

NEW YORK STATE DEPARTMENT OF LABOR  
Unemployment Insurance Division – Liability and Determination Section  
W A Harriman Campus – Albany NY 12240-0322

**IMPORTANT NOTICE TO EMPLOYERS**  
**HOW TO KEEP YOUR UNEMPLOYMENT INSURANCE COSTS DOWN**

There are several factors that combine to determine an employer's unemployment insurance costs. Tax rates are affected by benefits paid to former employees, the overall condition of the unemployment insurance fund and the employer's reporting history. Employers can take steps to manage these factors so that costs can be kept as low as possible.

**1. Submit quarterly reports and payments completely, accurately and on time**

Missing or late reports or payments can affect your costs in several ways:

- Wages reported on form NYS-45, Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return, Part C (or form NYS-45-ATT, or magnetic media, if applicable) are used in the calculation of benefits for former employees. Missing or inaccurate reports can cause benefit overpayments which unnecessarily deplete the unemployment insurance fund and may result in an increased tax rate for the employer. Beginning in 2001, if missing or inaccurate wage reporting information is discovered through a benefit claim, a penalty of \$25 may be assessed.
- If unemployment insurance contributions are not paid when due, interest is assessed at the rate of 12% per year. The assessment of interest on overdue amounts is mandatory.
- Contributions paid more than 60 days after their due date cannot be credited to the employer's account for the purpose of calculating tax rates. Consequently, an increased tax rate may result.
- Previously, employers who failed to file all required reports by December 31 could not have their tax rates calculated on the basis of their unemployment insurance experience, and were assigned the maximum allowable tax rate for the following year. Beginning with tax rates calculated for 2001, employers who failed to file all required reports will not automatically be assigned the maximum tax rate. Instead, the Department of Labor will use estimated wages to calculate a tax rate based on experience. Since estimated wages will be used, there may be an adverse affect on the employer's tax rate for 2001 and future years.
- Unemployment insurance reporting is consolidated with withholding tax and wage reporting through use of the form NYS-45, Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return. Penalties may be imposed for failure to file reports, or failure to file complete, accurate, and timely reports. Form NYS-45 is mailed to the employer before the end of the quarter and is due by the end of the month following the close of calendar quarter.

If an employer does not receive the quarterly reporting form at least two weeks prior to the due date, the employer should phone 1 (800) 972-1233.

- An employer subject to the Federal Unemployment Tax Act (FUTA) will obtain a 5.4 percent credit against the federal tax if the state tax is paid in full by January 31 following the close of the taxable year. If the state tax is paid after January 31, the credit is limited to 90 percent of the amount which would have been allowable as a credit had the state tax been paid on time. Unless the state tax is paid, no credit may be taken against the federal tax. Re-employment Service Fund tax paid may not be used to claim a credit against FUTA tax.

## **2. Review notices of benefit entitlement or payment**

When a former employee files for unemployment insurance and is determined eligible to collect benefits, the Department of Labor sends to the employer form LO 400, Notice of Entitlement and Potential Charges. This gives the employer an early opportunity to verify that benefits are being paid correctly to former employees. It is important to report any discrepancy in wage information or disqualifying information in response to the form LO 400 as soon as possible, since information will, in most cases, affect payments from the date it is received.

Unemployment insurance benefits paid to claimants are charged to the accounts of employers for whom they worked. Every benefit payment charged to an employer's experience rating account may have the effect of increasing that employer's tax rate in future years. Employers are advised on form IA 96, Notice of Experience Rating Charges, about all benefit payments to former employees that are charged to their accounts. This gives employers the opportunity to report any benefit payments they believe were incorrectly made. Employers should promptly contact the Department of Labor office through which the claim was filed (indicated on the notice) if they believe the claimant is currently working or otherwise not entitled to benefits. If charges appear incorrect for any other reason, employers should contact the Liability and Determination Section. In addition, if an employer is in a position to re-employ the claimant, the claimant should be contacted directly. The claimant's address appears on the form LO 400, Notice of Entitlement and Potential Charges. If the claimant refuses rehire or fails to report to work, or if the employer is unable to contact the claimant, the Department of Labor office, through which the claim was filed, should be notified.

## **3. Reply promptly to requests for employment and wage data**

Although benefit rates are primarily determined based on wages reported by employers on quarterly reports, in some circumstances employers may be requested to provide wage information for a specific claim. Such requests should be completed and returned within 10 days of the mailing date on the form. Accurate and timely replies to these requests are essential for determining the benefit rights of former employees, and to ensure correct experience rating charges.

## **4. Provide separation notices to employees**

An employer must give written notice to any employee who is terminated from employment, regardless of the reason for separation or whether it is a temporary or permanent separation. This notice must be provided on a form furnished or approved by the Department of Labor and must

include: (1) the employer's name, (2) the New York State Employer Registration Number, (3) the mailing address where the form LO 400, Notice of Entitlement and Potential Charges, should be sent and (4) a statement instructing the employee to have the form available when filing a claim for benefits. An employer may request a supply of the Department's form IA 12.3, Record of Employment, or request approval of an equivalent form from the Liability and Determination Section (see page 4). The use of this form will help ensure that the notices and requests are mailed promptly and correctly to employers, and that experience rating charges are established accurately.

#### **5. Provide the Department of Labor with proper mailing addresses**

By using its employer database, the Department of Labor is able to maintain several business addresses for an employer, so that correspondence is directed to the proper address. If there is a specific address where an employer wants to receive form LO 400, Notice of Entitlement and Potential Charges and form IA 12.3, Record of Employment, the employer should provide the address. Also, the employer should promptly notify the Department of Labor about an address change. When providing an address change, form IA 15, Change of Business Information, should be used to ensure accurate processing. Form IA 15 may be obtained from the Registration Subsection (see page 4), or by accessing the internet (<http://www.labor.state.ny.us/html/uiemployr/fimenu.htm>).

#### **6. Make voluntary contributions**

An employer may make a voluntary payment in addition to the regular tax payments in order to reduce a tax rate. Such payment is not refundable. To be considered as of the computation date, the payment must be made no later than the following March 31. Questions regarding voluntary contributions should be directed to the Employer Account Adjustment Section (see page 4).

#### **7. Elect the benefit reimbursement option (nonprofit and governmental employers)**

Rather than paying the quarterly tax on their payrolls, nonprofit organizations organized and operated exclusively for religious, charitable, scientific, literary or educational purposes (those exempt under Section 501(c) (3) of the Internal Revenue Code) and governmental entities have the option of reimbursing benefits paid to their former employees and charged to their accounts. Employers electing the benefit reimbursement option are not required to contribute to the Re-employment Service Fund. For more details about the benefit reimbursement option, including application requirements, request the pamphlet IA 318.13, Benefit Reimbursement, from the Registration Subsection (see page 4).

#### **8. Participate in the Shared Work program**

Shared Work is a voluntary program providing an alternative to layoffs for employers who have five or more full-time employees and who are faced with a temporary decline in business. Rather than laying off a percentage of the work force to cut costs, an employer can reduce the hours and wages of all, or a group, of employees. The employees whose hours and wages are reduced can receive partial unemployment insurance benefits to supplement their lost wages. The Shared Work Program helps employers avoid some of the burdens that accompany a layoff situation. If

employees are retained during a temporary slowdown, employers can quickly gear up when business conditions improve. Employers are then spared the expense of recruiting, hiring and training new employees; and employees are spared the hardships of full unemployment. More information appears in the pamphlet SW 1, Shared Work, which may be requested from the Liability and Determination Section (see item 11, Department of Labor addresses).

### **9. Contact the Department of Labor to fill job openings**

The New York State Department of Labor acts as a statewide employment agency, providing a comprehensive, free placement service for all employers and job seekers. The re-employment of workers who are receiving unemployment insurance benefits enhances the overall health of the unemployment insurance fund and helps to hold down tax rates. Employers can place job orders (openings) by mail, telephone, fax, or by accessing the internet (<http://www.labor.state.ny.us>). Consult the nearest Division of Employment Services office listed under New York State Department of Labor in the telephone directory.

### **10. Report unemployment insurance fraud**

Unemployment insurance fraud increases the financial burden on employers who contribute to the system. It is important that unemployment insurance benefits be paid only to those who are legitimately entitled, and that liable employers accurately report and pay their unemployment insurance contributions. Any suspected instances of fraud should be reported using the 24-hour toll-free hotline at 1 (888) 598-2077.

### **11. Department of Labor addresses**

- New York State Department of Labor, **Liability and Determination Section**, WA Harriman State Office Campus, Albany NY 12240-0322 Telephone: (518) 457-2635  
Fax: (518) 485-6172
- New York State Department of Labor, **Registration Subsection**, WA Harriman State Office Campus, Albany NY 12240-0339 Telephone: (518) 457-4179 Fax: (518) 485-8010
- New York State Department of Labor, **Employer Account Adjustment Section**, WA Harriman State Office Campus, Albany NY 12240-0415 Telephone: (518) 457-2169  
Fax: (518) 485-8602
- Internet access – <http://www.labor.state.ny.us>