Unemployment Insurance for Employees](#)" by contacting their **Employer Accounts Office**, by writing the Tennessee Department of Labor and Workforce Development, Division of Employment Security, 220 French Landing Drive, Nashville, TN 37243-1002, or by calling toll-free 1-800-344-8337 or (615)741-2346. Employer posters can be accessed by going to <http://www.tn.gov/labor-wfd/poster.shtml>.



Other posters employers must display are listed in the back of this Handbook under POSTERS REQUIRED TO BE DISPLAYED BY EMPLOYERS.

#### **POINTS EMPLOYERS SHOULD REMEMBER REGARDING EMPLOYER ACCOUNTS PROVISIONS**

1. Pay premiums only on the first \$9,000 you pay to each employee in a calendar year, but report total wages paid to each employee for the quarter on the Wage Report (LB-0851) and Premium Report (LB-0456).
2. Report wages in the calendar quarter in which they are paid, not in the calendar quarter in which they are earned.
3. Check the Notice of Employer's Premium Rate (LB-0482) for accuracy. If it is incorrect, notify the Department within 30 days of receipt of notice (see EXPERIENCE RATING, Appealing Your Premium Rate).
4. File all Wage Reports (LB-0851) and Premium Reports (LB-0456) and pay all premiums when due. Failure to report and pay timely results in interest and penalty charges and possibly a higher premium rate.
5. Notify the Department whenever there is a change in ownership, so that any agreed to transfer of experience can be completed, and also to avoid the penalties associated with failing to notify the Department of a change of ownership that requires a mandatory transfer of experience. (see SUTA DUMPING and see MERGERS AND SUCCESSORSHIPS).
6. Do not report workers who are not covered by unemployment insurance. These include students involved in a co-op program and certain family members of an individual proprietor. An employer does not report or pay premiums on wages earned by a student who is enrolled at a nonprofit or public educational institution, which combines work experience with academic instruction in a full-time program for credit at such institution. An individual proprietor does not report or pay premiums on wages paid to his son or daughter under the age of 18, his spouse, or his mother or father.
7. File Wage Reports on magnetic media if you report 250 or more employees. This is required by law (see WAGE AND PREMIUM REPORTS, Filing Wage Reports Electronically).

All employers are encouraged to file on diskette or CD.

Employers filing wage information by magnetic media are still required to submit their Premium Reports and the Wage Report cover sheets with their premium payments.

8. Wage and Premium reports filed over the Internet save time and reduce error. To file on the Internet go to <https://tdlwd.tn.gov/tnpaws>.

If you file your reports over the Internet DO NOT mail in paper forms (see WAGE AND PREMIUM REPORTS, Internet Reporting, TNPAWS).

9. File your Premium Report and Wage Report on the paper form supplied by the Department. If you are not filing your Wage Report by magnetic media or via TNPAWS, submit your Wage Report on the paper form supplied by the Department or on plain paper in the same format as the Wage Report supplied by the Department (see Filing Wage Information on Plain Paper).
10. Call the Employer Accounts Office for your area if you have any questions or if you need assistance. The eight Employer Accounts Offices are listed in the Directory of this Handbook.
11. Provide sufficient information on your Report to Determine Status, Application for Account Number (LB-0441) so the Department can correctly determine your industry classification. Failure to do so could result in your being assigned the highest new employer premium rate.

## **BENEFIT PROVISIONS**

### **CHARGING OF EMPLOYER FOR BENEFITS (T.C.A. Section 50-7-403(d))**

#### **Charges**

The unemployment insurance benefits paid to a claimant are charged proportionately to the employers who paid the claimant wages during the claimant's base period.

A claimant's Standard Base Period is the first four of the last five completed calendar quarters prior to the calendar quarter in which the claimant filed his claim for unemployment benefits.

The Alternate Base Period is the last four completed calendar quarters immediately preceding the day the claimant files for benefits.

For example: if an employer paid 38% of a claimant's base period wages, then that employer would be potentially liable for 38% of every benefit check the claimant received during the claimant's benefit year.

A claimant's benefit year is the 52-week period beginning the week in which the claimant first filed his claim for unemployment benefits.

All base period employers are notified when a former employee files a claim for unemployment benefits since all base period employers are potentially liable for benefit charges.

Reimbursing employers reimburse the Department dollar for dollar for the benefits charged to their account. Charge statements are sent monthly to reimbursing employers, and payment must be made for those benefits paid within 30 days of the date of notice to avoid interest charges (see **EMPLOYER ACCOUNTS PROVISIONS, REIMBURSING EMPLOYERS, Benefit Payments and Charges**).

Premium paying employers do not reimburse the Department for the benefits charged, but do have the charges deducted from their reserve accounts which directly affects their premium rates (see **EMPLOYER ACCOUNTS PROVISIONS, EXPERIENCE RATING**).

#### **Standard Base Period Chart**

#### **Noncharges**

Premium paying employers can receive a noncharge for benefits paid to former employees if the claimant was separated from that employer for voluntarily quitting or for misconduct (see Base Period Employer's Notice of Claim Filed Card).

Premium paying employers can also receive a noncharge if they are employing the claimant part-time and continue to employ the claimant to the same extent as they employed the claimant during the claimant's base period.

If a premium paying employer receives a noncharge, benefits paid to that former employee will not be deducted from the employer's reserve and will not affect the employer's premium rate (see **EMPLOYER ACCOUNTS PROVISIONS, EXPERIENCE RATING**).

Reimbursing employers do not qualify for a noncharge under any conditions (see **EMPLOYER ACCOUNTS PROVISIONS, REIMBURSING EMPLOYERS, Benefit Payments and Charges**).

#### **Benefit Overpayments**

When benefits have been erroneously paid to a claimant, an overpayment is established and the Department seeks to obtain from the claimant repayment for the amount overpaid.

A benefit overpayment is not charged to the account of a premium paying employer. If an overpayment has been established after a premium paying employer has been charged with the benefits, such employer's account will be credited with the amount of the overpayment at the time the overpayment is established.

A reimbursing employer is charged with the benefit overpayment until the claimant reimburses the Department for the overpayment. Once the claimant repays the overpayment, the reimbursing employer will receive a refund.

### **Other Benefit Charges** (T.C.A. Section 50-7-304(b)(2)(b) and (D))

The employer will be charged for his proportion of the benefits paid and no benefit overpayment will be established in cases where the benefits were paid erroneously as a result of:

1. the employer not responding on time to the separating employer's Time Sensitive Request for Separation Information and later appealing the decision and the decision is reversed in the employer's favor, or
2. the employer who does not appear at a scheduled Appeals Tribunal or Office of Administrative Review hearing but later appeals the decision and the decision is reversed in the employer's favor.

### **Separating Employer's Time Sensitive Request for Separation Information** (T.C.A. Section 50-7-304(b)(2)(C))

*NOTE: Failure to complete this form could result in unnecessary benefit charges to an employer's account and erroneous benefit payments to a claimant.*

When a claim for benefits is filed, a statement is taken from the claimant. If additional information is needed, a Time Sensitive Request for Separation Information document is mailed to the separating employer requesting information on the reason for separation. This form letter includes one of a set of questionnaires that are specific to a particular issue.

#### ***Time Sensitive Request for Separation Information***

It is very important for employers to return the reason for separation information promptly; otherwise, the claimant's eligibility determination must be based upon the claimant's statement and any other available information. If we do not have the employer's separation information, an otherwise ineligible claimant could receive benefits and the employer could be charged for those benefits. (see **SIDES, State Information Data Exchange System**)

After all the separation information has been received, the Department issues an Agency Decision (LB-0503). The Agency Decision either approves or rejects the claim. Both the employer and the claimant have 15 days to appeal the Agency Decision if they disagree with the findings. If no appeal is made, or once the appeals process is completed, the Agency Decision becomes final and binding (see **APPEAL RIGHTS**).

### **Base Period Employer's Employer Notice of Claim Filed Card**

*NOTE: Failure to complete this form could result in benefit charges to an employer's account instead of a noncharge.*

After a claimant files an initial claim, the Department sends all base period employers a Time Sensitive Employer Notice of Claim Filed (LB-0502) to notify them that their accounts are subject to being charged for their proportional share of benefits.

A base period employer is an employer who paid the claimant some wages during the claimant's base period. A claimant's base period is the first four of the last five completed calendar quarters prior to the calendar quarter in which the claimant filed his claim for unemployment benefits. The Alternate Base Period is the last four completed calendar quarters immediately preceding the day the claimant files for benefits.

If a claimant left a premium paying employer for misconduct or voluntarily quitting, the premium paying employer may request that the employer's account be given a noncharge. An employer has fifteen days from the date the Employer Notice of Claim Filed card is mailed to request a noncharge. If the employer's request for the noncharge is not postmarked within fifteen days of the date the Employer Notice of Claim Filed card is postmarked, the employer's request will not be timely and will therefore be denied.

Separating employers who are also base period employers receive the Employer Notice of Claim Filed card but do not return the card to the Department since the agency decision has already been issued to the employer and is binding.

When you request a noncharge include an explanation of the disqualifying circumstances under which the claimant left your employment, a copy of your former employee's Separation Notice (LB-0489) and any other available documentation. A request for noncharge will be denied if the employer does not send adequate documentation.

Employers who have elected to make payments in lieu of premiums (reimbursing employers) cannot be given a noncharge. The Employer Notice of Claim Filed card does let the reimbursing employer know that a former worker is unemployed in case that employer would like to offer work to the claimant.

## [Base Period Employer's Employer Notice of Claim Filed Card](#)

### **Statement of Benefit Charges**

The Department mails a Statement of Benefit Charges (LB-0481) to each employer that paid a claimant wages during the claimant's base period. The Statement of Benefit Charges lists all former employees who were paid benefits based on wages paid by that employer during the period covered by the statement, and the amount of benefits paid to former employees during that period. The Statement of Benefit Charges is mailed to reimbursing employers on a monthly basis and to premium paying employers on a quarterly basis. If you have questions about your Statement of Benefit Charges, call (615) 741-2223.

## [Statement of Benefit Charges](#)

### **SEPARATION NOTICES**

#### **Employers Required to Use (Rule 0800-09-01)**

The Tennessee Employment Security Law's Rules and Regulations require every employer to give a Separation Notice (LB-0489) to each employee whose employment has terminated or who is separated from his employment for an expected duration of seven days or more.

Separation Notices reduce the administrative cost of processing claims and help the Department make a more accurate determination of eligibility.

The employer:

1. completes the Separation Notice form in its entirety, making sure that the employee's name, social security number, and the date that employment was terminated are correct. If the claimant left for any reason other than lack of work, the employer needs to give a clear explanation of the reason for separation where indicated under item (5) on the Separation Notice.
2. gives the Separation Notice to the separated employee within 24 hours of the separation.
3. does not send a copy of the Separation Notice to the Department.
4. unless requested by the Department, does not have to give a Separation Notice to any worker who was employed for less than one week and was separated for lack of work.

If 25 or more workers are separated simultaneously from the same establishment solely due to "lack of work," the employer may file a Mass Separation Notice (LB-0490) instead of giving each separated employee an individual Separation Notices (see Mass Separation Notice).

Separation Notices may be obtained from any Labor and Workforce Development Office or by accessing our website, [www.tn.gov/workforce](http://www.tn.gov/workforce). For the Labor and Workforce Development Office nearest you go to [www.tn.gov/workforce/topic/find-local-help](http://www.tn.gov/workforce/topic/find-local-help).

## [Separation Notice](#)

### **Automated Partial Claims System**

Use this system for workers that are returning to the company within to be determined weeks. Should this information not be known at the time of submission, then have the claimant file the claim themselves.

Using APS software, employers may file partial unemployment claims electronically.

The electronic method eliminates the handling of the paper form, provides the department with accurate information and provides prompt payment for the majority of employees.

Under Tennessee law, a temporary layoff occurs when an employee works fewer than four customarily scheduled full-time days due to lack of work. If your employees have no work or earnings from your organization, you may submit partial claims on these employees. Employees must also be questioned about earnings they may have had from any other

source during the temporary layoff. Incomplete or incorrect information may result in processing delays or improper payments. It is necessary to provide the current mailing address and name. You are responsible for providing accurate and complete information. When a claim is processed, it is matched against wage records and claims currently on file in the department's benefit payment section. If the name does not match the name on file for that social security number, the claim will be rejected, and the employee will be contacted to make the necessary corrections.

An accurate address is very important, as checks will be mailed to this address. It must be the claimant's current address. If an employee's address has changed since the previous filing, the new address entered will effect an address change in the Department's benefit payment system.

Employers filing partial unemployment are not required to submit a partial claim on any individual whose earnings for a given week equal or exceed \$275, which is currently the maximum weekly benefit amount in Tennessee. Total reportable wages include holiday pay, vacation pay, voluntary loss. Voluntary loss consists of wages an individual could have earned, if he had elected to work.

## **SIDES – STATE INFORMATION DATA EXCHANGE SYSTEM**

### **Time Sensitive Request for Separation Information**

Currently the Tennessee Department of Labor and Workforce Development's Division of Employment Security mails employers a Time Sensitive Request for Separation Information to investigate separation issues. The letter contains a series of questions about the separation based on the claimant's reason for separation when filing a claim. If the reason is incorrect the employer is invited to return any information, written documentation, or employment records to support his reason for the separation. The information must be received within seven days of the mailing date of the letter. Employers may respond by e-mail with attachments, by fax, or by mail. The agency is required by federal law to issue agency decisions on claim separations within a 21-day period. We need the employer's response. Failure to respond in a timely manner could result in charges to the employer's account.

**SIDES and SIDES E-Response** (<http://www.tn.gov/workforce/article/sides-and-eresponse>)

The agency initiated a new program known as State Information Data Exchange System (SIDES) that sends and receives employer requests for separation information electronically. This information exchange is secure and allows an employer to begin the response process the first day of the claim filing. Also the data exchange system allows the employer to choose the correct issue to make his response. The employer is able to see the claimant's reason for separation, but if incorrect, is able to choose the questions from the applicable list for response.

The request for separation information may be complete online at <http://uisides.org>. In order to complete the separation request online you will need your Federal Employer Identification Number (FEIN), State Employer Identification Number (SEIN) and Identification Number/Access Code. Your Identification Number/Access Code is located at the top of the request for separation information.

If you have questions about the State Information Data Exchange System (SIDES) or SIDES E-Response please contact the SIDES help desk at [sides.helpdesk@tn.gov](mailto:sides.helpdesk@tn.gov) or call 615-532-5110 or toll-free at 855-286-7417.

## **NEW HIRE REPORTING**

Federal and state law requires all employers to report all newly hired or rehired employees, and their date of hire, to the Department of Human Services' Tennessee New Hire Reporting Program. This information is matched on a weekly basis with benefit records to detect overpayments. Cross-matching claimant records with new hire information detects and stops unemployment benefit overpayments much sooner than the traditional quarterly wage cross match. To be effective the new hire should be reported the day of the hire, and no later than five days after the hiring date. Prompt reporting of new hire information prevents fraud in the unemployment program, protects your unemployment reserve account and helps keep your unemployment premiums law. Please contact the address below for instructions on the proper reporting of future new hire information.

Tennessee New Hire Reporting Program  
P. O. Box 17367  
Nashville, TN 37217  
Phone: 1-888-715-2280, FAX: 1-877-505-4761  
<https://www.tnnewhire.com/> email address: [support@tnnewhire.com](mailto:support@tnnewhire.com)

## **BENEFIT ELIGIBILITY** (T.C.A. Sections 50-7-301, 50-7-302, 50-7-303(a))

### **Requirements**

In order to be eligible to receive unemployment benefits, a claimant must

1. Have been separated from his most recent covered employer through no fault of his own.

A claimant will not be eligible for benefits if he left his most recent covered employer for disqualifying reasons such as:

- a. voluntarily quitting without good cause connected with work,
- b. being discharged for willful misconduct connected with work, or
- c. being involved in a labor strike in active progress.

(see **BENEFIT DISQUALIFICATIONS** for more details)

2. Have earned sufficient wages during either the standard or alternate base period to be monetarily eligible for benefits. (The Standard Base Period is the first four of the last five complete calendar quarters prior to the quarter in which he filed his claim for benefits. The Alternate Base Period is the last four completed calendar quarters.)

A claimant will be monetarily eligible if the claimant had wages for insured employment of at least \$1,560.02 within the two highest quarters of his base period. A claimant must also have had the lesser of six times his weekly benefit amount or \$900 in total wages in the three quarters outside the high quarter of his base period.

A claim must be monetarily eligible before separation and personal eligibility issues are addressed.

To receive unemployment benefits an unemployed worker must establish a benefit year by filing a claim, meet work search requirements, and meet the following qualifications:

1. be totally unemployed or performing less than full-time work and earning less than his weekly benefit amount;
2. be able and available for work (unless specifically exempted in Section 50-7-302(a)(3));
3. have served a waiting period of one week\*; and
4. be making a reasonable effort to secure work, unless specifically exempted in Section 50-7-302(a)(4).

Claimants must make three work searches each week while certifying for unemployment benefits. Weekly work searches must be documented on a TUC Work Search Log.

#### T.C.A. Section 50-7-302 (a)(4)

The claimant is able to work, available for work, and making a reasonable effort to secure work. "Making a reasonable effort to secure work" means the claimant shall provide detailed information regarding contact with at least three (3) employers per week or shall access services at a career center created by the department. The administrator shall conduct random verification audits of one thousand (1,000) claimants weekly to determine if claimants are complying with the requirement of contacting at least three (3) employers per week or accessing services at a career center. The administrator shall disqualify any claimant receiving benefits who the administrator finds, as the result of a random audit or on information provided to the administrator, has provided false work search information for a period of not less than eight (8) benefit weeks.

In determining whether the claimant is making a reasonable effort to secure work, the administrator shall consider the customary methods of obtaining work in the claimant's usual occupation or any occupation for which the claimant is reasonably qualified, the current condition of the labor market, and any attachment the claimant may have to a regular job;

*\* The claimant is not paid benefits for the waiting period unless and until the claimant is certified for benefits in the claimant's waiting period and in each of the three consecutive weeks immediately following the claimant's waiting period.*

A benefit year is established when a valid claim is filed and continues for 52 weeks from the effective date of the claim.

**Weekly Benefit Amount** (T.C.A. Section 50-7-301(b))

The maximum amount of unemployment benefits a claimant is eligible to receive each week is called his weekly benefit amount (WBA).

A claimant's WBA is based on the average of his total wages in the two highest quarters of his base period (the first four of the last five completed calendar quarters prior to the calendar quarter in which he filed his initial claim for benefits). His WBA will correspond to his two-quarter average on the unemployment insurance Benefit Table. WBAs increase in increments of \$1 from a minimum WBA of \$30 to a maximum WBA of \$275. A claimant must have a two calendar-quarter average of at least \$780.01 to qualify for the minimum WBA of \$30 and a two-quarter average of at least \$7,150.01 to qualify for the maximum WBA of \$275.

**Maximum Benefit Amount and Duration of Benefits** (T.C.A. Section 50-7-301(d))

The maximum benefit amount a claimant may receive during his benefit year (the 52-week period beginning the week in which the claimant files his initial claim) is the lesser of 26 times his weekly benefit amount (WBA) or one-fourth of his total base period wages for insured work.

The lesser of these two figures is then divided by the claimant's WBA to determine the number of weeks he can draw benefits. The duration varies from 13 to 26 weeks. This formula pertains only to state TUC benefits. Federal, EUC or EB benefits, are determined by formulas provided by USDOL and change with regard to national and state unemployment rates.

**Deductible Allowance** (T.C.A. Section 50-7-301(c)(1))

A claimant's deductible allowance is the greater of \$50 or 25% of his weekly benefit amount (WBA). A claimant may earn up to his deductible allowance in wages in a week and still be eligible for his full WBA. Wages in excess of the deductible allowance are deducted dollar for dollar from a claimant's WBA. A claimant will not be eligible for benefits in any week in which he had wages equal to or in excess of his WBA (see **PARTIAL UNEMPLOYMENT**).

**Dependency Benefits**

The Dependency Allowance provides a weekly allowance payment on an eligible week of unemployment. A claimant may be eligible for dependency benefits for each benefit week of an additional sum of \$15 for each minor child not to exceed a total of \$50.

A claimant eligible for benefits shall be paid for each benefit week an additional sum of fifteen dollars (\$15.00), not to exceed a total of fifty dollars (\$50.00), for each unemancipated minor child of the claimant who is in fact wholly or mainly supported by the claimant and is:

1. Less than eighteen (18) years of age and unmarried; or
2. Less than eighteen (18) years of age and in the claimant's custody pending the adjudication of a petition filed by the claimant for the adoption of the child in a court of competent jurisdiction; or
3. Less than eighteen (18) years of age and for whom the claimant, pursuant to a decree or order from a court of competent jurisdiction, is required to contribute to the child's support and for whom no other person is receiving allowances under the subsection if the child is domiciled within the United States or its territories or possessions, the payment to be withheld and paid pursuant to § 50-7-611.

The amount of the dependency benefits determined at the start of the claim will not be reduced for the rest of the benefit year unless it is determined that the information is incorrect or that the dependency benefits should transfer from one parent to another. If both the husband and wife receive benefits with respect to a week of unemployment, only one of them is entitled to a dependency benefit with respect to a child. If both parents are claiming benefits, but are separated/divorced, the parent with whom the child lives will be entitled to the dependency benefit. If the parents live together, the first parent to file for benefits will claim the dependency benefit. Claimants may be required to submit documentation satisfactory to establish the existence of the claimed dependent. The Division of Employment Security will determine if the documentation meets the requirement. An appointed guardian of a dependent child as proven by court records may be paid dependency benefits.

The Agency will conduct random accuracy audits of claims for dependent benefits and claimants may be required to submit documentation satisfactory to establish the existence of the claimed dependent. The Agency will determine if the documentation establishes eligibility. An appointed guardian of a dependent child as proven by court records may be paid dependency benefits.

### **Military Spouse**

T.C.A. Section 50-7-303, is amended by designating the existing language of subdivision (a)(1) as subdivision (a)(1)(A) and by adding the following language as a new subdivision (a)(1)(B):

T.C.A. Section 50-7-303(B)

The disqualification provided in subdivision (a)(1)(A) shall not apply to a claimant who left employment because the claimant's spouse is a member of the armed services of the United States, the spouse is the subject of a military transfer, and the claimant left employment to accompany the claimant's spouse; provided, however, that any benefits payable under this subdivision (a)(1)(B) shall be paid from the state's general revenue funds and the payment of any such benefits shall not adversely affect the employer's experience rating for purposes of determining premiums;

Neither the separating employer nor any of the base period employers will be liable for the benefits drawn due to a separation found by the agency to qualify as eligible under this provision.

Covered employers will receive a non-charge for any UI benefits drawn as the result of an eligible separation under this provision. The non-charge will apply to any Tennessee Unemployment Compensation drawn, including any applicable dependent allowances, charged to that employer in proportion to the amount of wages contributed to the total base period earnings.

Reimbursing employers will receive credit to their UI account equal to any UI benefits drawn as the result of an eligible separation under this provision. The UI benefits drawn include all Tennessee Unemployment Compensation billed to that employer in proportion to the amount of wages contributed to the total base period earnings. The UI benefits drawn to which the credit will apply also include all federal Emergency Unemployment Compensation as well as any applicable dependent allowances.

### **BENEFIT DISQUALIFICATIONS**

#### **Voluntary Quit** (T.C.A. Section 50-7-303(a)(1))

A person who leaves his most recent work voluntarily without good cause connected with his work shall be disqualified unless the claimant left employment because the claimant's spouse is a member of the armed services of the United States and the claimant left employment to accompany the claimant's spouse. (See Military Spouse on page 41.) The disqualification will be for the ensuing period of unemployment and until he has secured subsequent employment covered by an unemployment insurance law of this state or another state and earned 10 times his weekly benefit amount.

A person will be considered to have voluntarily quit when the person accepts a monetary incentive to voluntarily separate from employment under an employer's program to reduce the work force if the monetary incentive is greater than the maximum amount of unemployment benefits the person would be eligible to receive.

#### **Sick or Disabled** (T.C.A. Section 50-7-303(a)(1))

A person forced to leave work because of sickness or disability will be disqualified for benefits while he is unable to work.

The claimant will not be disqualified for benefits once he becomes available and able for work and if **ALL** of the following conditions are met:

1. presents competent medical proof that he was forced to leave work;
2. notifies his employer of that fact as soon as it is reasonably practical to do so;
3. returns to his employer and offers himself for work as soon as he is again able to work; and
4. is able to perform his former duties.



**Pregnancy** (T.C.A. Section 50-7-303(a)(1))

Pregnancy shall be considered as any other sickness or disability (see Sick or Disabled above).

**Joining Armed Services** (T.C.A. Section 50-7-303(a)(1))

A person who leaves his work in good faith to join the armed forces of the United States will not be disqualified from receiving benefits if he becomes separated from the branch of military due to no fault of his own and returns to his former employer and is told no work is available.

**Misconduct** (T.C.A. Section 50-7-303(b)(3))

A worker will be disqualified for benefits if the discharge was for misconduct in connection with his work. A misconduct disqualification lasts until the claimant has secured subsequent employment covered by an unemployment insurance law and earned 10 times his weekly benefit amount (WBA).

This law amends T.C.A. Section 50-7-303(b)(3) by providing a new definition of misconduct.

Misconduct includes but is not limited to, the following conduct by a claimant:

- (i) Conscious disregard of the rights or interests of the employer;
- (ii) Deliberate violations or disregard of reasonable standards of behavior that the employer expects of an employee;
- (iii) Carelessness or negligence of such a degree or recurrence to show an intentional or substantial disregard of the employer's interest or to manifest equal culpability, wrongful intent or shows an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer's employer;
- (iv) Deliberate disregard of a written attendance policy and the discharge is in compliance with such policy;
- (v) A deliberate violation of a regulation set by this state which causes the employer to be sanctioned or have the employer's license revoked or suspended; or
- (vi) A violation of an employer's rule, unless the claimant can demonstrate that:
  - (a) The claimant did not know, and could not reasonably know, of the rule's requirements; or
  - (b) The rule is unlawful or not reasonably related to the job environment and performance;

A claimant can be disqualified from benefits for misconduct for a drug or alcohol related separation. Any claimant discharged for failing a drug or alcohol test and/or the Tennessee Drug Free Workplace program will be considered discharged for misconduct, and therefore disqualified for unemployment benefits.

**Incarceration**

UI benefits will be denied to any claimant for any week in which benefits are being claimed and during which, the claimant is incarcerated four or more days. Able and available issues involving incarceration will be addressed in the same manner as all other able and available issues.

**Employer Drug Testing as Hiring Requirement**

UI benefits will be denied to a claimant if that claimant has an offer of work withdrawn by an employer due to the claimant's refusal to submit to a drug test or the claimant's positive result from a drug test. This disqualification will carry a ten times re-earning requirement.

**Refusal to Seek or Accept Suitable Work** (T.C.A. Section 50-7-303(a)(3))

A claimant who fails without good cause either to apply for available, suitable work or to accept suitable work when offered will be disqualified for benefits. This disqualification lasts until the claimant has secured subsequent employment covered by an unemployment insurance law and earned 10 times his weekly benefit amount (WBA).

**Suitable Work and Wage Requirement**

Work is suitable if the work meets all the other criteria of this subdivision (3) and if the gross weekly wages for the work equal or exceed the following percentages of the claimant's average weekly wage for insured work paid to the claimant during that quarter of the claimant's base period in which the claimant's wages were highest:

- (A) One hundred percent (100%), if the work is offered during the first thirteen (13) weeks of unemployment;
- (B) Seventy-five percent (75%), if the work is offered during the fourteenth through the twenty-fifth week of unemployment;
- (C) Seventy percent (70%), if the work is offered during the twenty-sixth through the thirty-eighth week of unemployment; and
- (D) Sixty-five percent (65%), if the work is offered after the thirty-eighth week of unemployment. This subdivision (3) shall not be construed as requiring a claimant to accept employment below the federal minimum wage.

**Labor Disputes** (T.C.A. Section 50-7-303(a)(4))

A worker whose unemployment is due to a strike, which is in active progress, is not entitled to benefits for any week if he is participating in the strike or belongs to the class of workers participating in the strike.

A claimant who was indefinitely separated and eligible for benefits prior to the commencement of a labor dispute may continue to be eligible to receive benefits, even though he belongs to a grade or class of workers participating in the strike, so long as the individual is otherwise eligible and does not participate in the labor dispute. No claimant will be denied benefits due to a lockout.

**Wages in Lieu of Notice** (T.C.A. Section 50-7-303(a)(11)) and 50-7-303(b)(4))

A claimant is not entitled to any benefits for any week for which he is receiving wages in lieu of notice. Wages in lieu of notice are payments that are equivalent to the wages the individual would have earned had the individual been permitted to work during the period of notice.

**Severance Pay** (T.C.A. Section 50-7-303(b)(2)(B))

Severance pay, separation allowances, and similar payments are based, at least in part, on the services the employee performed or on the length of time the employee worked for the employer. (see **Severance Pay** on page 22)

A claimant would be ineligible for benefits during any week in which the claimant receives a severance package that includes an equivalent amount of salary the employee would have received if the employee was working during that week.

Any week(s) with respect to which the claimant receives or is entitled to severance pay will be denied.

**Monetary Incentives to Voluntarily Separate from Employment** (T.C.A. Section 50-7-303(c)(1))

A person who is offered and accepts a monetary incentive to voluntarily separate from employment under an employer's plan for work force reduction, due to lack of work, will be considered to have voluntarily quit if the monetary incentive is greater than the maximum amount of unemployment benefits the person would be eligible to receive. Such persons will not be eligible for unemployment benefits.

Persons who get monetary incentives less than the maximum amount of benefits they are eligible to receive can still draw benefits when they voluntarily separate from employment under an employer's plan for a work force reduction, due to lack of work. Monetary incentives do not include wages in lieu of notice, separation allowance, severance pay, or similar payments.

**Workers' Compensation** (T.C.A. Section 50-7-303(a)(5)(B))

A claimant is not entitled to any unemployment benefits for any week for which he is receiving compensation for temporary partial disability or temporary total disability under the Workers' Compensation Law.

**Benefits from Another State** (T.C.A. Section 50-7-303(a)(6))

A claimant is not entitled to any Tennessee unemployment insurance benefits for any week in which he is receiving or seeking unemployment insurance benefits from another state or from the United States.

**Vacation Pay** (T.C.A. Section 50-7-303(a)(9))

A claimant's weekly benefit payment is reduced or eliminated by the amount of vacation pay received for any week of vacation, vacation shutdown, or temporary layoff if the claimant will be returning to the same employer within 21 days. Benefit payments, however, are not reduced or eliminated by vacation pay received for any week of permanent or indefinite layoff.

**Retirement, Pensions, Social Security** (T.C.A. Section 50-7-303(a)(8))

Retirement and pension pay is not deducted from a claimant's weekly benefit amount (WBA) if the claimant contributed anything to the retirement or pension plan during his base period.

Retirement and pension funds are not deducted from a claimant's WBA if 100% of the funds are rolled over into an IRA.

Retirement or pension pay will be deducted from a claimant's WBA if retirement or pension pay came from a plan with a base period employer who made 100% of the contributions that were paid into the plan during the claimant's base period.

Retirement or pension pay will not be deducted from a claimant's WBA if the retirement or pension pay came from a source other than one of the claimant's base period employers.

Social security payments are not deducted from a claimant's WBA.

Military retirement pay will not be deducted from a claimant's WBA unless the branch of service was a base period employer.

**Training** (T.C.A. Section 50-7-302(a)(4)(B))

A claimant will not be denied benefits for not being available for work if the claimant is enrolled in a vocational training school or other course of study approved by the Commissioner.

**G. I. Bill** (T.C.A. Section 50-7-302(a)(4)(E))

A claimant will not be denied benefits for not being available for work if the claimant is a veteran going to school under the G.I. Bill unless the claimant is offered and refuses the same job he held immediately prior to entering school under the G.I. Bill.

**School Attendance** (T.C.A. Section 50-7-302(a)(4)(D))

A claimant will not be denied benefits for not being available for work if he was attending school, while he was employed by his separating employer, as long as he is still available for work during the same hours that he had worked prior to his separation, if he is available to seek at least 20 hours of work per week and meets necessary work search requirements. The claimant will be denied benefits if the claimant is offered and refuses the same job he held immediately prior to entering school.

A claimant will be denied benefits for not being available for work if he enrolled in school after his separation from employment and his primary objective is to obtain an education. This does not apply if the claimant is attending school on the G.I. Bill (see G.I. Bill.)

**Professional Sports** (T.C.A. Section 50-7-302(b)(3))

An individual whose services consist of participating in sports or athletic events or training or preparing to participate in sports or athletic events cannot be paid unemployment benefits between two successive sports seasons if this individual performed services in the first season and there is reasonable assurance that the individual will perform the same services in the second season.

**Illegal Aliens** (T.C.A. Section 50-7-302(b)(4))

An individual who has not been lawfully admitted for permanent residence or who does not otherwise legally reside in the United States is not eligible to receive unemployment benefits.

When an individual files a claim for benefits, he is asked if he is a citizen of the United States. All non-citizens are required to provide documentary evidence that they are authorized to work in the United States before their claim for unemployment benefits are approved. A claimant will be asked to prove citizenship if the claims taker has reason to suspect that the claimant is not a citizen of the United States.

For claimants who answer no to the question of U.S. citizenship, UI Staff use the SAVE system to verify their identity. For claimants who answer yes to the question of U.S. citizenship, UI Staff use the Social Security Administration in order to verify their identity.

#### **Educational Employees (T.C.A. Section 50-7-302(b)(2)(b)(A)(B)(i))**

An individual performing any services for an educational institution, or for a governmental educational service agency, is not eligible to receive benefits between two academic years or terms if the individual performed services in the first academic year or term and there is reasonable assurance that the individual will perform services in the second academic year or term.

An individual employed by an educational institution is not eligible to receive benefits during an established and customary vacation period or holiday recess that has been predetermined as part of a school calendar year.

Individuals employed by an educational institution, school crossing guards that work for the police or sheriff's office, and/or substitute teachers that work for private agencies are not eligible to receive benefits during an established and customary vacation period or holiday recess that has been predetermined as part of a school calendar year.

#### **Claimants Referred to Reemployment Services (T.C.A. Section 50-7-302(a)(8))**

A claimant, identified through the Department's RESA system for referral to reemployment services, will be disqualified from benefits if the claimant is not participating in the reemployment services.

#### **APPEAL RIGHTS (T.C.A. Section 50-7-304) (Rules 0800-11-01 through 0800-11-04)**

##### **Agency Decision**

If an employer does not agree with the decision regarding a former employee's eligibility for unemployment benefits, the employer may appeal that decision. The former employee also has the right to appeal a denial of his claim for benefits. The right of appeal is available to claimants, employers, and the Commissioner.

An appeal will not interrupt benefit payments if the appeal is from an approved Agency Decision. Benefit payments will be subject to repayment by the claimant if the appeal results in the employer's favor.

Employers who elect to appeal a decision should do so within the statutory 15 days from the date the Agency Decision is mailed and should be prepared to present their case on the date designated for the hearing. Hearings will be scheduled as promptly as possible, as delay could increase the amount of overpayments on approved claims that are later reversed. Continuances of hearings will be granted only under the most compelling circumstances.

The burden of proof in a hearing involving an employee being separated from work is generally determined by who initiated the separation. When the employee voluntarily quits, the burden of proof is on the employee to show a good work related reason for leaving. When the employee was terminated by the employer, the burden of proof is on the employer to show the hearing officer that the claimant engaged in work related misconduct.

##### **Appeal to Appeals Tribunal**

Once the Department makes the Agency Decision, any interested party may appeal to the Appeals Tribunal within 15 calendar days after the mailing of the decision.

The notice of appeal must be in writing and may be filed by letter or on the Appeal of Agency Decision form (LB-1069). Appeals to the Appeals Tribunal may be mailed or faxed to:

Appeals Tribunal  
Department of Labor and Workforce Development  
220 French Landing Drive  
Nashville, TN 37243-1002

An Unemployment Hearing Officer presides over an Appeals Tribunal hearing.

Appeals hearings are held by telephone or at a regional location near the local office where the claim was filed. The record made at that hearing is the basis for the subsequent decision.

An Appeals Tribunal's Unemployment Hearing Officer's decision becomes final 15 days from the date issued unless appealed to the Commissioner's Designee.

### [Appeal of Agency Decision](#)

#### **Appeal to Commissioner's Designee**

*NOTE: In the absence of an appeal to the Commissioner's Designee, the Unemployment Hearing Officer may, within 30 days after the date of mailing notification, reconsider the decision at which time the interested parties will be notified of the reconsidered decision and the reasons.*

A notice of appeal to the Commissioner's Designee may be filed either by letter or on the Notice of Appeal Form. Appeals to the Commissioner's Designee may be mailed or faxed to:

Commissioner's Designee  
Department of Labor and Workforce Development  
220 French Landing Drive  
Nashville, TN 37243-1002  
FAX (615)741-0290

Appeals to the Commissioner's Designee are usually decided on the basis of the evidence already in the Unemployment Hearing Officer's record, but the Commissioner's Designee may take additional evidence to enable it to reach a decision. It is vital that the employer or his representative appear at each scheduled hearing.

In hearing an appeal on the record, the Commissioner's Designee may limit the parties to oral arguments, the filing of written arguments, or both. If the Commissioner's Designee needs additional evidence to enable it to reach a decision, the interested parties will be notified. The Commissioner's Designee may affirm, modify, or set aside any decision of the Unemployment Hearing Officer. Copies of the decision are mailed to all interested parties.

The decision of the Commissioner's Designee becomes final 10 days after the interested parties are notified, in the absence of a Petition to Rehear.

#### **Appeal to Court**

Within 30 days after the Commissioner's Designee's decision has become final, any aggrieved party may file a Petition for Judicial Review in the Chancery Court of the county where the party resides. If the party resides outside the State of Tennessee, the Petition for Judicial Review may be filed in Davidson County, Tennessee.

#### **Benefit Payments, Overpayments and Charges During Appeals (T.C.A. Section 50-7-304(b)(2))**

When a former employee appeals a denied claim, such individual will not receive benefits unless and until the denial is reversed. If the appeal results in the former employee's favor, the former employee will receive all retroactive benefits he would have been eligible to receive had his claim been approved from the date of filing.

When an employer appeals an approved claim, the claimant will continue to receive benefits unless and until the decision has been reversed.

When a benefit eligibility decision is reversed in the employer's favor, an overpayment is established and the employer is not charged for benefits provided:

1. the employer filed the Time Sensitive Request for Separation Information on time, and
2. the employer appeared at all scheduled Appeals Tribunal and Commissioner's Designee hearings, and

3. the employer is not a reimbursing employer. (see **EMPLOYER ACCOUNTS PROVISIONS, REIMBURSING EMPLOYERS, Benefit Payments and Charges**).

The employer will be charged for his proportion of the benefits paid up until the time of the decision reversal, and the former employee will not be charged for a benefit overpayment in cases where:

1. the employer does not respond on time to the separating employer's Time Sensitive Request for Separation Information but later appeals the decision and the decision is reversed in the employer's favor, or
2. the employer does not appear at a scheduled Appeals Tribunal or Commissioner's Designee hearing but later appeals the decision and the decision is reversed in the employer's favor.

## **CLAIMS FOR BENEFITS**

### **When the Employer Files the Claim**

An employer files a partial unemployment claim for any employee whose hours have been reduced to the point the employee is partially unemployed (see **PARTIAL UNEMPLOYMENT**). Employers can also file claims for their employees if there is a mass layoff of one to fifteen weeks (see **MASS LAYOFF**). After fifteen weeks a partial is automatically converted to a total claim. Claimants are advised of their responsibilities when this occurs.

### **Tennessee Claims Filed by Residents of Tennessee**

Claimants living in Tennessee file their claim for unemployment benefits either by telephone or by Internet. Residents of Fayette, Lauderdale, Shelby and Tipton counties may file a claim by Internet or at their local Labor and Workforce Development Benefit Office.

For location of benefit offices access our Web site: [www.tn.gov/labor-wfd/Claimants/benefitoffices.html](http://www.tn.gov/labor-wfd/Claimants/benefitoffices.html).

### **Tennessee Claims Filed by Residents of Another State**

Tennessee claimants living outside of Tennessee can file their claim over the telephone by calling toll-free 1-877-813-0950.

### **Internet Claims**

Out of state residents and Tennessee residents in all counties can file a claim via the Internet. Out of state residents needing to file a federal or military claim must call the UI Claim Center.

To file a claim via the Internet, go to <https://ui.tn.gov/>.

## **PARTIAL UNEMPLOYMENT (T.C.A. Sections 50-7-211 and 50-7-302(c), Rule 0800-09-01)**

### **Definition (T.C.A. Section 50-7-211, Rule 0800-09-01)**

A week of partial unemployment is a week in which an employee, due to lack of work, worked less than his regular full-time hours and earned less than his weekly benefit amount (WBA), but more than his deductible allowance. A claimant's deductible allowance is the greater of \$50 or 25% of the claimant's WBA (see **BENEFIT ELIGIBILITY, Deductible Allowance**).

### **When an Employer Must File**

An employer must file a partial unemployment claim for an employee immediately after the end of the week in which the employee was partially unemployed. The employer may file the partial claim on a Joint Low Earnings Report and Claim for Benefits for Partial Unemployment form LB-0487.

### **Electronic Submissions**

Electronic submissions must be made via the APS Program. Registration and use of the APS Program may be set up at <https://tdlwd.tn.gov/apsweb/>.

## **Joint Low Earnings Report and Claim for Benefits for Partial Unemployment form, LB-0487**

When the Joint Low Earnings Report and Claim for Benefits for Partial Unemployment, LB-0487, is used, the employer and employee are both required to sign the form. When the employer files a partial unemployment claim for an employee, the employee does not have to file a claim for benefits.

**Joint Low Earnings Report and Claim for Benefits for Partial Unemployment** (T.C.A. Section 50-7-211; Rules 0800-09-01)

An employer must file a Joint Low Earnings Report and Claim for Benefits for Partial Unemployment (LB-0487) immediately after the end of any week in which an employee had partial unemployment as defined above. The employer continues to furnish an employee this form immediately following each week the employee's earnings fall below his weekly benefit amount due to lack of work.

The UI Claims Center can only accept forms via U.S. Mail or fax. The employee does not have to file a claim for benefits.

This form may also be used for weeks of total unemployment during mass separations with expected durations of seven weeks or less if prior arrangements are made with the Labor and Workforce Development Local Office (see **MASS LAYOFFS**).

### [Joint Low Earnings Report and Claim for Benefits for Partial Unemployment](#)

#### **Filing Partial Claims via APS Internet-Based Program**

Employers may file partial claims via APS internet-based program instead of using the Joint Low Earnings and Claim for Benefits for Partial Unemployment paper form.

This method of filing partial claims eliminates the handling of the paper form and speeds up the payment process for the majority of employees whose claims are filed by computer diskette.

Employers are responsible for entering all their data into the system.

Computer diskettes and modems may also be used for reporting weeks of total unemployment during mass separations with expected durations of seven weeks or less (see **MASS LAYOFFS**).

Employers interested in filing partial claims via APS Internet-Based Program should contact the APS Unit at [account.partials@tn.gov](mailto:account.partials@tn.gov).

#### **Timely Filing of Partial Claims** (Section 50-7-302(c))

There is a \$50 fine for not filing a partial claim on time.

A partial unemployment claim for a week must be filed within 14 days of the day the employer gave the employee a statement of the employee's earnings for that week.

The employer must continue to file a partial claim for that employee for each week the employee's earnings are less than his unemployment weekly benefit amount because there was a lack of work.

Claims filed for a week of total unemployment must be filed within seven days from the end of the week in which the employment begins (see **MASS LAYOFFS**).

#### **MASS LAYOFFS** (Rule 0800-09-01-.08)

Mass Layoff Instructions and mass layoff electronic form may be completed by going to <http://www.state.tn.us/labor-wfd/Employers/employers.shtml>. This method replaces the paper Mass Separation Notice, LB-0490.

A Mass Layoff Notice may be filed in place of the individual Separation Notice (LB-0489) when two or more employees are laid off at the same time due to lack of work. For extremely large mass layoffs with an expected duration of one to fifteen weeks, employers can utilize the APS Internet-Based Program.

The Joint Low Earnings Report and Claim for Benefits for Partial Unemployment serves as the Separation Notice so the employer does not have to issue individual Separation Notices and serves as the claimant's Initial Claim for Unemployment Compensation so the claimant does not have to report in person to file a claim for benefits.

Employers must file the Joint Low Earnings Report and Claim for Benefits for Partial Unemployment (LB-0487) for a week of total unemployment within seven days from the end of the week in which the unemployment begins. This is to meet the Federal requirement that all benefits for weeks of total unemployment be paid within 14 days from the end of the week in which the unemployment began. If Tennessee does not meet this requirement, the Tennessee Department of Labor and Workforce Development's Division of Employment Security could lose its administrative funds and Tennessee employers could lose their 5.4% offset credit against FUTA (see **EMPLOYER ACCOUNTS PROVISIONS, PREMIUMS AND TAXES The Federal Unemployment Tax (FUTA)**).

There is a \$50 fine for not filing the Joint Low Earnings Report and Claim for Benefits for Partial Unemployment (LB-0487) within the seven days when reporting total unemployment.

The Joint Low Earnings and Claim for Benefits for Partial Unemployment form may be obtained from your Labor and Workforce Development Office or our Web site [www.tn.gov/workforce](http://www.tn.gov/workforce).

If you have questions or need assistance, please contact the Partial Claim Unit at [account.partials@tn.gov](mailto:account.partials@tn.gov). This will allow the Partial Claim Unit to forward appropriate required forms and information to the employer.

#### **INTERSTATE CLAIMS (Rule 0800-09-01-.02)**

If an individual earned base period wages in covered employment in Tennessee and becomes unemployed after moving to another state, he may file an interstate claim against Tennessee by telephone, 1-877-813-0950, or by Internet, <https://ui.tn.gov>. The Tennessee Department of Labor and Workforce Development, Division of Employment Security, follows the usual procedure with respect to protest, appeal, etc., in administering interstate claims. Final determinations are made in the same manner as if the claim had been originally filed in Tennessee.

If an individual moves to Tennessee after earning base period wages in another state, he may file an interstate claim by contacting the other state in the listing shown on the [ICON Guide Card](#). If the other state does not take claims by telephone or Internet, then the claimant would contact the UI Claims Center, 1-877-813-0950 or (615) 253-0800 in order to file.

Claimants who reside in Fayette, Lauderdale, Shelby and Tipton counties may file a claim for benefits through their local benefits office or by Internet <https://ui.tn.gov>. Go to <http://www.tn.gov/labor-wfd/Claimants/benefitoffices.html> for a listing of benefit offices.

#### **FRAUD (T.C.A. Sections 50-7-708 through 715)**

##### **Penalties Set Forth by Law**

Tennessee law provides severe penalties for making a false statement or fraudulent representation or knowingly withholding material information for the purpose of obtaining or increasing unemployment benefits. The offense is a felony and, upon conviction, an individual is subject to a fine or imprisonment from one to three years.

##### **50-7-715. Repayment of unemployment benefits as a result of a violation of this chapter -- Interest on amount due -- Appeal does not toll interest -- Application of moneys received.**

(a) Any person who has received unemployment benefits by knowingly misrepresenting, misstating, or failing to disclose any material fact, or by making a false statement or false representation without a good faith belief as to the correctness of the statement or representation, after a determination by the commissioner that such a violation has occurred, shall be required to repay the amount of benefits received.

(b) (1) The commissioner shall assess a penalty equal to fifteen percent (15%) of the overpaid benefits as described in subsection (a), to comply with the requirements of 42 U.S.C. § 503(a)(11). Moneys collected by this penalty shall be deposited into the unemployment compensation fund as provided in § 50-7-501.

(2) The commissioner shall further assess a penalty equal to seven and one-half percent (7.5%) of the overpaid benefits described in subsection (a). Moneys collected by this penalty shall be used to defray the costs of deterring, detecting, or



collecting overpayments. The penalty provided in this subdivision (b)(2) is in addition to the penalty provided in subdivision (b)(1).

**(c)(1)** In addition to the requirements of subsections (a) and (b), the commissioner shall assess interest at a rate of no more than one and one-half percent (1.5%) per month on the total amount due that remains unpaid for a period of thirty (30) or more calendar days after the date on which the commissioner sends notice of the commissioner's determination that a violation has occurred to the last known address of the claimant. For purposes of this subdivision (c)(1), "total amount due" includes the unemployment benefits received pursuant to subsection (a) and the penalties provided for in subsection (b).

**(2)** A pending appeal of the order of the commissioner shall not suspend the assessment of interest on unemployment benefits obtained in violation of this chapter.

**(d)** Moneys received by the department in repayment of unemployment benefits and payment of penalties and interest pursuant to subsections (a), (b)(2), and (c) shall first be applied to the unemployment benefits received, then to any interest due. These moneys shall be used by the department to defray the costs of deterring, detecting or collecting overpayments.

### **Prevention and Detection**

A Benefit Payment Control Unit, with investigators across the state, works full-time to investigate fraud cases.

Anyone knowing of or suspecting benefit payment fraud can call or write to report such cases. Tips can be anonymous and all tips are investigated.

Benefit Payment Control  
Tennessee Department of Labor and Workforce Development  
Division of Employment Security  
P. O. Box 24150  
Nashville, TN 37202  
1-615-741-2606  
FAX: 1-615-253-5331  
Email: [esadmin.fraud@state.tn.us](mailto:esadmin.fraud@state.tn.us)  
Web site: [www.tn.gov/labor-wfd/Claimants/benefitaudit.html](http://www.tn.gov/labor-wfd/Claimants/benefitaudit.html)

In addition, the regular unemployment insurance procedures contain many safeguards against the payment of fraudulent claims:

1. All wages reported on the Wage Report (LB-0851) and Premium Report (LB-0456) are cross-matched with claims paid during the same period. When the cross match shows that an employer paid wages to a claimant during the same quarter in which the claimant received benefits, the employer is sent an Unemployment Insurance Audit (LB-0518) to determine if the claimant worked and earned wages during the same week he received benefits.

The Unemployment Insurance Audit lists the weeks the claimant received benefits. If the claimant worked and earned wages during any of those weeks listed on the audit, the employer fills in the amount of wages earned for each week that applies and returns the audit to the Department. If the claimant worked and received benefits for the same week(s), an overpayment is then established, and the claimant is instructed to repay any benefits he was not entitled to receive. If the audit is part of an investigation resulting from a tip or lead, the employer may receive a request for wage information in the form of a letter rather than an unemployment insurance audit.

#### **Unemployment Insurance Audit**

2. The Tennessee New Hire Reporting Program requires employers to report newly hired or rehired employees. This information is matched on a weekly basis with benefit records to detect overpayments. This method detects overpayments much sooner than the traditional quarterly wage cross match. The prompt reporting of new hire information prevents fraud in the Unemployment Compensation program, protects your Unemployment Reserve Account and keeps your Unemployment Insurance taxes low. Please contact the address below for instructions on the proper reporting of future new hire information.

Tennessee New Hire Reporting Program  
Customer Service: 1-888-715-2280  
Tennessee New Hire Reporting  
P.O. Box 17367  
Nashville, TN 37217

<https://www.tnnewhire.com/>

email address: support@tnnewhire.com

FAX (New Hire Reports only): 1-877-505-4761

For general child support questions please call the Tennessee Department of Human Services at 1-800-838-6911.

3. Tennessee employers provide Separation Notices (LB-0489) to all separated workers, stating reasons for separation and length of employment (see **SEPARATION NOTICES**).
4. If the reason for separation is other than lack of work, the claimant's separating employer receives a Time Sensitive Request for Separation Information. This notice gives the employer an opportunity to request a predetermination hearing or submit written information.
5. All base period employers are sent a Time Sensitive Employer Notice of Claim Filed (LB-0502) when a former employee files a claim.
6. For each week that an individual files a claim for benefits, the claimant is required to certify that he was unemployed, available for work, and had not refused any suitable work offered. The claimant must also report any wages earned that week on the weekly certification.
7. The Statement of Benefit Charges (LB-0481) is mailed quarterly and notifies the employer of any payments made to a former worker and charged to the employer's account. If the employer has knowledge that a claimant was working or was ineligible for any week for which benefits were paid, he should submit such information to the Department immediately (see **CHARGING EMPLOYER FOR BENEFITS, Statement of Benefit Charges**).
8. Periodically during a claim series, each claimant is required to have an Eligibility Review Interview to explore his continuing eligibility for benefits.
9. The Benefit Accuracy Measurement Unit (BAM) investigates randomly selected sample claim payments to insure that all benefit payments were proper and to insure that all unemployment insurance laws and policies were followed. Claimants who received the payments and their employers are contacted and all records are verified to determine if there are any errors in the benefit payments and the causes of the errors.

#### **POINTS EMPLOYERS SHOULD REMEMBER REGARDING BENEFIT PROVISIONS**

1. Keep accurate records. If a former employee claims he was paid more than he actually was, you need proof of his actual earnings.
2. Send in your completed Tennessee New Hire Report within three days of the new hire or rehire to stop possible unemployment benefit overpayments (see **NEW HIRE REPORTING**).
3. Document circumstances leading up to and relating to a separation. Furnish each separated employee a Separation Notice (LB-0489) within 24 hours of the separation. This is required by the Rules of the Tennessee Employment Security Law and helps the Department make a more accurate determination of benefit eligibility (see **SEPARATION NOTICES**).
4. Answer requests for separation information promptly and in detail. Respond to the Time Sensitive Request for Separation Information and the Employer Notice of Claim Filed card (LB-0502) by the date specified on the form. Failure to do so could result in unnecessary charges (see **CHARGING AN EMPLOYER FOR BENEFITS, Separating Time Sensitive Request for Separation Information and Base Period Employer's Notice of Claim Filed card**).

5. Verify each Statement of Benefit Charges (LB-0481) (see **CHARGING OF EMPLOYER FOR BENEFITS, Statement of Benefit Charges**). The employer and the claimant have the right to appeal any determination of benefits believed to be incorrect within 15 calendar days from mailing date of the notice (see **APPEAL RIGHTS**).
6. Attend all Appeals Tribunal hearings and Commissioner's Designee hearings with the appropriate witnesses and applicable records. If an employer does not appear at a hearing and later appeals the decision and the decision is reversed in the employer's favor, no overpayment will be established. The employer will be charged with the benefits paid to the claimant up until the decision was reversed.
7. List all job openings with Job Service so that claimants can be referred to these openings (see **JOB SERVICE PROVISIONS**). Instructions for how job openings may be posted by going to our website: [www.tn.gov/workforce](http://www.tn.gov/workforce) or <https://www.jobs4tn.gov/>.
8. Report all cases of benefit or employer fraud. Tips can be anonymous and all tips are investigated. To report fraud contact:

Benefit Payment Control  
Tennessee Department of Labor and Workforce Development  
Division of Employment Security  
P. O. Box 24150  
Nashville, TN 37202  
1-615-741-2606  
Email address: [esadmin.fraud@state.tn.us](mailto:esadmin.fraud@state.tn.us)  
Website: [www.tn.gov/workforce/topic/benefit-overpayments](http://www.tn.gov/workforce/topic/benefit-overpayments)

9. Call the Unemployment Insurance toll-free help line number 1-800-344-8337 if you have questions. The number is available from 9:00 a.m. to 5:30 p.m. Eastern Time and 8:00 a.m. to 4:30 p.m. Central Time.

## **JOB SERVICE PROVISIONS**

### **WHAT IS JOB SERVICE?**

Job Service is the largest employment agency in the country and is here to help employers find qualified job applicants and save both time and money. Services provided by Job Service are free to both employers and individuals seeking employment

A portion of the tax dollars employers pay every quarter under the Federal Unemployment Tax Act (FUTA) goes toward administering Job Service. As a covered employer interested in conserving the Unemployment Compensation Trust Fund, it is to your advantage to list all your job openings with the nearest Tennessee Career Center ([www.jobs4tn.gov](http://www.jobs4tn.gov)).

The prompt placement of unemployed, qualified workers in jobs reduces the amount of benefits paid from the Unemployment Compensation Trust Fund and stimulates the economy of your community and state.

Tennessee's Job Service has the largest computer-based job applicant pools in the state. Job seekers listed with the agency have a variety of educational backgrounds and work experience. Some are recent high school graduates looking for their first jobs, while others are experienced professionals holding advanced degrees.

The Department receives over 85,000 job openings a year in a broad range of fields, including professional and technical occupations. Currently over 208,000 individuals a year enter employment following services provided by Job Service staff.

Experienced interviewers use the latest technology to help bring employers and job applicants together, and we customize the services to meet the employer's needs. For example, mass recruitment can be designed to aid individual employers in filling a large number of vacancies. Our services are especially important to the small employer because our systems provide broad recruitment opportunities and save valuable staff time.

Job Service is delivered in Tennessee Career Centers across the state.

## **LISTING JOB OPENINGS WITH JOB SERVICE**

### **How to List a Job Opening**

Listing a job with Job Service is an easy process with these four steps:

1. Call, fax or go to our web site and give your complete job description (see Where to List a Job Opening).
2. Job Service staff identifies and interviews qualified applicants and sets up appointments.
3. An applicant will bring an introduction card to the appointment.
4. After you interview the applicant, we request that you complete and return the letter with results to us. This referral letter, with results, allows us to know how to serve you even better in the future.

### **Where to List a Job Opening**

Employers list job openings (1) online ([www.Jobs4TN.gov](http://www.Jobs4TN.gov)) (2) by telephone or (3) by fax at the nearest Career Centers or Job Service Office.

Online:                   click Employers  
                              scroll to Recruit Employees  
                              go to EMPLOYERS Register in Jobs4TN to Post Job Openings

List by Phone:         Call the nearest Tennessee Career Center with the description of the job opening. Staff will help you prepare your description to enable us to send precisely the candidates you need. For the Tennessee Career Center nearest you, call 1-800-576-3467.

List by Fax:            Complete the Job Order Fax Transmittal form on our web site, print out a copy and fax it to the Tennessee Career Center nearest the job. To complete and print a copy of the Job Order Fax Transmittal form from the website, go to [www.tn.gov/workforce](http://www.tn.gov/workforce).

### **Completing a Job Order**

When completing a job order, the following information is needed:

1. Name of a contact person and telephone number for the personnel director or person conducting the interview
2. Job title
3. Educational requirements
4. Minimum years of experience required
5. List of duties
6. Days and hours (e.g., Monday through Friday, 8:00 a.m. to 4:30 p.m.)
7. Whether the job is permanent or temporary
8. Salary range
9. Pay periods e.g.: are employees paid weekly, bi-monthly, monthly?
10. Number of referrals you wish to have
11. Interviewing instructions; for example, by appointment only or during certain hours

## **EMPLOYER SERVICES PROVIDED BY JOB SERVICE**

### **Pre-screening Applicants**

Job Service staff analyzes job applicants, pre-screens them for you based on your minimum requirements provided, and refers qualified candidates to you.

### **On-Site Screening**

Job Service will set up on-site to take applications for large plant openings or expansions.

### **Office Space**

In some cases, employers can use Tennessee Career Service offices to allow you privacy for interviewing prospective employees.

### **Co-advertising**

Employers can use the Tennessee Career Center name in their recruitment advertising and can arrange for job applicants to report to a Job Service office to fill out application forms and undergo pre-screening interviews and possible testing. (Please contact the Tennessee Career Center for advertisement approval prior to advertising.)

### **Referral to Training**

Some employers work with Job Service to plan for their future employment needs. We refer some job applicants for specific training through the Workforce Investment Act (WIA) programs. These programs provide training to build a stronger workforce.

### **Job Central** (<http://www.us.jobs>)

Employers who list job openings with Job Service receive national exposure. Our agency is part of a larger network that links more than 2,000 state employment service offices nationwide and lists an estimated 500,000 job openings daily. Job Central has approximately 30 million inquiries/hits per year.

### **Professional Referrals**

Our staff can help fill your professional job openings including technical, managerial, and high-level sales occupations.

## **SERVICES PROVIDED FOR PERSONS LOOKING FOR WORK**

1. Referral to appropriate jobs or services.
2. Special assistance for veterans and special applicant groups. (Veterans always receive Priority Service)
3. Employment counseling for applicants needing assistance in selecting, changing or holding a job.
4. Refer applicants for testing to assist them in choosing a career. (Our WIA partners administer assessments)
5. Information on training programs (both institutional and on-the-job) available to assist applicants in improving their employability status. (WIA partners deliver this service)
6. Information on support services (vocational, rehabilitation, human services) within the community that can assist applicants with problems the Tennessee Career Center is not designed to solve.

## **OBLIGATIONS OF EMPLOYERS WITH FEDERAL CONTRACTS**

### **Required to List Job Openings with Job Service**

USC Title 38 Section 4212 requires that any employer who enters into contracts with any Department or agency of the United States in the amount of \$100,000 or greater incurs an obligation to list job orders through the Tennessee employment service delivery system Jobs4TN at <https://www.jobs4tn.gov/> immediately when employment opportunities

are identified. Executive and senior management positions, positions to be filled within the company and positions lasting less than three days are exempt.

USC Title 38 Section 4212 also pertains to subcontractors who enter into contracts with the prime contractor in the amount of \$100,000 or greater.

### **Veteran Preference**

The above-mentioned employers also incur an obligation to employ and advance in employment qualified covered veterans of the Armed Forces of the United States.

“qualified” means, with respect to an employment position, having the ability to perform the essential functions of the position with or without reasonable accommodation for an individual with a disability

“covered veterans” means veterans of the United States Armed Forces who:

- a. are disabled veterans, or
- b. who served on active duty in the Armed Forces during a war or in a campaign or expedition for which a campaign badge has been authorized, or
- c. who have separated from the Armed Forces with any discharge other than dishonorable.

A key role of the Department of Labor and Workforce Development is to assist employers with understanding and complying with these federal laws. Most of the Tennessee Career Center offices have specially trained staff who can explain the federal law and assist employers in complying with the provisions.

For further assistance contact the state Labor Exchange Unit at 615-253-6389 (FAX 615-741-6392).

## **LABOR MARKET INFORMATION AND LABOR MARKET INFORMATION PROVISIONS**

### **FREE LABOR MARKET INFORMATION**

State and local Labor Market Information (LMI) is available to the public through the Department's Labor Market Information Section. Free Labor Market Information includes:

- affirmative action data
- available labor
- labor force, employment, and unemployment estimates by county
- state and county unemployment rates
- nonagricultural employment estimates
- occupational employment projections
- wage data
- labor supply and demand data
- census data
- education and training program data

### **THE SOURCE** (<https://www.jobs4tn.gov>)

The Source is a comprehensive Internet Labor Market System that individuals and businesses use to make informed decisions based on facts about the Tennessee labor market.

If you are interested in working, hiring, locating a new company or expanding a current one anywhere in Tennessee, facts crucial to these decisions are available quickly and easily. Questions this system can answer include:

1. What wages do I, as a business, need to offer to hire competitively?
2. How much is my industry sector expected to grow in the future?
3. Will I be able to find the trained employees I need if I locate in the specific area of Tennessee I am considering?
4. What is the general economic situation in the cities and counties I am interested in?

#### **WHERE TO OBTAIN LABOR MARKET INFORMATION**

Labor Market Information (LMI) may be obtained at the Labor Market Information Office in your area (see DIRECTORY), over the Internet (see **THE SOURCE** or LMI) or by contacting:

Tennessee Department of Labor and Workforce Development  
Labor Market Information  
220 French Landing Drive  
Nashville, TN 37243-1002  
615-741-2284  
FAX 615-532-9434  
<http://www.tn.gov/labor-wfd/lmi.htm>

## FORMS OF INTEREST TO TENNESSEE EMPLOYERS

### Premium Forms

NUMBER	TITLE
LB-0441	<a href="#">Report to Determine Status Application for Employer Number</a> (Information for completing Status Application)
LB-0443	<a href="#">Report to Determine Status – State and Local Government</a>
LB-0444	<a href="#">Report to Determine Status – Nonprofit Organizations</a>
LB-0910	<a href="#">Application for Client Number</a>
LB-0456	<a href="#">Employer's Quarterly Premium Report</a>
LB-0851	<a href="#">Employer's Quarterly Wage Report</a>
LB-0459	<a href="#">Claim for Adjustment or Refund</a>
LB-0460	<a href="#">Delinquent Notice</a>
LB-0603	Employer Statement
LB-0475	<a href="#">Notice of Pending Assessment</a>
LB-0483	<a href="#">Application for Transfer of Experience Rating Record</a>
LB-0481	<a href="#">Statement of Benefits Charged to Employer's Experience Rating Account</a>
LB-0482	<a href="#">Notice of Premium Rate</a>
LB-0518	<a href="#">Unemployment Insurance Audit</a>
LB-0564	<a href="#">Employer's Notice of Account Number and Premium Rate</a>
LB-1062	<a href="#">Employer's Notification of UI Claims Inquiry Address</a> Multiple Worksite Report

### Benefit Forms

LB-0489	<a href="#">Separation Notice</a>
LB-0490	Mass Separation Notice ( <i>replaced by electronic version</i> )
LB-0486	<a href="#">Initial Claim Form</a>
LB-0487	<a href="#">Joint Low Earnings Report and Claim for Benefits for Partial Unemployment</a>
LB-0502	<a href="#">Employer Notice of Claim Filed Card</a>
LB-0810	<a href="#">Time Sensitive Request for Separation Information</a>
LB-0503	<a href="#">Agency Decision</a>
LB-0569	Notice of Hearing, Commissioner's Designee
LB-0894	<a href="#">Request to Withdraw Appeal</a>
LB-0895	<a href="#">Request for Subpoena</a>
LB-0896	<a href="#">Request to Reschedule a Hearing</a>
LB-0897	<a href="#">Notice of Appeal</a>
LB-1069	<a href="#">Appeal of Agency Decision</a>



## STATE POSTERS REQUIRED FOR TENNESSEE EMPLOYERS

TOSHA Safety and Health

[TN Unemployment Insurance for Employees](#)

Wage Regulation/Child Labor

Workers' Compensation Posting Notice

Required Human Rights Poster (TN Human Rights Commission)

For posters listed above go to [www.tn.gov/workforce](http://www.tn.gov/workforce) and go to Employer Posters under Online Services/Programs. Contact the Labor and Workforce Development Communication office if you have any questions about required posters (615)741-2257.

Contact U.S. Department of Labor for required federal posters:

<http://www.dol.gov/oasam/boc/osdbu/sbrefa/poster/matrix.htm#.ULd7TWfhcUo>

