



## MONTANA UNEMPLOYMENT INSURANCE (UI) QUARTERLY NEWS

### **2009 Unemployment Insurance Legislation of Interest to Employers**

**Senate Bill 150** includes general revisions to the UI laws. Areas of primary interest to employers are:

- Timeframe to reactivate an employer's account and restore its experience rating history lengthens from 3 years to 5 years.
- Provision to deny benefits to individuals during the first two weeks of a disciplinary suspension. If the suspension is longer than two weeks, a decision is issued whether the individual was suspended due to misconduct.

**House Bill 10** provides authority to develop a new UI tax computer system that will provide more self-service features for employers.

**House Bill 645** implements the federal economic stimulus bill and provides for:

- An alternative base period (the last 4 completed calendar quarters) for UI claimants who don't qualify using wages paid in the first 4 of the last 5 completed quarters;
- Allowing benefits to traditional part time employees laid off and seeking just part time employment; and
- Paying up to 26 weeks of UI benefits to individuals whose jobs are in a declining industry and who are participating in an approved training program.

**Senate Bill 463** clarifies when the family is the employer of respite care workers, and requires the Department of Public Health and Human Services to educate the family of their potential liability for worker injuries.

### **Independent Contractor Requirements**

If a business pays an independent contractor and the worker does not have a valid Independent Contractor Exemption Certificate, the business may be charged for UI taxes on the independent contractor's payments. UI law defines an independent contractor as one who is working under a valid Independent Contractor Exemption Certificate. When you contract for any type of service with an individual, confirm the individual has a valid independent contractor exemption certificate by asking them for a copy or go on-line at: <http://mtcontractor.com>

## **UI and Limited Liability Companies (LLCs)**

The treatment of LLCs for Montana Unemployment Insurance tax is aligned with federal tax treatment. For Montana UI purposes, a Limited Liability Company will be treated as follows:

- (1) As a sole proprietorship if it is a single-member Limited Liability Company that is not established as a S corporation for federal income tax purposes.
- (2) As a partnership if it consists of more than a single member and it is not established as a corporation pursuant to the provisions of the Internal Revenue Code for income tax purposes.
- (3) As a corporation if it is classified as a corporation for income tax purposes pursuant to the Internal Revenue Code. Single member LLCs filing as S corporations for income tax purposes will be treated as S corporations for UI tax.

## **Corporate Officers**

Montana Unemployment Insurance Law requires that a corporation must report and pay Unemployment Insurance taxes on the wages of its corporate officers. This includes corporate officers with independent contractor exemption certificates. Limited Liability Companies (LLCs) that file federal taxes as a corporation must also report and pay UI tax on wages of their members/managers.

## **Quarterly Report Reminders**

The UI quarterly wage report for the second quarter of 2009 should be postmarked by July 31, 2009 to avoid late charges. You can save money by filing and paying on time. Late payment interest is computed at 1.5% a month. Late file penalty is \$25.00.

It is important that your wage report be filed by the due date even if you have no wages to report or are unable to pay in full. If you can't pay in full, pay as much as you can and attach a note to the report stating how you plan to pay the balance. By filing timely, you can avoid the penalty and interest mentioned above as well as a \$50.00 penalty that is assessed should we have to issue a subpoena to get the quarterly wage report.

Remit payment for unemployment insurance taxes only. Please do not include payments for the Department of Revenue, State Fund, etc. Addresses for these agencies can be found on their report forms.

If you have any questions or concerns, give us a call at 406-444-3834 or contact our field representative located in your area.

**No Employees?** - A quarterly report must be filed even if no wages are paid during that quarter. If you paid no wages, check the box entitled, "Check here if no wages were paid for the quarter covering this report" and write "None" on the "payment enclosed" line.

**Tax Due?** Have you received a Statement of Account from us showing an amount due? If you can't pay in full or if you have questions about the statement, give us a call at 406-444-3834. Our accounts receivable staff will assist you in resolving the issue.