



# UNEMPLOYMENT INSURANCE DIVISION

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*maintaining the foundation of economic security*

## Montana Unemployment Insurance Employer Handbook

This Handbook will help you comply with the Montana Unemployment Insurance Law by providing basic information and answering the most commonly asked employer questions.

We rely on your ideas, information and cooperation to help us maintain an efficient and effective program. Please direct questions, comments or suggestions to us by telephone at (406) 444-3834, fax (406) 444-0629 or mail to UI Contributions Bureau, PO Box 6339, Helena MT 59604-6339.

For up-to-date information, go to the UI web site at: <http://uid.dli.mt.gov>  
Forms and instructions are on our web site at: <http://uid.dli.mt.gov/tax/uitaxforms.asp>  
To view information about your UI Account go to: [www.UI4Employers.mt.gov](http://www.UI4Employers.mt.gov)



Montana Department of  
**LABOR & INDUSTRY**  
Unemployment Insurance Division

## ▪ INTEGRITY MATTERS ▪

Program integrity is a top priority of the Unemployment Insurance (UI) Division. One area we are focusing on is reducing improper payment of benefits.

Improper payment of UI benefits means a claim for benefits was paid in error. Improper benefit payments can result when inaccurate information is provided by the claimant or employer or when information is not received timely by the UI Division.

**Why do improper UI benefit payments matter to you?** Because you, the employer, pay for these benefits through higher taxes. Unemployment Insurance helps cushion the impact of economic downturns by providing temporary income support for qualified unemployed workers. Improper payment of benefits is a serious problem that has a financial impact on employers.

Improper payment of benefits is often the result of inaccurate or insufficient information necessary to determine a claimant's eligibility. You can help reduce improper payments and potentially higher taxes, by providing information needed to make an accurate determination.

### **What can you do to help prevent improper UI payments?**

Be an active partner to help improve payment accuracy. Help reduce your costs by taking three critical steps to provide important information to the Unemployment Insurance program.

#### **1. Report all new hires and rehires to the State Directory of New Hires by the due dates.**

Montana uses the New Hire data furnished by employers to cross match against benefits paid to claimants. Timely reporting of all new hires and rehires helps prevent improper payment of claims after an individual has returned to work.

#### **2. Respond promptly to any "Request for Verification of Weekly Hours and Earnings" from UI.**

A prompt response to a request for verification of employee weekly hours and earnings will help prevent improper payment of UI benefits.

#### **3. Provide timely, complete and accurate Employee Separation Information.**

Avoid the need for costly appeals or overpayment of benefits. Provide separation information to help determine claimant eligibility for benefits, and as a result, accurate benefit charges to employers.

**Integrity matters to everyone.** Together we can make a difference in assuring proper UI benefit payments to those entitled. If you have suggestions on how to improve integrity of the UI program, please email us at [DLIntegrityIdeas@mt.gov](mailto:DLIntegrityIdeas@mt.gov) or write to us at PO Box 8020, Helena MT 59604-8020.

# Montana UI Employer's Handbook Table of Contents

## Introduction

What is Unemployment Insurance? .....	1
Terms .....	1

## Section 1: Registration

Who pays Unemployment Insurance taxes .....	2
How to determine which employers are covered .....	2

## Section 2: New Employer Information "At a Glance"

Taxable wage base .....	3
Rates for new employers .....	3
Administrative Fund Tax .....	3
What records do I have to keep? .....	3

## Section 3: Reportable Wages and Employment

Wages or Not? .....	4
Montana UI Wage & Employment Tax Chart .....	4 - 7
Independent Contractors .....	8
Officer Salaries .....	8
Multi-State Employees .....	9 - 10

## Section 4: Employer UI Tax Rates

Experience Rated Employer .....	11
Unemployment Insurance Tax Schedule & Rates .....	12
Experience Rating Transfers .....	13 - 14
Reimbursable Employer .....	15
Governmental Employer .....	15

## Section 5: Payments and Reports

When are Quarterly Reports due? .....	16
Where do I get a Quarterly Report? .....	16
How may I adjust a report? .....	16
UI-5 Quarterly Wage Report .....	17

## Section 6: Miscellaneous Questions

Bankruptcy and Unemployment Insurance .....	18
Contractor's Certificate of Coverage .....	18
Appealing a department's decision .....	18

## Section 7: Penalties

Penalty and Interest for Late Remittance .....	19
Other Penalties .....	19

## Section 8: On-Line & Electronic Services

UI4Employers .....	20
Electronic Filing & Payments .....	20
Internet Reporting & Payment: WOW .....	21
Electronic Media Reporting .....	22

## Section 9: Benefits Eligibility and Charging

Reason for Separation .....	23
Discharges.....	23
Re-Qualifying Wages .....	24
Fact Finding .....	24
What employers can do to help insure a fair determination .....	24
Job/Union Attached Status .....	24
Job Offers/Refusals .....	25
Notice of Potential Benefit Charges .....	25
Charges are Relieved for Experience Rated Employers .....	25
Charging Determinations Differ from Non-Monetary Determinations .....	25 - 26
How Non-Monetary Decisions Affect Charges .....	26
Statement of Benefits Paid .....	26
Employer address for benefit notices .....	26
Claims Investigations .....	26
Reporting Potential Fraud .....	26
Claims Investigation Audit .....	27
Information that is needed if selected for a Claims Investigation Audit .....	27
Overpayments .....	27
Privacy .....	28
Benefit Accuracy Measurement/Quality Control .....	28
Other Quality Reviews .....	28

## Section 10: Important Phone Numbers

Important Phone Numbers .....	29
UI Field Representatives.....	29
Other Agency Phone Numbers .....	30
Montana Job Service .....	31

## **INTRODUCTION:**

This Employer Handbook answers questions commonly asked by employers and provides information about your rights and responsibilities.

### **What is Unemployment Insurance?**

Unemployment Insurance (UI) is a federal-state program developed in 1935. Unemployment Insurance is exactly as the name implies - insurance. Administration of the Unemployment Insurance program is financed through the Federal Unemployment Tax Act (FUTA) paid by employers.

Unemployment Insurance benefits lighten the burden for the unemployed worker, maintain purchasing power in the community, and allow laid off employees to remain in the area so they will be available for re-employment. The program stabilizes the local and state economy by preventing a sharp drop in consumer spending during periods of unemployment. Unemployment Insurance benefits are paid with Unemployment Insurance contributions paid by employers.

### **Terms you should know:**

**Employee** - is an individual who performs a service for a person or organization. One test applied to determine if an individual is an employee is: Does the individual or organization for whom the service is performed have the legal right to control the way in which the service is performed? It is only the right to control that is important; it is not necessary that the control is ever exercised.

**Employer** - is a person or organization who pays wages to an individual in exchange for the performance of a service. Individuals, corporations, partnerships, estates, trusts, limited liability companies, associations, joint ventures, religious organizations, government agencies, and political subdivisions are types of entities that may be employers. This is not an exclusive list of examples and if your particular organization is not mentioned by name it does not mean it is not considered an employer. **Note:** If an employer's total gross wages are less than \$1,000 for the current year and the previous year, the employer is not required to pay Unemployment Insurance taxes.

**Wage** - is a general term that includes, but is not limited to, salaries, wages, bonuses, fees, commissions, vacation allowances, retroactive pay increases, and any other payments made by an employer for services provided by his/her employee, unless exempted. The term wages includes the cash value of any asset given to an employee as compensation for his/her service to the employer.

### **What if I have a question not covered in this handbook?**

This handbook may not answer all your questions and does not cover all situations. If you need assistance, contact the Unemployment Insurance office at (406) 444-3834 or the field representative nearest you. See page 29 for field representative phone numbers and pages 31 for telephone listings of the Montana Job Service.

Please have available your UI account number, federal identification number and other information (canceled checks, report copies, etc.) when you call. If calling about a particular claimant, please have their social security number available.

We attempt to answer every call in person and know it is frustrating to call the department and reach a voice mailbox. However, voice mail has substantially reduced the number of lost calls and improved our service. We'll get back to you as soon as possible if you leave your name, phone number and UI account number.

For accessing Unemployment Insurance information on the Internet, go to <http://uid.dli.mt.gov/> where you can link to UI Laws, UI Rules, Employer Tax, Forms and other topics of interest.

## **SECTION 1: REGISTRATION**

### **Who pays Unemployment Insurance taxes?**

Employers pay state unemployment insurance (UI) taxes. If you are an employer subject to the UI law, you are a “covered” employer and must pay UI taxes. It is against the law to deduct UI taxes from your employees’ wages.

Any year you meet the criteria for a covered employer, you must report all wages paid for the entire year (retroactively to January 1) and all wages paid in the next calendar year regardless of the amount of wages in the second year.

### **You are a “covered” employer if you meet one or more of the following criteria:**

- › Your total annual payroll for the current or preceding calendar year equals or exceeds \$1,000. (Total payroll is all wages paid to all employees before deductions).
- › You acquired all or part of a business already subject to Montana Unemployment Insurance.
- › You are subject under the Federal Unemployment Tax Act (FUTA).
- › You employed agricultural workers and paid \$20,000 or more in cash for agricultural labor in any quarter during the current or preceding calendar year.
- › You employed 10 or more workers in agricultural labor in 20 different weeks during the current or preceding calendar year.
- › You employed domestic (or household) workers and paid \$1,000 or more in cash for domestic services in any quarter during the current or preceding calendar year.

### **Are governmental entities covered?**

All state and local governmental entities must be covered by Unemployment Insurance. Governmental entities may be assigned a governmental experience rate or may elect to become a reimbursable employer.

### **May I get UI coverage for my workers if I’m not a covered employer?**

If you don’t qualify as a covered employer but want UI coverage for your workers, you may apply for **voluntary coverage**. Voluntary coverage cannot be retroactive and if approved, you must cover your employees for at least two calendar years.

### **Who must register?**

An employer who meets the above criteria is subject to Unemployment Insurance and must register. You may either register on-line at [www.UI4Employers.mt.gov](http://www.UI4Employers.mt.gov) or by completing a paper form. You may obtain an Employer Registration form by calling the Registration Unit at 1-800-550-1513 or downloading the form and instructions from our web site at <http://uid.dli.mt.gov/tax/uitaxforms.asp>

A new employer that acquires an existing business cannot use the prior owner’s account number. A new UI account number is needed, and you should also apply for a new federal identification number.

An entity change occurs any time you change from one type of ownership to another and requires a new registration. The change from a sole proprietor to a corporation or a partnership is a type of entity change. Changing stock ownership in a corporation is not an entity change. Changing members of a limited liability company (LLC) may result in an entity change. Call 1-800-550-1513 to report entity changes and determine if a new account is needed.

Failure to register does not relieve an employer of his/her responsibility to remit UI taxes timely.

## **SECTION 2: NEW EMPLOYER INFORMATION “AT A GLANCE”**

The first two paragraphs in this section applies to new employers who are classified as “experience rated” for Unemployment Insurance purposes. Most employers in Montana are classified as experience rated. If you are a governmental entity or a non-profit organization that qualifies under 501 c (3) of the Internal Revenue Code and elect to reimburse the Unemployment Insurance trust fund for benefits paid, please refer to Reimbursable Employers (page 15).

**Taxable wage base** - is the amount of wages per employee you are liable to pay tax on each year:

<b>Calendar Year:</b>	2012	2011	2010	2009	2008	2007
<b>Taxable Wage Base</b>	\$27,000	\$26,300	\$26,000	\$25,100	\$23,800	\$22,700

Experience rated employers pay taxes on each employee’s wages up to and including the taxable wage base . After an employee’s wages reach the taxable wage base, you continue to report the employee’s quarterly wages but you no longer pay taxes on the wages. You may have quarters where some employees have met the wage base for the year and some have not. Report all wages paid but only pay taxes on the wages of employees who have not yet met the taxable wage base. **Governmental and reimbursable accounts do not have a taxable wage base** and must pay tax on total wages.

**Experience rates for new employers** – are determined based on your business’ industry type. As a new employer, you will be assigned the average rate assigned to your industry during the previous rate year. Your rate may change during the three year “industry average” period because the average rate for your industry may change each year or because the contributions paid in are less than the amount of benefits charged to your account. If you purchased an existing business, you and the previous owner may agree to transfer the prior owner’s experience rate to your new account. See Section 4 for more information on rates.

**Administrative Fund Tax** - is an assessment paid by all employers subject to Montana Unemployment Insurance and is due and payable with the quarterly wage reports. Experience rated employers are assessed at 0.18% on taxable wages. Governmental rated employers are assessed at 0.09% and reimbursable employers are assessed at 0.08% on total wages.

### **What records do I have to keep?**

For Unemployment Insurance purposes, you must keep a record of:

- beginning and ending date of each pay period
- total wages paid during each pay period
- employee expense reimbursements
- method of payment
- number of employees who worked during or pay for the payroll period that includes th 12th of each month
- each employee’s name, full social security number and wages for each pay period
- date each employee was hired, re-hired or returned to work after a temporary lay-off
- date an employee was terminated, and the specific cause of the termination
- articles issued by the Secretary of State

A complete explanation of the records you must keep is in [Section 24.11.2704](#) of the Administrative Rules of Montana. For a copy of this rule or if you have questions about it, please call the Unemployment Insurance Contributions Bureau at (406) 444-3834 or a local area field representative (see Page 29).

Your records must be available for inspection by the department or its authorized representative. A field representative may audit your records to confirm quarterly reports were filed correctly and you are complying with the law. The field representatives will also answer your questions and help you understand Unemployment Insurance.

## **SECTION 3: REPORTABLE WAGES AND EMPLOYMENT**

### **What do I have to report as wages on my Unemployment Insurance quarterly wage report?**

The term wages is defined in section 39-51-201(23)(a) MCA . “Wages means all remuneration payable for personal services, including the cash value of all remuneration payable in any medium other than cash. The reasonable cash value of remuneration payable in any medium other than cash must be estimated and determined pursuant to rules prescribed by the department.” So, if you pay with livestock, living quarters, material goods or other non-cash payments, you must report their market value as wages.

### **Are all types of employment and all payments made to my employees reportable as wages?**

Not all payments for personal services are taxable for Montana Unemployment Insurance purposes. The chart below lists many types of employment and payments and whether or not they are taxable.

Payroll taxation and the application of the various statutes, Administrative Rules, and Supreme Court decisions can be very complex. This handbook is not meant as a replacement or substitute for them. For more information on any of these items, call a UI Field Representative listed on page 29 of this publication.

<b>MONTANA UI WAGE &amp; EMPLOYMENT TAX CHART</b>	
<b>Special Classes of Employment and Special Types of Payments</b>	<b>Unemployment Insurance Tax Treatment</b>
<b>Advances</b> against future earnings.	Taxable, when paid
<b>Agricultural Labor.</b>	Taxable if total cash wages exceed \$20,000 in any quarter or if employ 10 or more workers on 20 different days in 20 different weeks in calendar year.
<b>Aliens, nonresident:</b> 1. Working under section 101(a)(15) of the Immigration and Nationality Act, as amended, for the purposes identified in 8 USC 1101(a)(15) (F), (H)(ii)(a), (J), (M), or (Q).  2. Working under any other condition or visa not listed above.	Exempt  Taxable
<b>Aliens, resident:</b> Service performed in Montana.	Taxable
<b>Annuities:</b> Payments made <u>by the employer</u> into a fund for retirement or death benefits, under a plan offered to all employees or a class or classes of employees.	Exempt
<b>Back Pay</b> paid as a result of a dispute related to employment.	Taxable
<b>Bonuses.</b>	Taxable
<b>Cafeteria plan deductions</b> under IRC Section 125.	Taxable
<b>Commissions:</b> (See also “Salespersons”).	Taxable
<b>Corporate Officer Payments:</b> Corporate officers performing a service for the corporation (includes subchapter S corporations) are employees. (Also see Profit Distribution).	Taxable
<b>Cosmetologists or barbers:</b> Who are licensed, contracts with a shop, is free from control and direction of the owner, owns or leases equipment, receives payment from the clientele, and acknowledges in writing that their work is not covered by UI.	Exempt
<b>Deceased worker:</b> Wages paid to beneficiary or estate after worker's death.	Taxable
<b>Deferred Compensation:</b> (see Retirement/Pension plans).	Taxable
<b>Dependent care assistance programs under Section 129 of IRC or other assistance provided for dependent care.</b>	Taxable
<b>Director Fees:</b> Customary and reasonable fees paid to directors of a corporation for attending meetings of the board of directors.	Exempt

Special Classes of Employment and Special Types of Payments	Unemployment Insurance Tax Treatment
<b>Dividends.</b>	(see Profit Distribution)
<b>Employee Benefit Plans, Perks furnished/paid by the employer.</b> <ol style="list-style-type: none"> <li>1. Retirement, sickness or accident disability, medical, hospitalization or death benefits.</li> <li>2. No additional cost service, where the benefit provided has no monetary impact to the employer, such as lift tickets provided by a ski lodge to its employees.</li> <li>3. Discounts on merchandise or services, or other benefits.</li> </ol>	<p>Exempt</p> <p>Exempt</p> <p>Taxable - at cash value</p>
<b>Employee Business Expense Reimbursement:</b> <ol style="list-style-type: none"> <li>1. Actual expenses, if documented and entered separately in business records.</li> <li>2. Non-receipted travel expenses at the rate allowed for state employees.</li> </ol>	<p>Exempt*</p> <p>Exempt* (*See page 8 for documentation and allowable reimbursement rates.)</p>
<b>Equipment Rental Payments:</b> <ol style="list-style-type: none"> <li>1. Payment for rental of equipment owned by the employee that is necessary for the employee to perform job.</li> <li>2. Hand tools commonly used in the employee's trade.</li> <li>3. Vehicle used only to transport worker to and from job site.</li> </ol>	<p>Exempt (See page 8 for additional information.)</p> <p>Taxable</p> <p>Taxable</p>
<b>Family Employees:</b> <ol style="list-style-type: none"> <li>1. Services performed by a spouse or dependents (for whom an income tax exemption may be claimed) of a sole proprietor or limited liability company that is taxed as a sole proprietor for federal tax purposes.</li> <li>2. Services performed by a spouse or dependents of an officer of a corporation or association, of partners in a partnership, or members of a limited liability company taxed as a partnership or corporation.</li> </ol>	<p>Exempt</p> <p>Taxable (unless all partners are parents of the dependent).</p>
<b>Foreign Government or International Organization:</b> Working for foreign government or organization with service performed in Montana.	Taxable
<b>Foreign service by Montana citizens:</b> For foreign affiliates of American employers and other private employers.	Taxable, if working for American employer (unless in a country in which the US has an agreement for UI).
<b>Gifts.</b>	Taxable
<b>Gratuities.</b>	(see Tips)
<b>Holiday Pay.</b>	Taxable
<b>Home workers</b> (industrial, cottage industry). Individuals who perform services at their homes, often paid on a piecework basis.	Taxable
<b>Hospital employees:</b> <ol style="list-style-type: none"> <li>1. Interns</li> <li>2. Patients</li> </ol>	<p>Taxable</p> <p>Taxable</p>
<b>Household employees:</b> <ol style="list-style-type: none"> <li>1. Domestic service in private homes, college clubs, fraternities, and sororities.</li> <li>2. Companionship services (as defined in 29 CFR 552.6) or Respite care (because of age or illness).</li> </ol>	<p>Taxable if total cash wages are \$1,000 or more (for all household employees) in any quarter in the current or preceding calendar year.</p> <p>Exempt – if employed by a family member or legal guardian. You may request voluntary coverage (see page 2).</p>

<b>Special Classes of Employment and Special Types of Payments</b>	<b>Unemployment Insurance Tax Treatment</b>
<b>Income Tax Withholding:</b> Withholding from an employee's wages for federal and/or state income taxes.	Taxable
<b>Insurance</b> for employees: <ol style="list-style-type: none"> <li>1. Accident and health insurance premiums paid by the employer into a qualified plan for the employee or the employee's immediate family.</li> <li>2. Life insurance premiums paid by the employer for the employee or the employee's immediate family.</li> </ol>	Exempt
<b>Insurance agents/salespeople.</b>	Exempt - if paid solely by commission without guarantee of minimum earnings.
<b>Loans.</b>	Taxable <b>unless</b> the employee is to repay the loan under a written schedule agreed to by the employer and the employee.
<b>Limited Liability Companies (LLC): (effective 1/1/2008)</b> <ol style="list-style-type: none"> <li>1. Payments to member(s) of an LLC that files a federal income tax return as a sole proprietor on Schedule C or as a partner on Form 1065.</li> <li>2. Payments to member(s) of an LLC that files a federal income tax return as a corporation on Form 1120 or as a subchapter S Corporation on Form 1120-S.</li> </ol> See "Family Employees" section for tax treatment of LLC spouse or dependents.	Exempt
<b>Meals.</b>	(see Room and Board)
<b>Mileage:</b> Allowable amount up to the IRS mileage rate for current year provided the employee furnishes the vehicle.	Exempt – see page 8 for allowable reimbursement.
<b>Newspaper employees:</b> <ol style="list-style-type: none"> <li>1. Carriers who delivers newspapers singly or in bundles and have acknowledged the service is not covered by UI.</li> <li>2. Freelance correspondents who submit articles or photographs for publication and are paid by the item, and acknowledge the service is not covered by UI.</li> </ol>	Exempt
<b>Non-cash payments:</b> <ol style="list-style-type: none"> <li>1. For household work, agricultural labor, and service not in the course of the employer's trade or business.</li> <li>2. Other non-cash payments for services performed.</li> </ol>	Taxable - if the employer meets subjectivity requirements.
<b>Non-profit organizations:</b> (Wages paid by).	Taxable if employer meets subjectivity requirements (see page 2).
<b>Officers or shareholders of a Corporation:</b> Distributions and other payments by a corporation to a corporate officer or shareholder to the extent the amounts are reasonable compensation for services to the corporation by the officer or shareholder.	Taxable
<b>Officials:</b> Services performed by an individual as an official, including timer, referee, umpire, or judge, at an amateur athletic event.	Exempt
<b>Partners or sole proprietor:</b> Distribution of profits to general or limited partners of a partnership or to a sole proprietor.	Exempt
<b>Profit Distribution:</b> <ol style="list-style-type: none"> <li>1. Distribution of profit to sole proprietors and partners.</li> <li>2. Payments distributed to corporate officers or shareholders in lieu of reasonable compensation for services performed, even though designated as profits or dividends.</li> </ol>	Exempt
<b>Railroads:</b> Employment with any railroad engaged in interstate commerce.	Exempt – excludes construction of railroads.

<b>Special Classes of Employment and Special Types of Payments</b>	<b>Unemployment Insurance Tax Treatment</b>
<b>Religious Organizations:</b> 1. Services performed by a duly ordained, commissioned, or licensed minister of a church in a ministerial duty or by a member of a religious order in the exercise of duties required by the order.  2. Services performed by non-clergy employees.	Exempt  Taxable
<b>Retirement and Pension plans:</b> 1. Employer contributions to a qualified pension or retirement plan.  2. Elective <i>employee</i> contributions, salary reductions or deferrals to a 401(k) or any other type of retirement plan.	Exempt  Taxable
<b>Room and Board, Meals, etc.</b> furnished to an employee as part of the terms of their employment.	Taxable - must report cash value; minimum value of \$130 per week for full room and board; \$3 per meal.
<b>Salespersons:</b> 1. Statutory non-employees, including direct sellers and real estate and insurance agents paid solely by commission.  2. Other salespersons, regardless of method of payment.	Exempt  Taxable
<b>Severance, termination or dismissal pay.</b>	Taxable
<b>Sick Pay</b>  <b>3<sup>rd</sup> Party Sick Pay:</b> 1. If the premiums to a 3 <sup>rd</sup> party provider are paid by the employer.  2. If the premiums to a 3 <sup>rd</sup> party provider are paid by the employee.	Taxable for the first 6 months following the month the employee last worked.  Taxable for the first 6 months following the month the employee last worked. Exempt
<b>Social Security Taxes:</b> Deductions from an employee's gross wage for FICA.	Taxable
<b>State governments and political subdivisions</b> (employees of): 1. Salaries and wages of non-elected employees.  2. Salaries and payments to elected officials.  3. Election judges. Election judges are individuals who are employed to perform services for state or local governments at election booths in connection with national, state, or local elections.  4. Payments made into a qualified tax exempt trust for qualifying health care expenses under the Voluntary Employees' Beneficiary Association (VEBA) Act.	Taxable  Exempt  Exempt  Exempt
<b>Students, interns, scholars:</b> 1. Student enrolled and regularly attending classes, performing services for a non-profit or public educational institution.  2. Full-time student/scholar/intern performing service for academic credit, combining education with work experience as an integral part of the program.	Exempt  Exempt
<b>Tips or gratuities:</b> 1. Tips or other gratuities received by the employee and documented to the employer.  2. Allocated tips.	Taxable  Exempt
<b>Vacation:</b> Paid vacation for employee.	Taxable
<b>Vehicles:</b> Personal use of a company vehicle.	Taxable

**Employee expense reimbursements**, as noted in the tax chart, are not wages if reimbursement is entered separately in the business records and you have documentation that the expense was incurred while conducting business. Reimbursement may not be based on a percentage of the employee's wage nor can it replace the customary wage for the occupation. The reimbursement must be based on actual, receipted expenses or you may base it upon the amount allowed to state employees. The following are the maximum amounts allowed for non-receipted expenses:

Meal Expenses per day:	\$23 (in state); \$36 (out of state)
Lodging Expenses per day:	\$12 a night
Mileage Reimbursement:	\$0.55* per mile

*\*Rate as of January 2012 and is subject to change*  
Mileage reimbursement allowance is equal to federal rate.

Equipment Rental - Payment for rental of equipment owned by the employee are not wages if the equipment is necessary for the employee to perform the job, the employment contract provides for the rental payments, the reimbursement is entered separately in the employer's records and the reimbursement does not replace the customary wage for the occupation. Rental payments for light equipment furnished by the employee may not exceed the reasonable rental value of that equipment. Chain saw rental may not exceed \$22.50 per day. Rental payment for heavy equipment, such as semi-tractors and skidders may not exceed 75% of the employee's gross remuneration. Payments made for hand tools commonly used in the employee's trade, and vehicles used only for carrying the worker to and from the job site are wages.

**Do I pay UI taxes on workers I consider independent contractors?**

It depends. Some employers exclude workers from their reports contending the workers are "independent contractors" and not employees. Court decisions and division rulings support such services to be employment until "freedom from control or direction over performance" is proven and until it is shown the workers are "engaged in an independently established business of their own". UI law defines an independent contractor as "an individual working under an independent contractor exemption certificate provided for in 39-71-417, MCA". If you have paid or contemplate paying someone as an independent contractor, the individual should have an independent contractor exemption certificate or you may have to pay UI taxes on the workers' earnings. Independent contractors with approved exemption certificates can be found at: [mtcontractor.com](http://mtcontractor.com).

The laws and court decisions concerning independent contractors are very complex. If you are unsure, please contact the Independent Contractor Central Unit at (406) 444-9586 or your local field representative listed in the back of this book. You may request the department furnish you with a written determination of which workers, if any, are considered self-employed. The department will investigate the employment relationship before issuing a determination.

**Officer Salaries**

Officers of corporations are considered employees of the corporation. Payments to or on behalf of officers of a corporation or association for services performed, regardless of the form of payment, are reportable wages, including subchapter S and other closely-held corporations. If fair-market wages were not reported for officers, but distributions, payment on behalf of officers or draws are taken, the Montana Unemployment Insurance Division may reclassify such distributions or a portion thereof as wages to arrive at a fair-market wage for the corporate officers. Failure to comply with appropriate accounting practices for such things as business expense reimbursements, dividends, profit distributions, return of capital or loans may also lead to the reclassification of payments as wages. [Administrative Rules of Montana 24.11.2506](#) has factors used in evaluating reasonable wages.



## EMPLOYEES PERFORMING SERVICES IN MORE THAN ONE STATE

When an employee performs services in Montana and another state(s), it can be difficult to determine where the wages should be reported for UI tax purposes. A four part test was designed to be used by all states to help make that determination. These tests: 1) simplify reporting of wages by the employer; and 2) avoid dividing the employee's wages among the states where the employee worked (for ease in claim filing).

The employee must perform some service in Montana before the tests can be applied. The tests are applied **to the employee** (not the employer) in the following order:

**1) Localization.** This refers to where the services are performed. The services are localized within Montana and reportable to Montana when:

- The services are performed entirely within Montana.
- Most of the services are performed in Montana and individuals work outside the state only at minor or temporary tasks.

Some factors to consider when determining if the services of the worker are minor or temporary are:

- The employment relationship between the employer and employee, particularly the intention of the employer with respect to the individual's present and future employment status.
- Whether it is intended by the employer and the employee that those services performed in another state are isolated transactions or a regular part of the employee's work.
- Whether the agreement provides that the employee will return to the original state or will continue to work in other states.
- Whether the assignment is temporary and of predetermined short duration with no change of residence. If a temporary assignment extends over a considerable period of time to the point it appears to be a permanent assignment, the state the wages are reported to should be re-evaluated.

**2) Base of Operations.** If an individual's service is not localized in any state, it is necessary to apply a second test to determine the state where wages should be reported.

- Does the individual perform some services in the state where he or she has a base of operation? The base of operation is a fixed center, of a more or less permanent nature, from where the employee starts work and to where the employee customarily returns to receive instructions from the employer, or communications from customers or other persons, or to replenish stock and materials, to repair equipment or to perform any other functions necessary to his or her trade or profession.
- If the employee performs services in the state where the employee has a base of operation, all wages, including wages earned in other states, is reportable to the state with the base of operations.

**3) Place of Direction and Control.** If the employee has no base of operations, or has a base but does not perform any service in the state where the base is located, or if the base of operations moves from state to state, it is necessary to determine if any of the individual's services are performed in the state where the employee's services are directed or controlled.

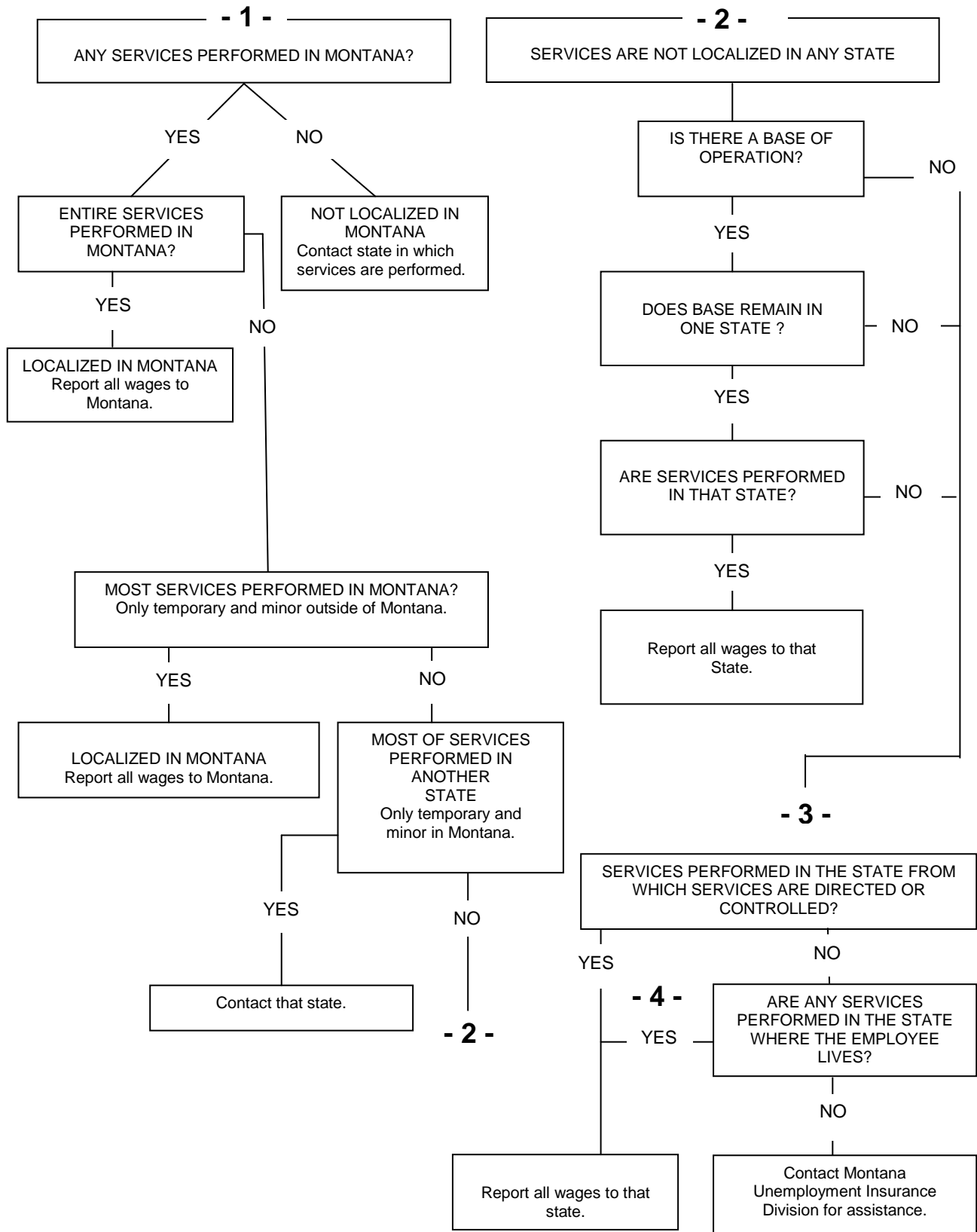
- The place where an individual's services are directed or controlled is the place where basic authority resides and where general control originates, rather than the place where a manager or foreman may directly supervise the services. If services are performed in the state where general control is held, the services are reportable to that state.

**4) Residence of Employee.** If none of the other tests apply, all of the individual's services are reportable to the state where the employee lives, provided some of the employee's services are performed in that state.

The flow chart on the following page will assist you in determining the proper state to report your multi-state employees. If you have any doubt as to where wages and employment should be reported, please contact a Field Representative or our Helena office, listed on page 29.

# To Which State Are the Wages Reportable?

When employees work in more than one state, to which state are the wages reportable? Please refer to this flowchart and further explanation on the previous page.



## **SECTION 4: EMPLOYER UI TAX RATES**

### **What UI taxes does an employer pay?**

It depends. There are four types of covered employers: “new” employers, experience-rated employers, reimbursable employers, and state and local government employers. See the explanations below to determine what taxes each employer type pays.

### **What is a “new” employer?**

A “new” employer is one that has been employing in Montana for less than three complete federal fiscal years (October 1 to September 30). Experience-rated employers have “new” employer rates for three years while they accumulate a rating history with the Unemployment Insurance program. New employer rates are the average rates paid during the previous year by employers in the same type of industry as the new employer. New employers’ rates may change during the three-year “new employer” period because their industry average may change or if the new employer’s benefit charges exceed taxes paid. A new employer must submit a completed employer registration form to obtain the proper “new” employer industry rate.

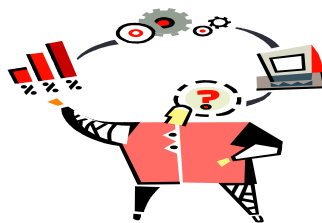
### **What is an experience-rated employer? What taxes do they pay?**

If you are a private, for-profit employer, you must pay all three UI related taxes:

- › **State Unemployment Insurance Contributions (SUTA):** The UI program can only use this tax to pay Unemployment Insurance benefits to qualified individuals. This tax money cannot be used to operate the UI Program. All money collected from this tax is deposited into the UI Trust Fund.
- › **Administrative Fund Tax:** This tax is assessed to help fund Department of Labor and Industry operations, including local Job Service. For experience-rated employers, this tax is 0.18% of taxable wages depending on the employers rate schedule & rate class. This tax is due each quarter and is computed by applying the tax rate to each quarter’s total taxable wages.
- › **Federal Unemployment Tax Act (FUTA) Tax:** This tax is paid directly to the Internal Revenue Service (IRS) to help finance the operations of Montana’s UI claim, tax, and Job Service programs. Employers receive a reduced FUTA rate by paying their Montana UI tax.

### **How is it decided what an employer’s rate will be each year?**

If you are a private, for-profit employer, your tax rate is based on the contribution rate schedule and your experience rating history. The Contribution Rate Schedule determines the range of contribution rates assigned to all employers each calendar year. The schedule is determined by the ratio of the UI Trust Fund balance to total wages paid in covered employment for the state fiscal year. A higher balance in the UI Trust Fund results in lower Unemployment Insurance rate schedules.



**Trust fund balance/Total covered wages = Ratio**

The Schedule of Contribution Rates below reflects the range of rates in each rate schedule. For example, in 2012, Rate Schedule **VII** is in effect, which means that experience rated employers' rates range from 0.82% to 6.12%.

<b>Schedule of Contribution Rates</b>											
	I	II	III	IV	V	VI	<b>VII</b>	VIII	IX	X	XI
Minimum Ratio of Fund to Total Wages:	(.0260)	(.0245)	(.0225)	(.0200)	(.0170)	(.0135)	<b>(.0095)</b>	(.0075)	(.0050)	(.0025)	(...)
Average Tax Rate:	1.12	1.32	1.52	1.72	1.92	2.12	<b>2.32</b>	2.52	2.72	2.92	3.12
Rate Class	Contribution Rates for Eligible Employers										
1	0.00%	0.00%	0.02%	0.22%	0.42%	0.62%	<b>0.82%</b>	1.02%	1.22%	1.42%	1.62%
2	0.00	0.02	0.22	0.42	0.62	0.82	<b>1.02</b>	1.22	1.42	1.62	1.82
3	0.02	0.22	0.42	0.62	0.82	1.02	<b>1.22</b>	1.42	1.62	1.82	2.02
4	0.22	0.42	0.62	0.82	1.02	1.22	<b>1.42</b>	1.62	1.82	2.02	2.22
5	0.42	0.62	0.82	1.02	1.22	1.42	<b>1.62</b>	1.82	2.02	2.22	2.42
6	0.62	0.82	1.02	1.22	1.42	1.62	<b>1.82</b>	2.02	2.22	2.42	2.62
7	0.82	1.02	1.22	1.42	1.62	1.82	<b>2.02</b>	2.22	2.42	2.62	2.82
8	1.02	1.22	1.42	1.62	1.82	2.02	<b>2.22</b>	2.42	2.62	2.82	3.02
9	1.22	1.42	1.62	1.82	2.02	2.22	<b>2.42</b>	2.62	2.82	3.02	3.22
10	1.42	1.62	1.82	2.02	2.22	2.42	<b>2.62</b>	2.82	3.02	3.22	3.42
Rate Class	Contribution Rates for Deficit Employers										
1	2.92%	3.12%	3.32%	3.52%	3.72%	3.92%	<b>4.12%</b>	4.32%	4.52%	4.72%	4.92%
2	3.12	3.32	3.52	3.72	3.92	4.12	<b>4.32</b>	4.52	4.72	4.92	5.12
3	3.32	3.52	3.72	3.92	4.12	4.32	<b>4.52</b>	4.72	4.92	5.12	5.32
4	3.52	3.72	3.92	4.12	4.32	4.52	<b>4.72</b>	4.92	5.12	5.32	5.52
5	3.72	3.92	4.12	4.32	4.52	4.72	<b>4.92</b>	5.12	5.32	5.52	5.72
6	3.92	4.12	4.32	4.52	4.72	4.92	<b>5.12</b>	5.32	5.52	5.72	5.92
7	4.12	4.32	4.52	4.72	4.92	5.12	<b>5.32</b>	5.52	5.72	5.92	6.12
8	4.32	4.52	4.72	4.92	5.12	5.32	<b>5.52</b>	5.72	5.92	6.12	6.12
9	4.52	4.72	4.92	5.12	5.32	5.52	<b>5.72</b>	5.92	6.12	6.12	6.12
10	6.12	6.12	6.12	6.12	6.12	6.12	<b>6.12</b>	6.12	6.12	6.12	6.12

To calculate your reserve ratio for the current calendar year, the department subtracts the benefits charged to your account from the contributions you paid for the same period (beginning October 1, 1981, through September 30th of the year prior to the effective rate year). The reserve is divided by the average annual taxable payroll for the last three completed federal fiscal years (October 1 - September 30) to arrive at your reserve ratio. The department computes your reserve ratio yearly.

**Contributions paid - benefit charges = Reserve**

**Reserve/average taxable payroll = Reserve ratio**

You are assigned a rate class based on your reserve ratio. Your contribution rate is determined by comparing your reserve ratio to all other employers' reserve ratios. The highest positive reserve ratio is assigned the lowest contribution rate.

### Is there only one type of experience-rated account?

There are three types of experience-rated accounts: Eligible, Deficit and New.

- **Eligible:** An eligible employer has been subject to UI (covered) for the entire three federal fiscal years ending September 30 immediately preceding the computation date, and has:
  - › filed all required quarterly payroll reports;
  - › paid all taxes, penalties and interest;
  - › established a positive record (paid more in contributions than the UI benefits charged to their account); and,
  - › paid wages in at least 1 of the 8 calendar quarters preceding the computation date.
- **Deficit:** Deficit employers are covered employers who have more UI benefits charged to (paid out of) their account than they have paid in contributions.
- **New:** A new employer has not been subject for the three entire federal fiscal years immediately preceding the computation date and has established a positive record. New employer rates are the average contribution rate for employers in the same industry classification.

### Can the experience rate from the business I purchased be transferred to me?

Yes. If you acquire a business, you can request the experience rating record of the previous employer be transferred to you. You and the previous employer must apply jointly within 90 days of the date you acquire the business. Contact the Unemployment Insurance Contributions Bureau at (406) 444-3834 to discuss if it would be beneficial to transfer the experience rating record. If the previous and new owners have not filed all the required wage reports or paid all monies due, all the delinquencies must be satisfied before the department may assign a rate based on the previous owner's experience. If the new ownership, control and/or management of the business is substantially the same as the prior ownership, control and/or management, you will assume the prior owner's contribution rate and the related experience.

### How may I take steps to control my contribution rate?

When a current or former employee files a claim for Unemployment Insurance benefits, a Notice of Potential Benefit Charge or a Notice of Filing of Claim for Benefits is mailed to employers who paid wages to the claimant in the base period of the claim. If the employee left work for reasons other than lack of work, return the notice, within 8 days, providing an explanation of the reason the claimant left your employ. Please be specific about the final incident that caused the separation and provide complete information. You will receive a determination if your account will be charged or if the charges will be relieved. If you are a chargeable employer, you will also receive a Statement of Benefits Paid each quarter. If you have any questions about charges to your account, please call the Employer Charging Line at (406) 444-0399.

Also, you can avoid a **penalty rate** (equal to 150% of your assigned experience rate) simply by filing all reports and payments timely.



**Is a claimant’s entire work history used to calculate benefit charges?**

No. Benefits are based on the wages a claimant earned during a certain period of time — the base period. The regular base period is the first four of the last five completed calendar quarters at the time an initial claim for benefits is filed. If a claimant does not qualify using the regular base period, the claim may be established using wages paid in the last four completed calendar quarters. If you employed the claimant during the base period, your account may be charged.

The claimant’s regular base period is the shaded area below, if the claim is filed in quarter indicated:

Oct Nov Dec	Jan Feb Mar	Apr May Jun	Jul Aug Sep		Jan Feb Mar		
	Jan Feb Mar	Apr May Jun	Jul Aug Sep	Oct Nov Dec		Apr May Jun	Claims Filed Here
Have This Base Period		Apr May Jun	Jul Aug Sept	Oct Nov Dec	Jan Feb Mar		Jul Aug Sept
			July Aug Sept	Oct Nov Dec	Jan Feb Mar	Apr May June	Oct Nov Dec

**Months filed claim**

Jan, Feb, or Mar  
Apr, May, or Jun  
Jul, Aug, or Sept  
Oct, Nov, or Dec

**Regular Base Period**

October 1 two prior years – end of September previous year  
January 1 previous year – end of December previous year  
April 1 previous year – end of March current year  
July 1 previous year – end of June current year

For Example: If a claim is filed in January, February, or March of 2012, the regular base period is October 2010 through September 2011.

If the claimant doesn’t qualify using the regular base period, the alternate base period, January 2011 through December 2011, would be used.

**As an experience-rated employer, do I pay taxes on all the wages I pay my employees?**

It depends. You must report all wages you pay your employees on your quarterly report. However, each year you pay taxes on wages paid to each employee up to and including the taxable wage base. The taxable wage base is listed in the upper right hand corner of the quarterly report form and may change from year to year. The taxable wage base for 2012 is \$27,000. Any wages you pay an employee over the taxable wage base are considered excess wages. The example below illustrates taxable wages versus excess wages, using the 2012 wage base.

**Computing Excess Wages per Employee (based on 2012 UI wage base of \$27,000)**

Quarter	Total Wages Paid In Quarter	Total Wages Paid To Date	Taxable Wages	Excess Wages
First	\$10,000	\$10,000	\$10,000	\$ 0
Second	10,000	20,000	10,000	0
Third	10,000	30,000	7,000	3,000
Fourth	10,000	40,000	0	10,000

If the department transfers the experience rating record of the predecessor employer to your account, you may use the wages paid by the previous employer to calculate your excess and taxable wages for the year the experience was transferred.

### **What is a reimbursable employer? What taxes do they pay?**

Some non-profit organizations may choose to reimburse the UI Trust Fund for benefit payments. To be a reimbursable employer, a non-profit organization must meet the criteria defined in the [Internal Revenue Code \(IRC\), Section 501\(c\)\(3\)](#), provide the UI Contributions Bureau with a copy of the Internal Revenue Service (IRS) exemption letter, and apply to the UI Contributions Bureau for approval. For more information on the IRS code, please contact the IRS office at 1-800-829-1040. The election must last two years.

As a reimbursable employer, you must pay into the UI Trust Fund an amount equal to the benefits charged to your account. You will be charged for **all** benefits paid to former employees **regardless** of the reason they left your employment. Benefit charges are prorated according to the percentage of wages you paid to the total wages in the claimant's base period.

Example: Your employee, Jane Doe, is offered a better-paying job with another employer. She quits your employ and accepts the job. The other business suffers a set back and Jane is laid off. She files for unemployment insurance benefits and is found eligible. You paid Jane 64% of the total wages Jane received during her base period. Your reimbursable account is charged for 64% of the benefits paid to Jane even though she quit your business.

Example: An individual had two steady jobs; one of them with a private, for-profit employer and the other a reimbursable employer. The individual was laid off from the private employer and filed for partial benefits. The reimbursable employer would not be charged for benefits if there has been a reduction of 10% or less in hours or wages in the four weeks after the claim is filed as compared with the four weeks prior to the claim effective date.

You must advise the UI Claims Processing Bureau if there has been no change in employment for the charges to be relieved.

Reimbursable employers must submit quarterly wage reports and pay a 0.08% (.0008) Administrative Fund Tax on **total** wages paid each quarter. The UI Contributions Bureau will notify you monthly of the benefits charged to your account and you may pay these monthly or pay the entire quarterly charges within thirty days following the end of the quarter.

### **What taxes do governmental employers pay?**

Governmental entities may also choose coverage as a reimbursable employer (see above) or to make tax payments based on the government experience rating system where the tax rate is applied to **total** wages. Governmental entities choosing experience rating pay a 0.09% (.0009) Administrative Fund Tax (AFT) on total wages paid each quarter.

Governmental employers who paid wages to the claimant during the base period are charged for UI benefits paid regardless of the reason the claimant left the employment. Benefit charges are prorated according to the percentage of wages paid by the governmental entity to the claimant's total wages in their base period.

Example: Your employee, Jane Doe, is offered a better-paying job. She quits your employ and accepts the job. Jane's new employer suffers a set back and Jane is laid off. She files for unemployment insurance benefits and is found eligible. You paid Jane 64% of the total wages Jane received during her base period. Your governmental account is charged for 64% of the benefits paid to Jane even though she quit your business.

Example: An individual had two jobs, one of them with a private, for-profit employer and the other with a governmental employer. The individual was then laid off from the private employer. The governmental employer would not be charged for the benefits paid if there has been a reduction of 10% or less in hours or wages in the four weeks after the claim is filed as compared with the four weeks prior to the claim effective date.

## **SECTION 5: PAYMENTS AND REPORTS**

As a covered employer for Unemployment Insurance, you must keep payroll records and file the quarterly report (UI-5) or file your report on-line at [www.mt.gov](http://www.mt.gov) (see page 20). A sample of the UI-5 is shown on page 17. After completing all sections of the UI-5, enter the payment due and attach a **check payable to Unemployment Insurance Division** for the tax plus any penalty or interest due.

### **When are my quarterly reports due?**

To avoid penalty and interest charges, your UI-5 quarterly wage report and payment must be postmarked by the following dates:

<u>Quarter:</u>	<u>Report Covering:</u>	<u>Postmarked By:</u>
1st Quarter	January, February, March	April 30
2nd Quarter	April, May, June	July 31
3rd Quarter	July, August, September	October 31
4th Quarter	October, November, December	January 31

If the due date is on a weekend or holiday, the next business day becomes the due date the quarterly reports and payment must be postmarked.

### **Where may I get a quarterly report form?**

Your quarterly report will be mailed to you at the end of each quarter. The form contains your name, address, account number, rate and any credit balance. It is important that you do not use someone else's form as the tax, wage and payment information could be posted incorrectly and not properly credited to your account.

If you don't receive your quarterly wage report form by the first week of the month the report is due, call the Unemployment Insurance Contributions Bureau at (406) 444-3834 and a form will be mailed to you. Your area's field representative can also provide reporting forms. Please refer to the back of this handbook for the names and phone numbers of field representatives. You may print a form populated with your contribution rate and employer information by logging into your account at <http://uid.dli.mt.gov/tax/uitaxforms.asp> or you may visit [UI4Employers.mt.gov](http://UI4Employers.mt.gov).

### **How may I adjust a report after I've submitted it?**

Submit an amended report and an explanation of the adjustment along with any additional tax remittance to the UI Contributions Bureau, P.O. Box 6339, Helena, MT 59604-6339. Copying the original quarterly report form you submitted with all changes noted is a quick way to amend a report, provided you include an explanation and the name and phone number of the person making the change so we can call if we have any questions.





## **SECTION 6: MISCELLANEOUS QUESTIONS**

### **If I declare bankruptcy, do I still have to pay my Unemployment Insurance taxes?**

Yes, if you declare bankruptcy, you are still required to pay Unemployment Insurance taxes. Unemployment Insurance taxes due within three years prior to the filing of the bankruptcy petition are not dischargeable under the United States Bankruptcy Code. You will still be liable for all UI taxes due.

### **What if I withhold or submit false information?**

If you withhold information or give false information to prevent or reduce benefit payments to anyone entitled to benefits, you may be fined up to \$500, imprisoned up to 30 days or both.

You may also be fined, imprisoned or both if you attempt to reduce any tax or payment, fail or refuse to pay your taxes, refuse to furnish required reports, or if you refuse inspection or copying of your records as required by Unemployment Insurance Law.

Additionally, if you do not file a report or if your report is incomplete or inaccurate, the Contributions Bureau may estimate wages paid based on available information. The Contributions Bureau may then collect the taxes, penalties and interest due based on this information.

### **Do contractors need a certificate of coverage?**

If you are a prime contractor, you are responsible for insuring your subcontractors are in full compliance with all Unemployment Insurance laws during the time of the contract. If you contract with a subcontractor who is an employer, you should withhold sufficient money to assure the subcontractor complies with UI provisions. If your subcontractors are not in compliance when the contract is complete, you are responsible for all taxes, penalties and interest due for work performed while under your contract.

As a subcontractor who is an employer, you must furnish the prime contractor a certificate stating your UI account is current. You must present this certificate before receiving final payment on that job. You can get a certificate from the UI Contributions Bureau by calling (406) 444-3834.

### **Do I have the right to contest a decision made by the UI Division?**

Yes, you may contest a UI decision. You generally have 10 days after the determination has been mailed to file an appeal. If you want to appeal a determination made by the department, you need to send a written response explaining why you believe the determination is incorrect. Instructions for appeal are included in the decision.

### **Can a claimant work part-time and still receive benefits?**

Partial unemployment benefits are paid to claimants who continue to work less than forty hours a week and earn less than twice their weekly benefit amount. The benefit amount varies according to their earnings for the week. Partial benefits are intended to give a claimant incentive to accept less than full-time work while they are looking for full-time employment.



## **SECTION 7: PENALTIES**

### **How will I know if my report or payment will be on time?**

If you mail the report or payment on the due date, it is very important that you find out when mail will be postmarked. Late penalties and interest will be assessed if postmarked after the due date.

If you send in your payment with the payroll report, your payment information will normally be posted to our system within 7 business days of mailing. Your account will be credited with the payment as of the day of receipt.

### **What is the penalty for failure to remit reports and tax by the due date?**

You should file as quickly as possible. If you fail to file, your account may be assessed the following penalties and interest:

- › Failure to file the UI quarterly report by the due date = late filing penalty of \$25;
- › Interest on tax not paid when due = 1.5% per month or any portion of the month, 18% per annum;

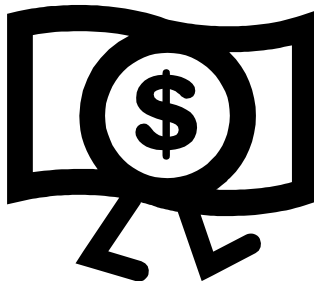
The following example illustrates how penalty and interest is calculated:

\$100 Balance Due Paid 2 Months Late:	
Late File Penalty: (flat rate) =	25.00
Interest: $\$100 \times 1.5\% \times 2 \text{ mos.} =$	<u>3.00</u>
Penalty and Interest Due =	\$28.00

If you have a good reason for being late, you may request a waiver of penalty. The UI Contributions Bureau will then determine whether to grant the waiver or not. As a general rule, not having the necessary forms is not an acceptable reason for a waiver.

### **Are there other penalties?**

The UI Contributions Bureau may issue a subpoena or file a jeopardy assessment if an employer refuses or fails to file their quarterly report or provide requested information. If the UI Contributions Bureau takes either of these actions, the employer is assessed a \$50 penalty. If an employer fails to honor the subpoena, an additional \$100 penalty will be assessed.



## **SECTION 8: ONLINE & ELECTRONIC SERVICES**

Montana Unemployment Insurance offers a number of online and electronic services for employers. Employers interested in electronic filing or payment may do so either using our online filing and payment service, WOW, or via electronic media, as described on pages 21 - 22. Employers and their authorized representatives may access account information online through UI4Employers. We encourage you to use all of our secure, online services.



### **UI4Employers - Online Registration, Forms, and View Reports**

**UI4Employers** provides employers secure, online access to their UI account information such as report and rate history, rate notices, statements of account, benefit charge statements, and more. It can also generate quarterly payroll report forms and employment posters. You can also register for a new account on UI4Employers.

Only an owner, officer or partner can initially access their UI account. Upon gaining access, the owner, officer or partner becomes the “access rights administrator” and can grant access to other officers, partners, employees or employer representative (such as accountant or payroll service provider). Before receiving access, those additional users must first log into **UI4Employers**, get a “user ID,” and provide their ID to the access rights administrator. The **UI4Employers** service does not permit an employer to update their account information online. However, instructions are provided for making changes.

**UI4Employers** may be accessed at: [ui4employers.mt.gov](http://ui4employers.mt.gov) Users log in using the Montana e-Pass portal. Users who do not have an e-Pass account must first create one. After entering their e-Pass account information, the user will be directed to **UI4Employers** main menu.

“Instructions” and “How Do I” tabs are provided throughout the service to explain what is required as a user navigates through the application or process.

Employers and authorized employer representatives may access the following Unemployment Insurance services through **UI4Employers**:

- Register (apply) for a new Unemployment Insurance (UI) account.
- View UI account information including: rates and taxable wage base, account balance due, employer demographics, alternate business name (s), and contact list
- View & Print UI Forms and Documents Including:
  - › Quarterly Wage Reports
  - › Number of missing or estimated employer quarterly reports
  - › Electronic filer payment coupon (UI-5E)
  - › Rate Notice (s)
  - › Statement of Account
  - › FUTA Recertification
  - › Benefit Charges

### **Electronic Filing and Payments**

Employers are strongly encouraged to e-file quarterly UI reports rather than using paper forms. Filing electronically can save both time and money for employers and the agency. Since accurate data is the key to proper tax payments and to timely benefit payment processing, everyone stands to benefit from electronic reporting. We currently offer two methods for filing electronically:

- E-file and pay your report with WOW
- ICESA file format that requires mailing a CD with the files or securely e-mailing your file(s) through E-pass, the State of Montana File Transfer Service

## E-filing UI Quarterly Reports using WOW



Our e-file program is called WOW and the home page is located at [wow.mt.gov](http://wow.mt.gov). On the home page, you can view a demo to get a feel for all the features available.

Registering to use WOW is quick and easy. You will need your FEIN and UI account number to register. Click on the link **New WOW Users: Click Here to Register.**

Using WOW to prepare and file your report will save you time because it stores the names and social security numbers of your employees as well as their previously reported wages so that you do not have to re-enter their names and social security numbers or make excess wage calculations when you prepare the report.

After you enter the quarterly wages for each employee, WOW will calculate each employee's excess wages and the tax due. We encourage new users of WOW to begin filing electronic reports in the first quarter of the year to ensure correct excess calculations. If you would like to start utilizing WOW later in the year, and anticipate having employees with excess wages, you will need to enter all prior quarter wages into WOW.

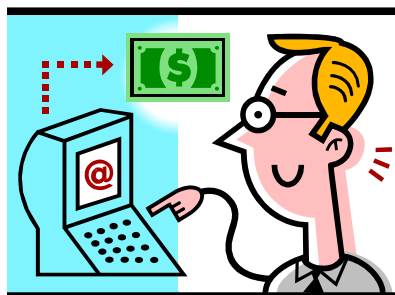
## Electronic Payments using WOW

The **electronic payment feature** in WOW initiates an ACH debit from a bank account you specify and applies the payment to your UI account. To make a payment online you must first register to use WOW (if you have not already done so) and then store your banking information by choosing "Register/Update Electronic Payment Information (ACH Debit)" from the WOW main menu. You can pay online even if you did not file your report online. You must initiate an ACH debit payment each time you wish to make a payment.

## E-filing with wage upload files

If you have several employees, you may want to upload wages to WOW, rather than entering the wages individually. Uploading is fairly simple whether you have an accounting system which can export information to Excel, use Quickbooks, or have a system which creates ICESA files. Each of these programs can save the information into a file with a CSV (Comma-delimited) format on your computer. Then you simply sign into WOW, choose the Upload Employee Wages option on the main menu, and Browse, click, and press the Upload Now button and the quarterly wages will be transferred to WOW. Follow the prompts to create and submit your quarterly report.

For more information about converting wages files to a CSV format, visit [wow.mt.gov](http://wow.mt.gov) or refer to our Electronic Media Reporting Handbook.



## Electronic Media Reporting for Unemployment Insurance Taxes

Employers using the nationally-accepted Interstate Conference of Employment Security Agencies (ICESA) format, with a record type "S" for state quarterly unemployment wage detail listing, can easily file quarterly reports (including bulk files):

- Using the State of Montana FTP Secure File Transfer Service (secure email),
- On compact disk (CD), or
- On 3 ½ inch diskettes.

For detailed file layout requirements/ instructions please refer to our **Electronic Media Reporting Handbook** <http://uid.dli.mt.gov/TAX/Forms/magneticmediahandbook.pdf>.

If you are an employer who does not utilize the ICESA format, we can accept Excel wage listings, IF they are properly formatted (see our Electronic Media Reporting Handbook). Since Excel can only be used to file wage listings, you will need to submit your paper UI-5 quarterly tax report in addition to the Excel wage list.

To send a tax report or wage listings using the State of Montana FTP Secure File Transfer service visit <https://transfer.mt.gov/> to establish a valid ePass account. Once logged into the service you can simply upload your file and securely email it to [wow@mt.gov](mailto:wow@mt.gov). For more information on using this secure email service refer to our Electronic Media Reporting Handbook.

Like paper reports, quarterly reports sent via FTP, CD or Diskette must be postmarked on or before the last day of the month following the close of the quarter to avoid being delinquent (See page 16).

After your first quarter of filing using one of the electronic media options, you will begin receiving a UI-5E in place of the UI-5 (paper quarterly report form). The UI-5E is the Montana UI Employer's Quarterly Payment Transmittal form. Payments (if applicable) should accompany all CD or diskette submittals. For FTP filers, payments can be made online at [WOW.mt.gov](http://WOW.mt.gov) or mailed in attached to the UI-5E.

If you would like to test your file format before your first official submission or if you have any questions regarding the electronic methods of filing UI reports, please contact our Electronic Tax Reporting Team at [wow@mt.gov](mailto:wow@mt.gov) or call April Rose at 406-444-6963 or Kathleen Havens at 406-444-1874.



## **SECTION 9: BENEFITS ELIGIBILITY and CHARGING**

When job separations occur, employers are contacted via letter and/or telephone to obtain facts critical to determine claimant eligibility for UI benefits. Prompt participation and complete information from employers allows UI to make proper decisions to allow or deny benefits to those who find themselves unemployed and seeking benefits. Correct decisions on UI benefits eligibility is of great importance to the Unemployment Insurance Division, as well as to the claimants and employers the program serves. Employers play a valuable part in the administration of UI benefits. Workers who worked in insured employment and find themselves out of work without fault depend on employer's quick responses for accurate and fast benefit payments.

### **What separations qualify claimants to receive benefits?**

Benefits are allowed if a claimant:

- Is laid off due to lack of work;
- Is laid off at the end of a temporary job;
- Quit for work related reasons, or;
- Is discharged for reasons other than misconduct – To be considered misconduct, the individual must have control over the situation and the behavior must have an adverse affect on the business interests.

***Misconduct* is an intentional disregard for the interests of the employer.  
Inability to perform the job is not considered misconduct.**

### **Discharges - Things the UI Division will ask employers to provide:**

Final Incident – a detailed description of the final incident that occurred at the time of, and directly led to, the discharge – What happened, when, who was involved etc.

Company Policy – if the claimant was discharged for violation of a company policy, a copy of the violated policy will be requested. It is difficult for an employer to show a policy has been violated if a copy of the policy is not provided.

Written warnings - warnings must pertain to the same problem/action that directly led to the discharge.

Warnings – a warning whether verbal or written should include:

- a description of the action that led to the warning,
- date of the incident,
- date the warning was issued,
- the expectations for correction of that particular problem, and
- the consequences if the problem continues.

If the warning is verbal the person who issued the warning should document the steps above for the employee's file with their signature confirming which of the above warning steps occurred.

A written warning should:

- be signed and dated by the person issuing the warning,
- ask the employee to sign and date the warning acknowledging they received it – even if they don't agree with it. (Giving the employee an opportunity to respond to the warnings can work in the employer's favor.)
- if the employee refuses to sign the warning and someone else was present, include a signed statement by the witness attesting to the fact the warning was issued and the employee refused to sign it.

Remember formal or informal discussions with employees for on-going training or performance enhancement are not warnings. Warnings should clearly put the employee on notice that their job is in jeopardy if the problem(s) continue.

### **What are re-qualifying wages?**

If the claimant is disqualified due to a quit for personal reasons or discharged for misconduct, they can earn re-qualifying wages to end the disqualification. For a quit issue, the claimant has to earn six times their weekly benefit amount after the date of the separation to requalify. For a discharge issue, the claimant must earn eight times their weekly benefit amount after the date of the separation. The disqualification is ended, not removed, when the re-qualification wages are earned. If disqualification is ended, your account may be charged for benefits paid after the ending date of the disqualification.

### **How is fact-finding done?**

If a quit or discharge has occurred within 42 days of the filing of the unemployment claim, a decision will be issued regarding the separation, and the employer involved will receive a copy of that decision. Quit and discharge issues are investigated by the Customer Service Representatives. They will contact your business to obtain specific separation information for each claim. We appreciate prompt return of the requested information to allow for timely decisions. A decision will be made on a quit/discharge on the last employer, regardless of the length of time since the separation.

You can return information to:

Unemployment Insurance Division  
PO Box 8020  
Helena MT 59604-8020  
Fax: (406) 444-2699

### **What can employers do to help insure a fair determination?**

- Follow good personnel practices, such as:
  - › Document personnel policies;
  - › Make sure employees are aware of the policies;
  - › Make sure you give employees a chance to improve poor performance;
- Provide specific separation information to the Unemployment Insurance Division. For example, don't say "poor performance"; say "he ruined a batch of milk by dumping lye in it";
- Provide copies of any disciplinary actions (related to the reason for separation) and the policies which were violated, and;
- Provide witness statements for corroboration when it is your word against the claimant's. Be sure to date any warnings or notes about conduct. Be specific as to the date the behavior occurred.

### **How does job/union attached status affect an employer?**

Job-attachment allows an employer to retain qualified employees who are temporarily laid off and willing to return to their employ once work is again available for them. It also allows a claimant with a new offer of employment to discontinue seeking other work pending the start date of the new employment. The employer is required to verify they intend to hire/rehire the worker.

If a claimant is totally unemployed, they can be "job attached" when the claimant has a definite or approximate date of hire or return to insured work at which the worker will be regularly scheduled to work 30 hours or more per week. If the claimant is working part time, they can be "job attached" if they have a definite or approximate date they will be returning to at least 40 hours a week on a consistent basis. The claimant is not required to register for work or make a weekly work search while job attached.

Union-attachment exempts the work search requirement of unemployment insurance for claimants who are on the "out-of-work" list with a union that operates an exclusive hiring hall as the union performs this activity on the claimant's behalf.

Benefits paid for the time a claimant is job or union-attached will be charged to your account if you are determined to be a chargeable employer. The longer a claimant is out of work *or* on reduced hours, the more charges accrue. If the rehire arrangement changes at any point, the employer should contact the Unemployment Insurance Division.

### **What happens if a claimant refuses a job offer?**

If a claimant refuses a bona fide job offer (offer is made directly to the claimant by a person authorized to hire) a decision will be made by the department to determine if the refusal will be disqualifying. The department considers such factors as:

- The degree of risk to the claimant's health, safety, and morals;
- Physical fitness;
- Prior training;
- Experience;
- Previous earnings;
- The length of unemployment and prospects for finding work in the claimant's customary occupation, and;
- The distance of the available work from the claimant's residence.

If a claimant refuses suitable work without good cause, the claimant is disqualified to receive benefits. The disqualification can be ended when the claimant has earned six times their weekly benefit amount. The maximum benefit amount is reduced by six times the claimant's weekly benefit amount.

### **When are notices of Potential Benefit Charge sent?**

These notices are sent to all experience rated employers who paid wages to the claimant in the base period (see chart on page 14). All employers in the base period are potentially chargeable based on the percentage of their wages to the total base period wages.

Example: The total base period wages are \$24,000. ABC Company paid \$12,000 of that total. ABC Company is potentially chargeable for 50% of any benefits paid.

### **When are charges for experience rated employers relieved?**

The Notice of Potential Benefit Charge is returned in a timely manner by the employer, and:

- The claimant quit for personal reasons or other reasons not attributable to the employment, or
- The claimant was discharged for misconduct, or
- The claimant is still working with no reduction in hours or wages or less than a 10% reduction – We are required to compare the 4 weeks prior to filing of the claim to the four weeks after the claim is filed, or
- The claimant is attending Department approved training, or
- The base period employer is ordered to military service, or
- The benefits are paid in accordance with a national or state extended benefit program, or
- The claimant was laid off to accommodate the return of a military employee called to active duty.

\* Montana Law does not allow us to relieve charges for employers who hire temporary or seasonal employees, if the claimant completed the temporary or seasonal assignment.

### **How charging determinations differ from non-monetary determinations:**

- Only apply to base period employers;
- Do not allow or disqualify the claimant to receive benefits;
- Only decide the base period employer's chargeability;
- Cannot be based upon the claimant's availability or work refusals.

**Remember:** Employer charging determinations are based on the last separation prior to the claim effective date. If a claimant quits for personal reasons, the employer rehires them for a temporary period, and then a claim is filed, the employer will be charged based on the **temporary, last period of employment.**

### **How do non-monetary decisions affect benefit charges for experience rated employers?**

When a claim for benefits is initially filed, the department adjudicates the separation from the last employment and any separations that occurred within the 6 weeks prior to the claim effective date.

- If the claimant is disqualified for a separation from their last employer or an employer within those 6 weeks, benefit charges will be relieved to experience-rated employer(s);
- If benefits are allowed, the experience rated employer(s) are charged.

A claimant's eligibility for benefits can also be affected by availability, work refusals, not registering for work, not providing information when requested, etc. If any of these situations occur, a claimant may not be eligible to receive benefits. In order to protect the integrity of the UI trust fund and employers' individual accounts, we depend on employers to provide timely, complete information regarding work refusals, availability, etc.

### **When are Statements of Benefits Paid sent?**

Statements are sent out quarterly by the Unemployment Insurance Contributions Bureau and show the charges to your account for the quarter indicated.

Example: Charges for the months of January, February, & March will be mailed in April.

### **Can I have quarterly UI benefit charge statements sent to a different address from the address used for my UI Tax notices?**

Yes. To have the benefit statements sent to an alternate address, send a written request, signed by an authorized representative to: PO Box 6339, Helena MT 59604-6339. Also, promptly notify us of any changes in your tax mailing addresses. All other benefits notices can only be sent to the mailing address used for UI tax correspondence.

### **What does the UI Division do to detect benefit overpayments and claimant fraud?**

Each quarter we:

- Cross-match the claimants' earnings reports with the wages reported by employers.
- Investigate a percentage of randomly chosen claims filed by in-state claimants and 100% of the interstate claims.
- Perform cross-matches with the university system, workers' compensation, and child support new hire information.
- Investigate every tip we receive. If you have reason to believe a claimant is receiving benefits they aren't entitled to receive, please contact the Claims Investigation Unit at (406) 444-3783.

### **What information is required for reporting tips on potential claimant fraud?**

- Claimant's name and social security number (if available).
- Name of the business where the claimant is working.
- Location of the business.
- Business mailing address and phone number (if available).
- Time period in which the claimant was working.

## What is a Claims Investigation Audit?

The purpose of the audit is to assure that claimants have reported their hours worked and gross earnings correctly during the time they were collecting benefits. This audit also protects the employer and the UI trust fund from claimants collecting benefits they are not entitled to receive.

The Claims Investigation Audit Request is performed each quarter. This audit is a **random selection of claimants** that have drawn benefits during the same time period in which **one or more employers have reported wages**.

The audit forms are computer generated and sent to employers. Employers are asked to complete the hours worked and gross earnings for each calendar week during a time period indicated on the audit form. The information from the completed audit forms is input into our cross-match system. If discrepancies are present, the claimant is notified of the discrepancy. If the claimant is unable to provide evidence that would disprove the employer report, an overpayment of benefits is established and the claimant is required to repay the overpaid amount. When an overpayment is established, the chargeable employer's account is credited accordingly.

If a claimant takes time off work, please list the dates off work and the reason(s). Claimants are not eligible to receive benefits when taking time off work.

## Information that is needed for a claims investigation audit:

- An **as-earned** breakdown of hours worked and gross earnings for each calendar week the claimant drew benefits. If calendar week information is not available, please provide an explanation of your payroll system, i.e., bi-weekly, semi-monthly, etc.. List gross earnings and the time period in which they were earned. Example: \$235.00 earned between Jan 1 and Jan 15;
- Dates of employment;
- Hourly rate of pay. If the person was paid in some other form, provide explanation of pay, i.e., commission, salary, etc.; and
- Name and phone number of person completing the form.

## How are overpayments collected?

When a claimant receives benefits they are not entitled to receive, the Overpayment Unit collects the reimbursements.

Employer accounts receive credit as soon as an overpayment is established.

Claimants repay by:

- Personal payment – either lump-sum or a payment contract.
- Offset of up to 50% of the claimant's weekly benefit amount.
- Federal Income Tax refunds.
- Collection by Montana Department of Revenue on state warrants such as:
  - › Income tax refunds
  - › Lottery winnings
  - › Garnishments
- Liens
- Court ordered re-payments (pay card fraud).

Claimants who commit fraud:

- Must repay the overpaid amount plus a minimum of 33% penalty amount, up to a 100% penalty.
- Could lose up to 52 weeks of future benefits.
- Can be prosecuted in District Court.
- Are allowed no waivers of the overpayment.

### **What is the Privacy Act?**

We are governed by the Federal Privacy Act and are required to protect the privacy of both the employer and claimant. The claimant can be told the wages you have reported under their social security number. However, no specific information regarding your account will be made available to the claimant, another employee, competitor, or curious members of the public.

This is also true of the claimant's information. An employer will be given copies of statements the claimant made concerning a separation from that particular business, as well as a copy of any determination made pertaining to a separation from that employment.

As a chargeable employer, you will receive a Statement of Benefits Paid for each quarter there are charges or credits to your account. However, we are not able to tell you the claimant's weekly benefit amount or the specific weeks in which the claimant drew benefits.

If an accounting firm is handling your UI matters, you will need to contact us to authorize the release of information to them.

### **How is accuracy and quality measured?**

Benefit Accuracy Measurement / Quality Control (BAM/QC) is a management information tool that helps control error and fraud in the state and federal Unemployment Insurance program. The benefits of the audit are better prevention, detection, and collection of improper payments.

Unemployment Insurance claimants are randomly selected for a complete review of their claim. A member of the BAM/QC staff will contact that claimant's employers to verify payroll and separation information.

Based on the investigation, a determination is made as to whether the claim for the week was paid or denied properly or improperly. If a claim is paid or denied improperly, it is then determined whether the claimant, agency, or the employer made the error. Finally, the reason for the improper payment is documented and the claim corrected.

### **Other Quality Reviews:**

The Department is also subject to many federal, state and department reviews that are done quarterly to insure the laws and policies are being applied appropriately.

These agency programs benefit employers because better detection and collection of improper unemployment insurance payments may result in reduced costs and may have a favorable impact on employer taxes. Also, these programs are intended to reduce improper payments in the future by deterring future unemployment claimants from submitting inaccurate information on the claim application.



## **SECTION 10: IMPORTANT PHONE NUMBERS**

Unemployment Insurance Employer Registration .....	1-800-550-1513
Unemployment Insurance Contributions Bureau .....	(406) 444-3834
FAX .....	(406) 444-0629
TDD for deaf & hard of hearing .....	(406) 444-0532
UI Benefit Charging Questions .....	(406) 444-0399
Claims Processing Center - Billings .....	(406) 247-1000
Claims Processing Center - Helena .....	(406) 444-2545
UI Claims Investigation .....	(406) 444-3783
FAX .....	(406) 444-2699



### **UI Field Representatives**

Located across Montana, the following individuals provide reporting forms and employer tax assistance. Please call or write them with your questions.

<b><u>Field Office</u></b>	<b><u>Field Representative</u></b>	<b><u>Phone Number</u></b>
<b>Billings</b> 624 N. 24th Street Billings, MT 59101-1029	Diane Bianchi	(406) 247-1032
	Mary Bernhardt	(406) 247-1007
	Lisa Barton	(406) 247-1009
	Danelle Fogarty	(406) 247-1056
	<b>FAX</b>	(406) 247-1014
<b>Bozeman</b> 220 W. Lamme Suite 1C Bozeman, MT 59715	Richard Gobbs	(406) 585-2779
	Brandy McManus	(406) 582-7873
	<b>FAX</b>	(406) 582-5841
<b>Great Falls</b> 300 Central Ave., Suite 330 Great Falls, MT 59401	Amy Everaert	(406) 771-6523
	<b>FAX</b>	(406) 727-2237
<b>Helena</b> 1315 East Lockey, 4 <sup>th</sup> Floor PO Box 1728 Helena, MT 59624-1728	Rick Eldredge	(406) 444-1903
	<b>FAX</b>	(406) 444-0629
<b>Kalispell</b> 121 Financial Drive, Suite G Kalispell, MT 59901	Joseph Reiner	(406) 758-5900
	<b>FAX</b>	(406) 758-5899
<b>Missoula</b> 2681 Palmer Road, Suite I Missoula, MT 59808	Scott Moothart	(406) 329-1420
	Chris Wheeler	(406) 329-1415
	Lisa Hamer	(406) 329-1438
	<b>FAX</b>	(406) 329-1449

### Other Agency Phone Numbers:

Contractor Registration	(406) 444-6530, Option 2
Department of Revenue	(406) 444-6900
Independent Contractor Central Unit	(406) 444-6530, Option 3
Internal Revenue FUTA Certifications	(800) 550-1513
Internal Revenue Service (toll free)	(800) 829-1040
IRS Applications for Federal ID #'s	(800) 829-4933
Professional Employer Organization Registration	(406) 444-6532
Secretary of State	(406) 444-2034
Social Security Administration (toll free)	(800) 772-1213
State Compensation Insurance Fund	(406) 444-7711
Workers' Compensation (toll free)	(800) 332-6102
Workers' Compensation – Registration	(406) 444-6530

### Job Service

In the past several years, each of the 23 local Job Service offices in Montana has provided enhanced services to business customers that go beyond the traditional labor exchange (matching job seekers to employers' openings). Job Service offers assistance to businesses including help with employee recruitment and retention needs; human resource tools; employee training programs and information on tax credits. In Montana, a large majority of businesses are small operations, lacking Human Resource departments or staff. This provides the Workforce Services Division, through its local Job Service offices, with an opportunity to assist Montana businesses.

### Additional types of services provided include such things as:

- › Posting job openings and providing referral services according to the customer's needs.
- › Proficiency testing of job applicants.
- › Providing access to a business resource center or library.
- › Performing job analysis.
- › Developing job descriptions and effective hiring procedures.
- › Distributing mandatory employment posters at no cost.
- › Providing information on labor market trends to support local economic development activities.
- › Providing information on labor and human rights laws.

### All services are customized to meet the needs of the individual business customer.

As the demand for these services has grown, local Job Service managers have increased the amount of time their staff devotes to these duties. Every Job Service in the state has staff trained to provide services to businesses. It is noteworthy that the provision of these types of services to business customers began in the Flathead Job Service at the urging of the local Job Service Employer Committee (JSEC).

You can learn more about business customer services and resources available to business by going to [http://wsd.dli.mt.gov/service/business\\_services.asp](http://wsd.dli.mt.gov/service/business_services.asp) or by calling your local Job Service office. For a list of Job Service offices go to <http://wsd.dli.mt.gov/service/jsclist.asp> or call 406-444-4100.

**Montana Job Service**  
(All area codes are 406)

<b>City Address</b>	<b>Phone</b>	<b>Fax</b>	<b>Email Address</b>
<b>Anaconda</b> 307 E Park	563-3444	563-7827	AnacondaJS@mt.gov
<b>Billings</b> 2121 Rosebud Dr , Suite B	652-3080	652-0444	BillingsJSC@mt.gov
<b>Bozeman</b> 121 N Willson	582-9200	582-9210	BozemanJSC@mt.gov
<b>Butte</b> 2201 White Blvd	494-0300	494-5481	ButteJSC@mt.gov
<b>Cut Bank</b> 501 E Main	873-2191	873-5393	CutBankJSC@mt.gov
<b>Dillon</b> 730 N Montana, Suite 4	683-4259	683-2903	DillonJSC@mt.gov
<b>Kalispell</b> 427 First Ave E	758-6200	758-6290	KalispellJSC@mt.gov
<b>Glasgow</b> 74 4 <sup>th</sup> St N	228-9369	228-8793	GlasgowJSC@mt.gov
<b>Glendive</b> 211 S Kendrick	377-3314	377-5831	GlendiveJSC@mt.gov
<b>Great Falls</b> 1018 7 <sup>th</sup> St S	791-5800	791-5889	GreatFallsJSC@mt.gov
<b>Hamilton</b> 274 Old Corvallis Rd, Suite D	363-1822	363-1823	HamiltonJSC@mt.gov
<b>Havre</b> 160 First Ave	265-5847	265-1386	HavreJSC@mt.gov
<b>Helena</b> 715 Front St	447-3200	447-3224	HelenaJSC@mt.gov
<b>Lewistown</b> 300 First Ave N	538-8701	538-7249	LewistownJSC@mt.gov
<b>Libby</b> 417 Mineral, Suite 4	293-6282	293-5134	LibbyJSC@mt.gov
<b>Livingston</b> 220 E Park	222-0520	222-1593	LivingstonJSC@mt.gov
<b>Miles City</b> 12 N 10 <sup>th</sup> St	232-8340	232-6270	MilesCityJSC@mt.gov
<b>Missoula</b> 539 S 3 <sup>rd</sup> St W	728-7060	721-7094	MissoulaJSC@mt.gov
<b>Polson</b> 417-B Main	883-7880	883-4564	PolsonJSC@mt.gov
<b>Shelby</b> 202 Main St	434-5161	434-2351	ShelbyJSC@mt.gov
<b>Sidney</b> 211 N Central	433-1204	433-7453	SidneyJSC@mt.gov
<b>Thompson Falls</b> 2504 Tradewinds Way, Suite 1	827-3472	827-3327	ThompsonFallsJSC@mt.gov
<b>Wolf Point</b> 201 Main St	653-1720	653-1196	WolfPointJSC@mt.gov

