

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

# HANDBOOK FOR EMPLOYERS

*June 13, 2019*



*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.

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## 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 you can also visit the Tennessee Department of Labor and Workforce Development website at:

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

## **PRIVACY ACT STATEMENT**

Wage and other confidential unemployment claim information may be requested and utilized for other governmental purposes, including, but not limited to, verification of eligibility for other government programs pursuant to 20 CFR 603.11.

Confidential Unemployment Insurance information will only be released to the party who provided the information via written request to the agency.

## **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

Appealing a Claim for Benefits	Online through your unemployment account on <a href="http://www.jobs4TN.gov">www.jobs4TN.gov</a> , Email to <a href="mailto:At.newappeals@tn.gov">At.newappeals@tn.gov</a> , FAX 615-741-8933
Benefits, File for Unemployment	For permanent separations or where employer is not submitting partial claims, a worker would set up an account and file an unemployment claim on <a href="http://www.jobs4TN.gov">www.jobs4TN.gov</a> .
Claims Office Questions	<a href="https://lwdsupport.tn.gov/hc/en-us/requests/new?ticket_form=135978#new_request">https://lwdsupport.tn.gov/hc/en-us/requests/new?ticket_form=135978#new request</a> Or Live Chat offered on <a href="http://www.tn.gov/workforce">www.tn.gov/workforce</a>
Commissioner's Designee (Office of Administrative Review)	Zendesk 615-239-1314; fax 615-741-0290; <a href="mailto:OAR.Info@tn.gov">OAR.Info@tn.gov</a> ; file an appeal through your unemployment account on JOBS4TN.
Department Toll Free Number	844-244-5818
Employer Accounts Offices list Accounts	<a href="https://www.tn.gov/workforce">https://www.tn.gov/workforce</a> > Employers > Unemployment Insurance Tax > Employer Offices

Memphis Employer Accounts Office  
4240 Hickory Hill Rd, Ste. B  
Memphis, TN 38141  
P. O. Box 750006  
Memphis, TN 38175-0006

Fayette, Shelby, Tipton

901/543-7543  
FAX 901/543-7882

Humboldt Employer Accounts Office  
1481 W. Mullins St  
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  
220 French Landing Dr, 2B  
Nashville, TN 37243

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.,  
Ste 112  
Columbia, TN 38401  
P. O. Box 1019  
Columbia, TN 38402-1019

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 Pkwy, Suit 202  
Chattanooga, TN 37402

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  
2700 Middlebrook Pk, Ste 100  
Knoxville, TN 37921-5672  
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 Dr  
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

Labor Market Information      615-741-2284

Fraud                                [BPC@jobs4tn.zendesk.com](mailto:BPC@jobs4tn.zendesk.com), phone: 615-206-3116, fax: 615-770-7403

Liabilities Questions            844-244-5818 or call your local Employer Accounts Office found at  
<https://www.tn.gov/workforce/employers/tax-and-insurance-redirect/unemployment-insurance-tax/employer-accounts-offices.html>

SIDES E-Response                email: [sides.helpdesk@tn.gov](mailto:sides.helpdesk@tn.gov)  
  
<https://www.tn.gov/workforce/employers/tax-and-insurance-redirect/unemployment-insurance-tax/employer-accounts-offices.html>

Internet Reporting                <https://tnpaws.tn.gov/>

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## DEFINITIONS

**2% Penalty Rate for SUTA Dumping** - The penalty rate levied against employers who have engaged in SUTA (State Unemployment Tax Act) Dumping violations.

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

**American Job Center** – A regional center network that provides six core programs: title I Adult, Dislocated Worker, and Youth 3 programs; the title II Adult Education and Family Literacy Act (AEFLA) program; the Wagner-Peyser Act Employment Service (ES) program, authorized under the Wagner-Peyser Act, as amended by title III of WIOA (Workforce Innovation and Opportunity Act); and the Vocational Rehabilitation (VR) program, authorized under title I of the Rehabilitation Act of 1973, as amended by title IV of WIOA. The American Job Center network also includes other required and additional partners identified in WIOA and by USDOL.

**Appeal** – action that is filed to Appeals Tribunal by internet, mail, fax or email when an interested party disagrees with an Agency Determination that offers appeal rights; action that is filed to Office of Administrative Review when an interested party disagrees with an Appeals Tribunal determination.

**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** - The first four of the last five completed calendar quarters immediately preceding the establishment of a claimant's benefit year on an unemployment claim.

**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.

**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.

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**Employer Account Number** – [jobs4tn.gov](http://jobs4tn.gov) uses the first seven digits of the account number assigned by the Department. It 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 eight Employer Accounts Offices throughout Tennessee which are staffed by Employer Accounts Auditors.

An Employer Accounts Auditor's duties include the auditing of employer's records, collecting delinquent 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. 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 on one state and do not qualify for a new claim on another state.

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

**Interested Parties** – The Commissioner, the claimant, the separating employer, all base period employers, or any employer directly involved in the facts of the issue.

**Jobs4TN** - (<https://www.jobs4tn.gov/>) – Internet system used by employers to establish recruiting and unemployment insurance accounts and access labor market information with our Agency. Employers can receive and send correspondence about unemployment claims electronically, review and respond to statement of benefit charges, file appeals, etc. Unemployed individuals also file new, additional and reopening unemployment claims on this site as well as certifying weekly for benefits. Claimants can do work searches on JOBS4TN, can inquiry their claim status and balance as well as file appeals and wage protests.

**Partial Claim** – This is 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. The employer files the claim and the claimant files the weekly certification. Employer contact is through [partial.claims@tn.gov](mailto:partial.claims@tn.gov).

**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.

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**Separation Notice** - A form that the Tennessee Employment Security Rules require every employer to supply every employee within 24 hours after the worker's separation from employment (when date and reason for separation are not being submitted by employer to Agency by an electronically transmitted method or Mass Separation Notice). Separation Notices are available online at <https://www.tn.gov/workforce/general-resources/forms.html> by entering LB-0489 into the Search Box.

**SIDES** - State Information Data Exchange System – For large and/or multi state employers, it is a computer to computer interface where employers customize their programming to interface with SIDES for incoming and outgoing correspondence on separation requests on unemployment claims.

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

A web based system known as State Information Data Exchange System (SIDES) E-Response sends and receives employer requests for separation information electronically and does not require special programming by the employer. 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 (State Unemployment Tax Act) 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** - If the Trust Fund balance on December 31 of any year is less than \$900 million, the taxable wage base for the following calendar year is \$9,000. If the Trust Fund balance is above \$900 million, but less than \$1 billion on December 31 of any year, the taxable wage base for the following calendar year is \$8,000. If the Trust Fund balance is over \$1 billion on any December 31 of any year, the taxable wage base for the following calendar year is \$7,000.

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

**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 or Other Divisions' Questions:** 844-224-5818 – A customer service representative will provide answers or direct you to the needed part of our Agency for assistance. Call the Department's toll-free 844-224-5818 from 8:00 a.m. to 4:30 p.m. central on week days (except state holidays) if you have questions.

**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 approved monetarily eligible unemployment 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 if all eligibility criteria are met in the answers of the weekly certification.

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

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## 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 website, [tn.gov/workforce](http://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: 844-224-5818

## **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.

### **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).

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### **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 as of 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).

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## **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 our website at <https://www.tn.gov/workforce/general-resources/forms.html>
- from your local Employer Accounts Office listed in the Directory,
- by contacting Employer Services, Tennessee Department of Labor and Workforce Development, Division of Employment Security, 220 French Landing Drive, Nashville, Tennessee, 37243-1002.
- By calling 844-224-5818

## **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 calculated on the taxable wage base 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.
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## **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:

TN Dept. of Labor & Workforce Development  
Employer Services  
220 French Landing Drive, 3-B  
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 844-224-5818.

## **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 website or may be obtained from a local Employer Accounts Office listed in the Directory of this Handbook. You may also call 844-224-5818.

#### **Application for Client Number**

The Application for Client Number must provide:

1. The professional employer organization's Aggregate State Number and Name,
  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.
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The professional employer organization must notify the Department of Labor and Workforce Development in writing of any additions (by completing LB-0910) 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 and Premium Reports for each client under each client's Client Number. The client's premium rate each quarter will be the premium rate for the professional employer organization'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** all the premiums paid to the Aggregate State Number of the professional employer organization for all year ending on the December 31 computation date. (This includes premiums that were paid of each client for all years each client was a client of the professional employer organization.)

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.

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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 sector 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.

### **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.
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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 rate is not affected by benefit charges.
4. *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.*
5. 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.
6. 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.
7. 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.
8. 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.
9. 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.
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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 844-224-5818 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 ensuring 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 844-224-5818 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.

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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. The 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. The 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. The 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.

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### **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;
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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 non-tenured 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;
  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.
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## 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 844-244-5818 for assistance.

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.

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## **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.
- 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 844-224-5818.
- 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 844-224-5818.

## **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 taxable wage base from zero as of July 1.

### **Taxable Wage Base**

Tennessee employers only pay unemployment premiums to Tennessee on the taxable wage base in effect for each covered employee in a calendar year (see WAGE AND PREMIUM REPORTS, Reporting Wages). Depending on the balance in the Unemployment Compensation Trust Fund the taxable wage base can be \$7,000, \$8,000 or \$9,000. Please visit our website or contact us at 844-224-5818 to determine the taxable wage base in effect.

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## **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 10.00 percent, depending on an employer's use of the unemployment insurance 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 and Premium Report (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.

### **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 sector. The new employer rates fluctuate for each twelve month period beginning each July 1 to reflect the change in the industry sector 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 sector with the highest new employer rate.*

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New employer premium rates for new nongovernmental employers are based on the North American Industry Classification System (NAICS). If a NAICS industry sector's reserve ratio is less than zero percent (-0.0%), new nongovernmental employers in that NAICS industry sector are assigned the premium rate for their NAICS 2-digit industry sector. 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 sectors 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
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- 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 (TCA Section 50-7-303(a)(12))**

A claimant shall be disqualified for benefits if the claimant received a severance package from an employer that includes an equivalent amount of salary the employee would have received if the employee was working during that week.

Severance payments are reported by employers to the Agency and can be used to establish monetary eligibility for a future claim base period. However, this type of wages cannot be used to remove any 5X or 10X re-earnings requirements on an unemployment claim.

**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. Sickness or accident disability made to an employee or any of the employee's dependents that is awarded under a worker's compensation law are not considered wages 50-7-213(d)(1)(B) .
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. Any third party that makes payments for sickness or accident disability to an employee or any of the employee's dependents that is awarded under a worker's compensation law shall be treated as the employer with respect to the wages, except as otherwise provided in regulations prescribed by the commissioner

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.

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

Any employer who has been ordered to pay Back Pay due to a loss of wages is required to report the Back Pay award in the calendar quarter during which the payment is made.

An employer that is party to a back pay award settlement representing loss of wages is required to report this to the division of employment security within thirty (30) days of the ruling.

This settlement will constitute wages paid in the period for which it was awarded.

Required information needed by employment security is amount of the award settlement, name and social security number of the recipient and calendar weeks for which the back pay was awarded.

### **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 ensure 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)**

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.

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## **Notice of Employer Premium Rate**

The Notice of 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.

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

An employer should check the Notice of 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 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 recompilation of your premium rate. If you have any questions call the Employer Services Unit at 844-224-5818 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 and Premium Report (see **WAGE AND PREMIUM REPORTS**). 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, Taxable Wages, or Premiums Due*.

### **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.

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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.

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.

## **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. 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 Wage and Premium reports.

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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(h) if he does not agree with the Employer Accounts Auditor's findings.

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 Wage and Premium Report 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).

[Wage Report](#)

[Premium Report](#)

Effective January 1, 2019, the Tennessee Employment Security law requires employers to file their quarterly Wage and Premium Report electronically. Visit the department's website to discover acceptable methods of filing.

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).

### **Reporting Total Monthly Employment**

This information is mandatory. The U.S. Department of Labor – Bureau of Labor Statistics, the U.S. Department of Commerce, and the Employment and Training Administration use this information in a number of national statistics. Employers must report a count of all full-time and part-time employees (please don't include wages in these fields) 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)**

The accurate reporting of employee wages is required of all employers. The Wage Report contains fields for reporting the Social Security Number, First Name, MI, Last Name, and Total Wages Paid for the quarter. 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.

Tennessee employers only pay unemployment premiums to Tennessee on the taxable wage base in effect for each covered employee in 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 taxable 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.

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

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 active employer.

To report via the Internet, go to the TNPAWS home page, <https://tnpaws.tn.gov/>, 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.

Employers can pay their premiums by ACH Credit (see Paying Premiums Electronically below) or by ACH Debit (see Paying Premiums Electronically below).

### **Filing Wage and Premium Reports by Third Party Upload (TPU) <https://tdlwd.tn.gov/TPA>**

Third Party Upload (TPU) is reporting method to transmit multiple returns in a single ICESA formatted file. The ICESA file must be in text format and not exceed 300MB. TPU will scan the incoming file for proper file type and formatting. If any errors are detected, a message will be displayed explaining the error. Once the file passes all edits, it will be accepted and a confirmation message will be displayed and emailed to the registered user. TPU receives the corresponding payment from ACH Credit files.

An example of the Interstate Conference of Employment Security Agencies (ICESA) file layout is available here:

<https://www.tn.gov/content/dam/tn/workforce/documents/unemployment/ICESAFormat.pdf>

### **Paying Premiums Electronically**

Employers may pay their premiums electronically by Automated Clearing House (ACH) Credit or Debit.

To begin paying by ACH Credit, an employer first must make arrangements with their financial institution.

Employers must use the specified format provided on the Department’s website at [tn.gov/workforce](https://tn.gov/workforce) when initiating payments by ACH Credit.

To begin paying by ACH Debit, after you click submit to your Wage and Premium Report, you will receive a confirmation number and on that screen a PAY ONLINE button will appear. By clicking the button, the system will direct you to our banking website to make payment by entering the appropriate information on the screen.

For questions concerning electronic payment of premiums, call 844-224-5818.

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### **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 844-224-5818.

### **“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.

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 quarterly 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. Employers are encouraged to use the credit on the next quarterly Premium Report.

*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 and Premium Report.

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**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 and Premium Report
under reported taxable wages only	complete the Claim for Adjustment or Refund (LB-0459)
under reported total wages only	complete a supplemental Wage and Premium Report
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 and Premium Report
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 (see "NOTE" below)
omission of social security	SSN Correction number(s) (LB-0755)

If the correction results in additional premiums due, remit payment immediately.

If the correction results in an overpayment, a credit will be issued to apply against future premiums due. 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.

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

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## **Claim for Adjustment or Refund**

Claim for Adjustment or Refund (LB-0459) may be obtained from the website ,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 844-224-5818.

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 the quarterly Premium Report is not filed by the date due, or if an employer intentionally files an incomplete quarterly Premium 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.

*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**).*

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### **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 and Premium Report 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)**

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.

### **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 required posters online: <https://www.tn.gov/workforce> > Publications (at bottom of page) > Required Posters.

Other posters employers must display are listed in the back of this Handbook under POSTERS REQUIRED TO BE DISPLAYED BY EMPLOYERS. Required State and Federal posters are also accessible online at <https://www.tn.gov/workforce> > Publications (at bottom of page) > Required Posters.

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

1. Pay premiums only on the taxable wage base for each employee in a calendar year, but report total wages paid to each employee for the quarter on the Wage and Premium Report .
  2. Report wages in the calendar quarter in which they are paid, not in the calendar quarter in which they are earned.
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3. Check the Notice of Employer's Premium Rate (LB-0482) for accuracy. If it is incorrect, notify the Department in writing within 30 days of receipt of notice (see EXPERIENCE RATING, Appealing Your Premium Rate).
4. File all Wage and Premium Reports 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; enrolled at a non-profit or public educational institution, which combines work experience with academic instruction in a full-time program for credit at such institutions; and certain family members of an individual proprietor (his son or daughter under the age of 18, his spouse, or his mother or father).
7. File Wage Reports. This is required by law (see WAGE AND PREMIUM REPORTS, Filing Wage Reports Electronically).
8. Wage and Premium reports by law need to be filed via the internet. <https://tnpaws.tn.gov/>.
9. 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.
10. Provide sufficient information on your Report to Determine Status, 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.

The following forms are available online at <https://www.tn.gov/workforce/general-resources/forms.html> typing the LB number or form title in the Search box.

1. Form LB-0441 Report to Determine Status – Application for Employer Number
2. Form LB-0444 Report to Determine Status – Nonprofit Organizations, Private Primary, Secondary Schools
3. Form LB-0443 Report to Determine Status – State and Local Government

### **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 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.

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's claim for unemployment benefits has been approved 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**).

#### **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 Approved Claim).

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**).

#### **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 *Notice of Separation and Wage Request* 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.
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## Separating Employer's Notice of Separation and Wage Request (T.C.A. Section 50-7-304(b)(2)(C))

When a new claim for benefits is filed, a statement is provided by the claimant on reason for separation from each employer listed by claimant in the 18-month work history portion. Unless the employer has already submitted lack of work information to the Department, a Notice of Separation and Wage Request is sent to the separating employer requesting information on the reason for separation. If the employer has an active unemployment account on [www.jobs4TN.gov](http://www.jobs4TN.gov), requests are sent by the correspondence preference of choice: message center (on employer's dashboard), email or postal mail.

NOTES: Failure to respond timely could result in erroneous payments which will be charged to your account if the claim is approved. Claimant will not be required to repay benefits if a redetermination is based on late receipt of information from you by this office or the appeals tribunal (TCA 50-7-304(b)(2), as amended).

If there is no employer response and letter was sent to the correct address on record, the claimant's eligibility determination must be based upon the claimant's statement and any other available information. If incomplete information is received by the adjudicator, then a 48-hour notice will be generated requesting more information. When sufficient separation information is not received timely, an otherwise ineligible claimant could receive benefits and the employer could be charged for those benefits. (see **SIDES, State Information Data Exchange System**)

After the fact finding process has been completed, the Department issues a Separation Determination This approves or rejects the claim. An appeal can be filed within 15 days of date of mailing if claimant or employer disagrees with the findings. If no appeal is made-the Determination becomes final and binding unless there is a request for reconsideration within one year from the date of the making of any nonmonetary determination (see **APPEAL RIGHTS**).

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

When an unemployment claim first becomes approved or a denial is reversed by the appeals process, the Department issues a Statement of Potential Charges (Notice of Approved Claim to notify all base period employers 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 part or all 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.

If a claimant left a premium paying base period employer for misconduct or voluntarily quitting without good cause connected with work, the premium paying employer may request that the employer's account be given a noncharge. An employer has fifteen days from the date the Notice of Approved Claim is mailed to request a timely noncharge. Methods to pursue a request for noncharge are: online through your unemployment account dashboard on [www.JOS4TN.gov](http://www.JOS4TN.gov), fax at 615-770-7410, email to [Benefit.charge@tn.gov](mailto:Benefit.charge@tn.gov), through <http://uisides.org> or postal mail to TDLWD Benefit Charge Unit, P O Box 24827, Nashville, TN 37202-4827. If the employer's request for the noncharge is not postmarked or received within fifteen days of the Notice of Claim Filed statement's date of mailing, the employer's request will not be timely and will therefore be denied.

Separating employers who are also base period employers receive the Notice of Approved Claim but do not return it to the Department. Separating employers who are also base period employers may file an appeal if they disagree with the Agency's separation determination.

When you are base period only, if 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.

In 2013, TCA 50-7-407 was amended in reference to reimbursing employers:

(a) Notwithstanding any other provision of this chapter to the contrary, if a claimant employed by a reimbursing employer on a continuous part-time basis continues to be employed by the reimbursing employer while separated from other employment and is eligible for benefits, **any benefits paid will not be considered attributable to the service with the reimbursing employer.**

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(b) For the purposes of this section, "reimbursing employer" means an eligible employer who elects to reimburse the state for benefits paid in lieu of premiums, as provided by the Federal Unemployment Tax Act, compiled in 26 U.S.C. 3301 ,et. seq., or this chapter.

### **Statement of Benefit Charges**

The Statement of Benefit Charges (LB-0481) is available online once you are logged in to [www.JOBS4TN.gov](http://www.JOBS4TN.gov) to premium paying employers 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).

The Statement of Benefit Charges is mailed monthly to reimbursing employers. If the employer has any knowledge that a claimant listed was working or was ineligible for any week for which benefits were paid, he should submit such information to the Department immediately.

## **SEPARATION NOTICES, EMPLOYER FILED CLAIMS**

### **SIDES – State Information Data Exchange System**

Large employers or Third Party Administrators who have customized their computer programming to interface with SIDES are sent a Notice of Separation and Wage Request electronically. 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. TCA 1-3-102 states the time shall be computed by excluding the first day and including the last, unless the last day is a Saturday, a Sunday, or a legal holiday, and then it shall also be excluded.

Employers not registered with SIDES, E-SIDES or JOBS4TN 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 E-Response**

The State Information Data Exchange System (SIDES) E-Response sends and receives employer requests for separation information electronically. SIDES E-Response does not require programming changes by the employer. 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 Notice of Separation and Wage Request may be completed online at <http://uisides.org>. -

For an overview on SIDES and SIDES E-Response, employers can access <https://www.tn.gov/workforce/employers/staffing-redirect/layoffs---unemployment/sides.html>.

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).

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## 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:

Q. 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:

1. Voluntarily quitting without good cause connected with work,
2. Being discharged for willful misconduct connected with work, or
3. Being involved in a labor strike in active progress.

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

4. Have earned sufficient wages during the base period to be monetarily eligible for benefits.

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 (**if directed**), 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).

*\* The claimant is not paid benefits for the waiting period unless and until the claimant has certified for benefits in the claimant's waiting period and in each of the three consecutive weeks immediately following the claimant's waiting period. Claimants must make three work searches each week while certifying for unemployment benefits (unless a member of a hiring union, job attached with a recall within 16 weeks or attending approved training by the Administrator) OR access one service at a career center created by the department.*

When directed, complete work search information is part of claimant's weekly certification for benefits. The sources are:

1. Work searches performed through JOBS4TN during a calendar week are prefilled into the certification when it is filed timely.
2. Claimant manually enters details when resource other than JOBS4TN was used.

### 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 verify whether 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 has provided false work search information. 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;"

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 weekly unemployment benefits a claimant is eligible to receive 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. Claimant's earnings outside the highest quarter in his base period must be equal to or greater than the lesser of 6 X his WBA or \$900.

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

The maximum benefit amount (MBA) that 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 Earnings Allowance (T.C.A. Section 50-7-301(c)(1))**

A claimant's deductible earnings 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**)

### **Military Spouse**

According to Public Chapter 682 in 2012, 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):

#### **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 which was 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.

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## **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" section above). 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. This disqualification shall not apply to a claimant who left the claimant's work in good faith to join the armed forces of the United States.

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.

A. 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;
- iv. Deliberate disregard of a written attendance policy and the discharge is in compliance with such policy;
- v. A knowing violation of a regulation of this state by an employee of an employer licensed by this state, which violation would cause the employer to be sanctioned or have the employer's license revoked or suspended by this state; 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;

B. Misconduct also includes any conduct by a claimant involving dishonesty arising out of the claimant's employment that constitutes an essential element of a crime for which the claimant was convicted;

C. Misconduct also includes any conduct constituting a criminal offense for which the claimant has been convicted or charged that:

- a. Involves dishonesty arising out of the claimant's employment; or
- b. Was committed while the claimant was acting within the scope of employment;

### **Incarceration (T.C.A. Section 50-302(a)(4)(F))**

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 (TCA Section 50-303 (a)(14))**

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).

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### **Suitable Work and Wage Requirement (T.C.A. Section 50-7-303(a)(3))**

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.

NOTE: The past several decades have required federal extensions of unemployment benefits due to high unemployment rates. Claimants exhausting regular benefits after 13 to 26 weeks would have federal guidelines on what is a suitable work while certifying on a federal extension.

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

A worker whose unemployment is due to a labor dispute (other than a lockout) that is in active progress at the factory, establishment or other premises at which the claimant was last employed, 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. The disqualification shall be for the duration of the labor dispute or until the claimant has secured employment covered by an unemployment compensation law and was paid ten times the claimant's weekly benefit amount.

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 means wages paid under circumstances where the employer, not having given an advance notice of separation to the employee, and irrespective of the length of service of the employee, makes a payment to the employee equivalent to the wages the employee could have earned had the employee been permitted to work during the period of notice.

### **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. Such persons will not be eligible for unemployment benefits.

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

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.

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**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 at the end of the vacation period. Benefit payments, however, are not reduced or eliminated by vacation pay received for any week of permanent or indefinite lay off.

**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 Administrator. Federal government training programs through Workforce Innovation and Opportunity Act (WIOA) and Trade Adjustment Assistance (TAA) are two of many types of study approved by the Administrator.

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

A professional athlete who files a claim will be rejected if he meets all of the following:

- A. His benefits are based on services substantially all (90%) of which consist of participating in sports or athletic events or training or preparing to participate in sport or athletic events;
- B. He files for unemployment benefits between two (2) successive sports seasons or similar periods after having performed such services in the first of such seasons or similar periods; and,
- C. There is a reasonable assurance that he will perform such services in the next successive season or similar period whether or not with the same team or contract.

**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. For claimants who answer "no" to the question of U.S. citizenship, the SAVE (Systematic Alien Verification for Entitlements) Program and the Social Security Administration interface is used to verify their identity. For claimants who answer "yes" to the question of U.S. citizenship, the Social Security Administration interface is utilized in order to verify their identity.

All non-citizens are required to provide a copy of their immigration documents (such as Permanent Resident card (I-551) or Employment Authorization card (I-766) ) to verify that they are lawfully authorized to work in the United States before their claim for unemployment benefits is approved.

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

Federal amendments in the 1970's provided for services to specific entities to be covered employment that had not been covered before and TCA was updated to give guidance on benefits based on service after 12-31-77. While causing new monetary eligibility in the base period of a claim, these amendments and subsequent TCA generally prohibited individuals who worked for educational institutions (state and local government and non-profits) from being eligible for unemployment compensation based on these services when school was not in session if the individuals had a contract or reasonable assurance of working for an educational institution when school resumed.

They are commonly referred to as the "between and within terms" denial provisions.

They also include any educational service agency which is defined to be a governmental entity that is established and operated exclusively for the purpose of providing the services to one or more educational institution.

Crossing guards, working for a governmental entity such as the police or sheriff's office, at an educational institution location, are subject to the reasonable assurance requirement. They also 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.

NOTE: If a claimant has sufficient wages in the base period from employers that are NOT educational institutions and NOT educational service agencies, claimant may draw during school within term breaks and summer breaks if lack of work and otherwise eligible on the non-school related monetary...

## **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 separation issue 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 a claimant, a specific interested party employer, 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 **unless** employer's failure to respond timely or failure to appear in a prior hearing resulted in erroneous payments that then would be charged to your account if the claim is approved. .

Employers who elect to appeal a decision should do so within the statutory 15 calendar 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 for a good cause.

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 or nonmonetary determination, any interested party may appeal to the Appeals Tribunal within 15 calendar days after the mailing of the decision.

Employers that decide to file an appeal should choose ONE of the following:

- Online (fastest option) -- Login to your JOBS4TN unemployment insurance account and click on Appeal line that shows the decision with which you disagree.
- Email – Complete the “I appeal” section on decision, scan the page and email it to [At.newappeals@tn.gov](mailto:At.newappeals@tn.gov).
- Fax – Complete the “I appeal” section on the decision and fax it to 615-741-8933.
- Postal mail – Complete the “I appeal” section on the decision, make a copy for your records and mail original to:

Tennessee Department of Labor & Workforce Development  
ATTN: Appeals Tribunal  
220 French Landing Dr  
Nashville, TN 37243-1002

NOTE: Allow adequate time for delivery of postal mail.

Make sure your appeal is postmarked by the appeal deadline provided on page 1 of the decision.

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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 testimony and other evidence presented at that hearing is the basis for the subsequent decision. All proceedings are recorded.

An Appeals Tribunal Unemployment Hearing Officer's decision **becomes final 15 days from the date issued UNLESS**:

- A person requests a reopening of the appeal if a party or his representative did not appear at the hearing
  - An appeal is filed to the Office of Administrative Review.
  - 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.
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## Request to Reopen an Appeal to the Appeals Tribunal

### REOPENING APPEAL REQUESTS

If a party or his representative did not appear at the hearing, the person may request a reopening of the appeal. The request for reopening must list the reasons in writing why the failure to appear occurred. The request to reopen must be received by the Appeals Tribunal within TEN CALENDAR DAYS of the date of the hearing, as indicated on the first page of this notice. Reopening the appeal will be granted only if good cause is shown. See section below on where to submit reopen requests. All parties will be notified of the decision made on the reopening request in accordance with the delivery method you select in JOBS4TN.GOV. Any denied requests to reopen an appeal are automatically forwarded to the Tennessee Office of Administrative Review as a next level appeal.

### WHERE TO SUBMIT REOPEN APPEAL REQUESTS

Be sure to include your name, docket number, and daytime phone number where you can be reached. All correspondence should be sent to the Appeals Tribunal.

Online: Login to JOBS4TN.GOV at [www.jobs4tn.gov](http://www.jobs4tn.gov).  
From the JOBS4TN.GOV dashboard, click the Appeals Tab.

Email: [At.newappeals@tn.gov](mailto:At.newappeals@tn.gov)

Postal mail: Tennessee Department of Labor & Workforce Development  
Appeals Tribunal  
220 French Landing Dr  
Nashville, TN 37243-1002

**NOTE: Allow adequate time for delivery of postal mail.**

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## Appeals to the Commissioner's Designee

The Appeals Tribunal Decision becomes final within fifteen (15) calendar days from the date of mailing on the Appeals Tribunal Decision unless an appeal is filed to the Commissioner's Designee within the Office of Administrative Review.

An appeal can be filed in one of the following ways:

Online: [www.jobs4tn.gov](http://www.jobs4tn.gov)

From the [jobs4tn.gov](http://jobs4tn.gov) dashboard, click the *More Unemployment Services* link, then select *Appeals* and follow directions.

Postal Mail:

Tennessee Department of Labor & Workforce Development  
Commissioner's Designee/Office of Administrative Review  
220 French Landing Dr.  
Nashville, TN 37243-1002

Fax: (615) 741-0290

Email: [OAR.Info@tn.gov](mailto:OAR.Info@tn.gov)

Be sure to include the parties' names, docket number, and the reasons why you disagree with the Appeals Tribunal Decision.

The Commissioner's Designee will review the case record and the recording of the Appeals Tribunal hearing. Most cases are decided on the existing record. If additional evidence is offered, the Commissioner's Designee may set a hearing to consider the evidence before making a decision.

The Commissioner's Designee may affirm, modify, or set aside any decision of the Appeals Tribunal. The Commissioner's Designee may also remand the case to the Appeals Tribunal for another hearing and decision or the Agency for further investigation.

The Commissioner's Designee will make a decision and mail it to the parties as soon as possible. The decision will become final ten (10) calendar days after the date of mailing.

If an additional hearing was scheduled before the Commissioner's Designee and a party missed the hearing, the party may request a rehearing [Rule 0800-11-03-.04] within ten (10) days after the scheduled hearing. A rehearing may be granted upon a showing of good cause.

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## Petition for Judicial Review in Chancery Court

### 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 may be filed in the county where the Employer is located. Any Petition for Judicial Review of tax liability must be filed in the Chancery Court of Davidson County.

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

When a claimant appeals a denied claim, such individual will not receive benefits unless and until the denial is reversed. If the appeal results in the claimant's favor, the claimant will receive all retroactive benefits the claimant would have been eligible to receive had the 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 responded to the Notice of Separation and Wage Request 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 its 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 Notice of Separation and Wage Request 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.
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## **MASS LAYOFFS (Rule 0800-09-01-.08)**

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.

The mass layoff instructions and mass layoff spreadsheet may be obtained by contacting the Training, Research and Compliance (TRAC) Unit by email at [Mass.layoff@tn.gov](mailto:Mass.layoff@tn.gov). When the list is submitted before claims are filed, the system can electronically verify the lack of work information which eliminates the need for a request letter to the employer.

## **PARTIAL UNEMPLOYMENT and EMPLOYER FILED PARTIAL CLAIMS**

**(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).

For extremely large mass layoffs with an expected duration of one to fifteen weeks, employers contact the Training, Research and Compliance (TRAC) Unit by email at [Partial.claims@tn.gov](mailto:Partial.claims@tn.gov) to request instructions and spreadsheet for filing partial claims. This process is utilized when an employer experiences a temporary layoff and wishes to maintain their valued and experienced workforce. Claimants are not required to do work searches when certifying after an employer filed partial claim. It is important for the employer to contact the TRAC Unit before the week of partial unemployment occurs.

## **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 internet at [www.JOBS4TN.gov](http://www.JOBS4TN.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 claimant resided in Tennessee when filing the claim. .

If an individual moves to Tennessee after earning base period wages in another state, he may file an interstate claim through the other state's designated method (internet or phone or both) shown on the Interstate Guide found at [https://www.tn.gov/content/dam/tn/workforce/documents/unemployment/ICON\\_Guide.pdf](https://www.tn.gov/content/dam/tn/workforce/documents/unemployment/ICON_Guide.pdf).

To file a claim against the Virgin Islands, the individual would phone Claims Operations at 877-813-0950.

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## POINTS EMPLOYERS SHOULD REMEMBER REGARDING BENEFIT PROVISIONS

1. Keep accurate wage 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. Keep witness names and dates of irregular occurrences that lead to a verbal warning, written warning, suspension and termination. You have the option of maintaining an employer policy handbook that is reviewed annually by workers who date and sign statements that they have read and understood the policies. This would be documentation you could include after an individual is discharged.
  4. 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. When mass lack of work notices are not utilized, an individual lack of work Separation Notice forwarded from the claimant will expedite adjudication of the claim. (see **SEPARATION NOTICES**).
  5. Answer requests for separation information promptly and in detail. Respond to the Notice of Separation and Wage Request and the Employer Charge Notice of Approved Claim (LB-0502) by the date specified on the form. Failure to do so could result in unnecessary charges to your account.
  6. Review any determinations you receive on approval of claims filed by former employees and file an appeal timely if you disagree with the decision. Verify names on each Statement of Benefit Charges (LB-0481) received.
  7. 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 claimant overpayment will be established. The employer will be charged with the benefits paid to the claimant up until the decision was reversed.
  8. Register for an account at [www.JOBS4TN.gov](http://www.JOBS4TN.gov) if you have not already done so.
    - i. Register for **Unemployment Benefits Services** – view and respond to requests on former workers' claims, respond to statements of potential charges, file appeals. You can view documents electronically through your dashboard when you choose message center as preferred choice of communication.
    - ii. Also Register **for Recruiting Services** – perform labor exchange functions such as recruiting talent, online resume search, applicant tracking and researching the local labor market.
  9. Call the Department's toll-free number 844-224-5818 from 8:00 a.m. to 4:30 p.m. central on week days (except state holidays) if you have questions.
  10. Chat with our Department using the Life Chat feature at the bottom of the screen on our home page at <https://www.tn.gov/workforce>. Hours are 8:00 a.m. to 4:00 p.m. central on week days (except state holidays).
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## 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	Statement of Potential Charges (Notice of Approved Claim) *when OPC is finished
LB-0810	Notice of Separation and Wage Request
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>

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## **STATE POSTERS REQUIRED FOR TENNESSEE EMPLOYERS**

TOSHA Safety and Health  
TN Unemployment Insurance Poster for Employees  
Regulation/Child Labor  
Workers' Compensation Posting Notice  
Discrimination in Employment (TN Human Rights Commission)

For posters listed above go to [tn.gov/workforce](http://tn.gov/workforce) > Publications (at bottom of page) > Required Posters > click on link of needed poster title.

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:  
<https://www.dol.gov/general/topics/posters>

