

# Montana Department of **LABOR & INDUSTRY**

## Employer Handbook

Montana Department of Labor & Industry

Unemployment Insurance Division

(Revised 2020)

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.

For More Information:

**[uid.dli.mt.gov](http://uid.dli.mt.gov)**  
**[montanaworks.gov](http://montanaworks.gov)**

Forms: [uid.dli.mt.gov/forms](http://uid.dli.mt.gov/forms)  
UI Account: [uieservices.mt.gov](http://uieservices.mt.gov)

**Telephone: (406) 444-3834**  
Fax: (406) 444-0629

UI Contributions Bureau  
P.O. Box 6339  
Helena, MT 59604-6339



## ▪ 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. Report new hires and rehires at [dphhs.mt.gov/CSED/employerinfo](http://dphhs.mt.gov/CSSED/employerinfo).

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. Failure to respond timely and completely to requests for information may result in forfeiting your rights to participate as an interested party to the claim and non-relief of benefit charges for any resulting overpayment.

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 write to us at PO Box 8020, Helena MT 59604-8020.



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## **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 provides short-term economic assistance to eligible unemployed workers, helps maintain purchasing power in local communities, and encourages 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 Insurancetaxes.

**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 or have questions about unemployment tax matters, contact the Unemployment Insurance office at (406) 444-3834 or the field representative nearest you (see page 32). Please have available your UI account number, federal identification number and other information (canceled checks, report copies, etc.) when you call.

If you have questions about benefit charges to your account for a particular claimant, call the Employer Charging line at (406) 444-0399. Please have their social security number available.

For accessing Unemployment Insurance information on the Internet, go to [uid.dli.mt.gov/](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 gross 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, call the Registration Unit at (406) 444-3834 (Option 2). We will send you an Application for Voluntary Coverage form to complete. Voluntary coverage cannot be retroactive and if approved, you must cover your employees for at least two calendar years. You may obtain an Employer Registration form by calling the Registration Unit at 406-444-3834 (Option 2).

### **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 [uieservices.mt.gov](http://uieservices.mt.gov) or by completing a paper form. You may obtain an Employer Registration form by calling the Registration Unit at 406-444-3834 (Option 2) or downloading the form and instructions from our web site at [uid.dli.mt.gov/forms](http://uid.dli.mt.gov/forms).

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 406-444-3834 (Option 2) 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 apply 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:

Calendar Year:	2020	2019	2018	2017	2016	2015
Taxable Wage Base:	\$34,100	\$33,000	\$32,000	\$31,400	\$30,500	\$29,500

Experience rated employers pay taxes on each employee’s gross 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 gross 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** – for the first three years is based on their type of business industry. As a new employer, you are assigned the average rate of all employers in your industry. Your rate may change during the three year “industry average” period either because the average rate for your industry has changed or because your business had more benefits charged to your account than the amount of contributions paid in. If you purchased an existing business, we have provisions for transferring 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 received pay for the payroll period that includes the 12<sup>th</sup> 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 32).

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?**

As defined in 39-51-201, Montana Code Annotated, “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 32 of this publication.

<b>Montana UI Wage &amp; Unemployment Tax Chart</b>	
<b>Special Classes of Employment and Special Types of Payments</b>	<b>Unemployment Insurance Tax Treatment</b>
Advances against future earnings.	Taxable, when paid
Agricultural Labor	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.
Aliens, nonresident: 1. Working under section 101(a)(15) of the Immigration and Nationality Act, as amended, for the purposes identified in 8USC 1101(a)(15) (F), (H)(ii)(a), (J), (M), or (Q). 2. Working under any other condition or visa not listed above.	Exempt  Taxable
Aliens, resident: Service performed in Montana.	Taxable
Annuities: Payments made by the employer into a fund for retirement or death benefits, under a plan offered to all employees or a class or classes of employees.	Exempt
Back Pay paid as a result of a dispute related to employment.	Taxable
Bonuses	Taxable
Cafeteria plan salary reductions under IRC Section 125.	Taxable
Commissions: (See also “Salespersons”).	Taxable
Corporate Officer Payments: Corporate officers performing a service for the corporation (includes subchapter S corporations) are employees. (Also see Officers and Profit Distribution).	Taxable
Cosmetologists or barbers: 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
Deceased worker: Wages paid to beneficiary or estate after worker's death.	Taxable
Deferred Compensation: (see Retirement/Pension plans).	Taxable



Special Classes of Employment and Special Types of Payments	Unemployment Insurance Tax Treatment
Dependent care assistance programs under Section 129 of IRC or other assistance provided for dependent care.	Taxable
Director Fees: Customary and reasonable fees paid to directors of a corporation for attending meetings of the board of directors.	Exempt
Dividends	(see Profit Distribution)
Employee Benefit Plans, Perks furnished/paid by the employer. <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>	Exempt Exempt Taxable - at cash value
Employee Business Expense Reimbursement: <ol style="list-style-type: none"> <li>1. Actual expenses for lodging, goods or services incurred by the employee and supported by receipts, documented and entered separately in business records.</li> <li>2. Effective 11/1/2016, a flat rate for meals not exceeding the meal per diem rate allowed by the IRS for the year.</li> </ol>	Exempt* Exempt* *See page 8 for documentation and allowable reimbursement rates.
Equipment Rental Payments: <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>	Exempt (See page 8 for additional information.) Taxable Taxable
Family Employees: <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>	Exempt Taxable (unless all partners are parents of the dependent).
Foreign Government or International Organization: Working for foreign government or organization with service performed in Montana.	Taxable
Foreign service by Montana citizens: 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).
Gifts	Taxable
Gratuities	(see Tips)
Holiday Pay	Taxable
Home workers (industrial, cottage industry). Individuals who perform services at their homes, often paid on a piecework basis.	Taxable
Hospital employees: <ol style="list-style-type: none"> <li>1. Interns</li> <li>2. Patients</li> </ol>	Taxable Taxable
Household employees: <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>	Taxable if total cash wages are \$1,000 or more (for all household employees) in any quarter in the current or preceding calendar year. Exempt – if employed by a family member or legal guardian. You may request voluntary coverage (see page 2).



Special Classes of Employment and Special Types of Payments	Unemployment Insurance Tax Treatment
Income Tax Withholding: Withholding from an employee's wages for federal and/or state income taxes.	Taxable
Insurance 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> <li>3. Insurance paid by the employee through salary reduction.</li> </ol>	Exempt  Exempt  Taxable
Insurance agents/salespeople	Exempt - if paid solely by commission without guarantee of minimum earnings.
Loans	Taxable unless the employee is to repay the loan under a written schedule agreed to by the employer and the employee.
Limited Liability Companies (LLC): (effective 1/1/2008) <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  Taxable
Meals	(see Room and Board)
Mileage: Allowable amount up to the IRS mileage rate for current year provided the employee furnishes the vehicle.	Exempt – see page 8 for allowable Reimbursement.
Newspaper employees: <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  Exempt
Non-cash payments: <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. Taxable at the cash value.
Non-profit organizations: (Wages paid by).	Taxable if employer meets subjectivity requirements (see page 2).
Officers or shareholders of a Corporation: 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
Officials: Services performed by an individual as an official, including timer, referee, umpire, or judge, at an amateur athletic event.	Exempt
Partners or sole proprietor: Distribution of profits to general or limited partners of a partnership or to a sole proprietor.	Exempt
Profit Distribution: <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 Taxable



Special Classes of Employment and Special Types of Payments	Unemployment Insurance Tax Treatment
Railroads: Employment with any railroad engaged in interstate commerce	Exempt – excludes construction of railroads.
Religious Organizations: <ol style="list-style-type: none"> <li>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.</li> <li>2. Services performed by non-clergy employees.</li> </ol>	Exempt  Taxable
Retirement and Pension plans: <ol style="list-style-type: none"> <li>1. Employer contributions to a qualified pension or retirement plan.</li> <li>2.</li> <li>3. Elective <i>employee</i> contributions, salary reductions or deferrals to a 401(k) or any other type of retirement plan.</li> </ol>	Exempt  Taxable
Room and Board, Meals, etc. 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.
Salespersons: <ol style="list-style-type: none"> <li>1. Statutory non-employees, including direct sellers and real estate and insurance agents paid solely by commission.</li> <li>2. Other salespersons, regardless of method of payment.</li> </ol>	Exempt  Taxable
Severance, termination or dismissal pay	Taxable
Sick Pay  3 <sup>rd</sup> Party Sick Pay: <ol style="list-style-type: none"> <li>1. If the premiums to a 3<sup>rd</sup> party provider are paid by the employer.</li> <li>2. If the premiums to a 3<sup>rd</sup> party provider are paid by the employee.</li> </ol>	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
Social Security Taxes: Deductions from an employee's gross wage for FICA.	Taxable
State governments and political subdivisions (employees of): <ol style="list-style-type: none"> <li>1. Salaries and wages of non-elected employees.</li> <li>2. Salaries and payments to elected officials.</li> <li>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.</li> <li>4. Payments made into a qualified tax exempt trust for qualifying health care expenses under the Voluntary Employees' Beneficiary Association (VEBA) Act.</li> </ol>	Taxable Exempt Exempt  Exempt
Students, interns, scholars: <ol style="list-style-type: none"> <li>1. Student enrolled and regularly attending classes, performing services for a non-profit or public educational institution. "Regularly enrolled" is defined as 12 credits for undergrad students and 9 credits for graduate students.</li> <li>2. Full-time student/ scholar/ intern performing service for academic credit, combining education with work experience as an integral part of the program.</li> </ol>	Exempt  Exempt
Tips or gratuities: <ol style="list-style-type: none"> <li>1. Tips or other gratuities received by the employee and documented to the employer.</li> <li>2. Allocated tips.</li> </ol>	Taxable  Exempt
Vacation: Paid vacation for employee.	Taxable
Vehicles: Personal use of a company vehicle.	Taxable



**Employee business expense reimbursements** are not wages if the 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. Reimbursement for lodging, goods or services must be supported by actual receipts. Effective October 1, 2019, reimbursement for meal expenses may be made using a flat rate not to exceed the per diem rate allowed by the US Internal Revenue Service for that year. That rate is currently \$50 for a full day (\$13 morning, \$14 mid-day and \$23 evening).

Prior to 10/1/2019, the maximum amount allowed for non-receipted, in-state meal expenses was \$30.50 for full day (\$7.50 morning, \$8.50 mid-day, \$14.50 evening).

Reimbursement to an employee for use of their own vehicle for business travel at or below the federal mileage rate (\$0.575 in 2020) is not reportable as wages.

**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 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 on page 33. 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.

The Department refers to the State Occupational Employment and Wage Estimates for the pertinent occupation to determine a fair-market wage. You can find this guide on the DLI website under Occupational Employment Statistics. It will have the low, median, and high-end of wages paid for the occupation in your region of Montana.



## 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 simplify reporting of wages by the employer; and 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.

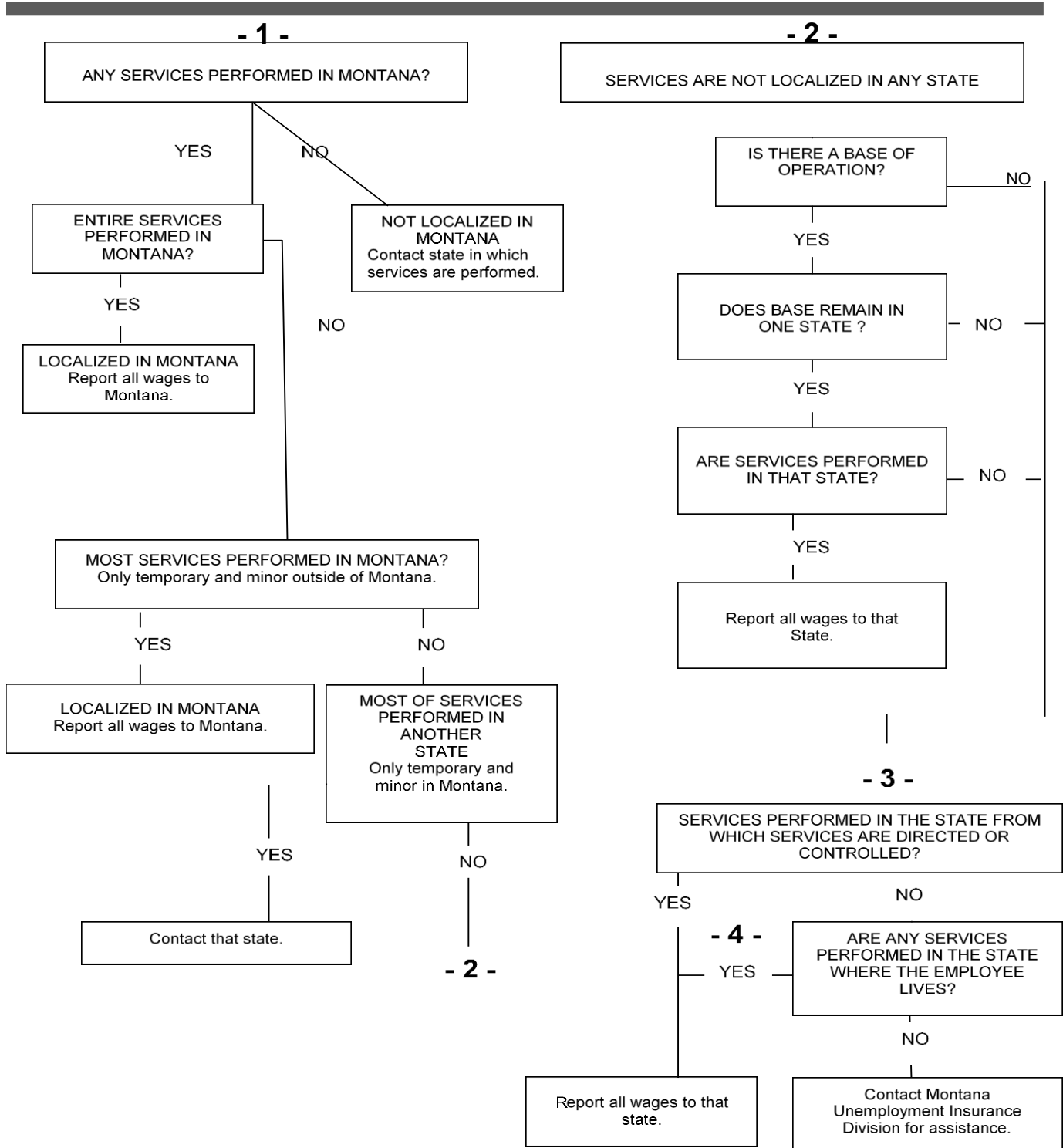
4) **Residence of Employee.** If none of the other tests apply, all of the individual's services are reportable to the state where the employee lives, provided some of the employee's services are performed in that state.

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 32.



### 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. If a new employer’s reserve is negative as of the cutoff date, the employer will receive a deficit experience rate instead of the industry rate for their industry. 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 TrustFund.
- **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 employer’s 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 an employer’s Unemployment Insurance rate determined?**

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.

$$\text{Trust fund balance/Total covered wages} = \text{Ratio}$$





The Schedule of Contribution Rates below reflects the range of rates in each rate schedule. For example, in 2020, Rate Schedule I is in effect, which means that experience rated employers' rates range from 0.00% to 6.12%.

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

$$\text{Contributions paid} - \text{benefit charges} = \text{Reserve}$$

$$\text{Reserve} / \text{average taxable payroll} = \text{Reserve ratio}$$

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 both consent within 90 days of the date you acquire the business. Contact the Unemployment Insurance Contributions Bureau at (406) 444-3834 (Option 1) 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 Department determines the previous employer and successor employer are under substantially common ownership, management and/or control of the business, the successor employer will assume the previous employer'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 Potential Charge Notice or Claim Filing & Potential Charge Notice is mailed to employers who paid wages to the claimant in the base period of the claim. If the employee separated for reasons other than lack of work, return the notice, within 8 days, providing an explanation of the reason the claimant stopped working. 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 Notice of Benefit Charge Activity (formerly known as 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.

		Regular Base Period (First 4 of last 5 completed calendar quarters)			
The quarter a claim is filed	The last completed quarter	1 <sup>st</sup> quarter	2 <sup>nd</sup> quarter	3 <sup>rd</sup> quarter	4 <sup>th</sup> quarter
Jan-Mar 2020	Oct-Dec 2019	July-Sept 2019	Apr-June 2019	Jan-Mar 2019	Oct-Dec 2018
		Alternate Base Period (last 4 completed calendar quarters)			

For Example: *If a claim is filed in January, February, or March of 2018, the regular base period is October 2016 through September 2017. If the claimant doesn't qualify using the regular base period, the alternate base period, January 2017 through December 2017, would be used.*

Claim filed in:	Regular Base Period:
Jan, Feb, or Mar	October 1 of two years prior – through September of previous year
Apr, May, or Jun	January 1 of previous year – through December of previous year
Jul, Aug, or Sept	April 1 of previous year – through March of current year
Oct, Nov, or Dec	July 1 of previous year – through June of current year

### 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 2020 is \$34,100. 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 2018 wage base.

#### Computing Excess Wages per Employee (based on 2020 UI wage base of \$34,100)

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	10,000	0
Fourth	10,000	40,000	4,100	5,900

### How do I calculate excess wages if I had a transfer of Experience Rating during the year?

If you acquired a business during the year and some of the employees' annual wages exceed the taxable wage base, there is a tax savings available for you. Because of the transfer of experience, the wages reported by the previous employer account (the predecessor) must be used to calculate excess wages. The easiest and most accurate way to determine the correct excess should be is to use UI eServices to file the reports as it will combine the wages reported by both employers to calculate excess. Otherwise, you must find a way for your payroll software to take the predecessor's payroll into account

### Can I use wages reported to other states to determine taxable wages in Montana?

Montana does not allow wages paid in other states to be used to determine excess wages. Only the wages reported to Montana can be used to determine excess wages.



### **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, 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 information on the IRS code, please contact the IRS at 1-800-829-1040. The reimbursable election must last a minimum of 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 generally 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 worked for you throughout the base period and earned \$15,000/quarter. She had no other employers. She quits your employ and accepts the job. The other business suffers a set back and Jane is laid off a month after she was hired. She files for unemployment insurance benefits and is found eligible. You paid Jane 100% of the total wages Jane received during her base period. Your reimbursable account is charged for 100% of the benefits paid to Jane even though she quit your business. She qualifies for \$552.00/week for a maximum of 28 weeks. This results in a maximum cost of \$15,456.00 to your account.*

*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. Refer to [Reimbursable Employer Brochure \(UI-71\)](#) for more information.

### **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, file UI quarterly wage reports and make timely payment of UI contributions.

Employers with 20 or more employees reported in any quarter of the prior year and all third-party agents reporting on behalf of an employer, are now required to file quarterly UI reports electronically. We strongly encourage you to file your reports and make payments electronically (see page 27).

If you are not required to file electronically, you may do so via a paper quarterly wage report (UI-5) form and payment voucher. To view a sample of the UI-5 paper form and voucher please visit [uid.dli.mt.gov/Portals/55/Documents/Contributions-Bureau/dli-uid-ui005-ex.pdf](http://uid.dli.mt.gov/Portals/55/Documents/Contributions-Bureau/dli-uid-ui005-ex.pdf). You must complete all sections of your UI-5 and submit it with your payment voucher and payment payable to Unemployment Insurance Division for the tax (plus any penalty or interest due). Please do not staple your check to the voucher or UI-5 form.

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

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

Quarter:	Report Covering:	Submitted/Postmarked By:
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 date the quarterly reports and payment must be submitted.

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

If you are not filing electronically, the quarterly report and voucher will be mailed to you at the end of each quarter if you OPT IN to receive it. To OPT IN, email [uieservices@mt.gov](mailto:uieservices@mt.gov), put "UI5 Mail Opt-In" in the subject line and include the full name of your business and your seven-digit UI account number in the body. Or call (406) 444-3834 (Option 2) to speak with one of our representatives.

If you receive the form, it contains your name, address, account number, rate, any credit balance and a barcode we will be using to capture this information when the report and voucher are returned. It is important that you do not use someone else's form and payment coupon as the tax, wage, and payment information could be posted incorrectly and may not be properly credited to your account.

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

Amended reports can be submitted through UI *eServices for Employers* or mailed with an explanation for the change with any additional tax due to the UI Contributions Bureau, P.O. Box 6339, Helena, MT 59604-6339. UI *eServices* can be used to amend reports which were originally filed by paper or other electronic methods.

To amend a paper filed report, copy the original, note the changes on the copy, and mail in the form. Please include an explanation for the amendment along with your name and phone number.



## **SECTION 6: 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 are e-filing your report or payment, it will be posted on the date submitted or scheduled for payment.

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 x 1.5% x 2 mos. =	<u>3.00</u>
Penalty and Interest Due =	\$28.00

### **What is the penalty for failure to file reports in the required format (eFiling rule)?**

Failure to file the quarterly reports electronically if you had 20 or more employees reported in any quarter of the prior year or if you have a third-party agent reporting on behalf of you, could be charged a \$25 fee.

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, and the department may initiate court action.



## **SECTION 7: BENEFITS ELIGIBILITY AND CHARGING**

### **What Do I Do With This Unemployment Insurance Claims Form?**

The UI Division may make a number of requests to employers related to the unemployment claims process when a current or former employee files a claim for unemployment benefits. It is important for you, as a partner in the UI program, to respond timely and completely to our requests to help us properly determine the claimant's eligibility for benefits and whether your account is chargeable for any benefits paid to that individual. Most requests for information have an eight day turn-around, so it's important to pay attention to the deadline. We encourage employers to respond to claims notices with any supporting information by using SIDES, secure email via Montana's File Transfer Service or fax to 406-444-2699

SIDES is new and convenient way to send and receive communications with Unemployment Insurance. SIDES (State Information Data Exchange System) allows Unemployment Insurance Agencies to communicate electronically with employers regarding UI claims including uploading information that pertains to the separation, i.e. pictures, employee handbook, video files, etc. This new system helps to ensure prompt processing of claims and prevent fraud by promptly receiving and processing employer responses. Created in partnership with the National Association of State Workforce Agencies, SIDES will help you or your representative (for example, a third-party administrator) respond to questions about claims quickly and easily.

To use SIDES for responding to employment separation questions, log into [UI eServices for Employers](#), and sign-up for SIDES E-Response. Once signed up, you or your designated contact, will receive email notification of a UI claim. You or your designated contact can log into *UI eServices* to complete the questionnaire and send it back to UI using the SIDES E-Response system.

### **Why is SIDES an important business tool?**

- It is free to use.
- It has built-in data checks to ensure the exchange of complete and valid information.
- You receive requests for information faster, which means you can respond faster.
- You receive a receipt as proof that you replied timely.
- It offers a single point of contact for answering initial questions about an employee's quit or discharge.
- Fewer follow-up phone calls and less correspondence is needed, thus freeing up staff to focus on other areas of the claim process.
- It lowers postage costs and generates less paper.
- It improves fraud detection.
- Reduces your chances of forfeiture due to lack-of or late response.

Montana's Secure File Transfer Service is another fast and secure method for you to email regular documents, large files and photos, even audio and video files directly to UI claims. It requires no software except for a web browser. Transfers are securely encrypted meeting all security requirements under state and federal privacy regulations. The Unemployment Insurance Claims Processing inbox, [UIPass@mt.gov](mailto:UIPass@mt.gov), is dedicated to receiving files through the File Transfer Service. Submissions are processed into the system the same day they are received. To take advantage of the File Transfer Service all you need is an "ePass Montana" account. If you already have an ePass account, just sign in, upload your files and send them to the UIPass inbox. To open an ePass account, simply go to [transfer.mt.gov](http://transfer.mt.gov) or type "ePass Montana" in your browser's search window. At the File Transfer Service home page, click "Create an ePass Account" and follow the directions for setting up an account. Once you have your account, upload your files following directions on the website and send them to [UIPass@mt.gov](mailto:UIPass@mt.gov). If you have questions about the File Transfer Service, call (406) 444-2545.



**Employers, who fail to respond timely or completely to the Department's requests for information about a claim (without good cause) will not be relieved of benefit charges if the claimant is later found to be paid benefits incorrectly. Additionally, the employer could lose their rights as an interested party with respect to the benefit claim.** This is another area where SIDES can assist the employer conveniently and without cost. This law is to encourage employer participation to ensure proper payment of benefits and to prevent a large overpayment for the claimant as a result of late appeals.

The following is a list and description of the most common UI claims-related forms you may receive, the reasons for these forms, and what you need to do with the form:

**Claim Filing Notice (UI-241):** This form is sent to you ONLY if the claimant worked for you within 42 days of the date they filed for benefits or if you were their last employer and you paid no wages to them in the base period of the claim. Your statement on this form will help us determine if the claimant is eligible for benefits. Write your responses in the space provided, attaching additional sheets if needed. Return your response to the UI Division by the due date.

**Potential Charge Notice (UI-242):** You will receive the Potential Charge Notice because you paid wages to the claimant in the base period of their claim. It identifies the percentage of benefits your account could be charged if benefits are paid. This form is not used to determine if the claimant is eligible for benefits; rather it is used to establish whether your account is chargeable for any benefits paid. Failure to return the form will result in charges to your account. Write your response in the space provided and you may attach additional sheets if needed. Return your response to the UI Division by the due date. For questions about paying reimbursable benefit charges, call 406- 444-3834, and for questions concerning why your account is charged call 406-444-0399.

**Claim Filing and Potential Charge Notice (UI-243):** You will receive this form if the claimant worked for you within 42 days of the date they filed for benefits or if you were their last employer, the claimant states they are laid off due to lack of work or are still working some hours, and you paid wages to the claimant in the base period of their claim. This form is used to determine the individual's eligibility for benefits as well as whether your account is chargeable. Failure to return the form will result in charges to your account. Write the reason for your former employee's separation (or if hours are reduced) in the space provided, attaching additional sheets if needed. Return your response to the UI Division by the due date.

**Claim Filing and Potential Charge Notice (UI-244):** You will receive this form if the claimant worked for you within 42 days of the date they filed for benefits or if you were their last employer, the claimant states they separated from you for reasons other than lack of work, and you paid wages to the claimant in the base period of their claim. This form is used to determine the individual's eligibility for benefits as well as whether your account is chargeable. It also explains the percentage of benefits your account could be charged if the claimant is found eligible for benefits. Failure to return the form will result in charges to your account. Write the reason for your former employee's separation in the space provided, attaching additional sheets and documentation as needed. Return your response to the UI Division by the due date.

**Request to Employer for Separation Information (UIERSEP):** You will receive this form if the claimant indicates they quit or were discharged within 42 days of the date they filed for benefits or if you were their last employer. This form asks questions to determine what occurred to cause the claimant to no longer be employed by you. When responding to this form, it is important to provide complete, detailed information about dates and events and to include copies of any supporting documentation about why the claimant is no longer employed. Return your response to the UI Division. Failure to return the form by the due date may result in allowance of benefit payments and in charges to your account.

**Claimant Separation Information (UI-202A):** If the claimant quit or was discharged, this form will be sent asking specific, detailed questions about this individual's separation from your employment. Please explain, in writing and answering all the questions asked, why the claimant is no longer employed and return your response, along with supporting documentation, to the UI Division. Failure to return the form by the due date may result in allowance of benefit payments and in charges to your account.





**Customary Hours Employer Letter (CH\_LTR, CH-3):** You will receive this form ONLY if you paid wages to the claimant in the base period. It requests the hours the claimant worked while employed with you. It is used to determine when a claimant may no longer be eligible for benefits because they have returned to their customary hours of work. Provide the hours and time period the claimant worked and return your response to the UI Division. Failure to return this form may result in inaccurate benefit payments to the claimant, causing increased charges to your account.

**Notice of Benefit Charge Activity** (formerly known as Statement of Benefits Paid): If you are an experience rated or governmental rated employer who paid wages to the claimant in the base period, and UI has determined your account is chargeable, you will receive a Notice of Benefit Charge Activity showing the chargeable benefit amount paid during the last quarter. You may also receive this form if a charging determination has not yet been issued. If your account had been charged and a recent determination is made that your account is not chargeable, an adjustment (credit) will appear on your next quarterly Notice. There is no need to respond to these Notices. Benefits charged to your account are used to compute your future contribution rates. Questions concerning why benefits are charged to your account? Call the Charging Unit at 406-444-0399.

**Reimbursable Benefit Payment Notice:** You will receive a Reimbursable Benefit Payment Notice if you are a “reimbursable” employer that paid wages to the claimant in the claimant’s base period and we have determined the claimant is eligible for UI benefits. (Only non-profit organizations with a 501(c)(3) IRC designation, governmental entities or tribal entities may request to reimburse UI for benefit costs.) Base period reimbursable employers are charged for benefits paid regardless of the reason the individual left their employment. Return the designated portion of the form with your payment. You may pay each month or pay the quarterly total within 30 days after the end of the calendar quarter. Questions concerning reimbursing benefit charges? Call 406-444-3834.

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

Partial unemployment benefits may be paid to claimants who work less than their customary work hours and are working all hours available to them. The benefit amount varies according to their earnings for the week, and their weekly gross wages must be less than twice their weekly benefit amount. If you reduce the hours of your employee, they may be eligible for partial benefits while they continue to work for you.

#### **Customary Hours**

Claimants are considered fully employed if they are working the same number of hours they customarily worked during the base period of their claim. The customary hours are an average of the number of hours they worked for all employers during the base period. If they work less than their customary hours, they might be eligible to receive partial benefits. They are not eligible to receive benefits for any week in which they work the same or more than their customary hours.

To calculate the customary hours, employers are asked to provide the department with the hours the employee worked during the base period. If the employee was scheduled to work the same number of hours every week, the employer can just provide the regularly scheduled number of hours. If the claimant’s hours vary from week to week due to work availability, the employer is asked to complete a form showing the hours worked each week during the base period. Employer cooperation in providing this information is vital to ensure partial benefits are only paid to those claimants who are working less than their customary hours.



## What separations qualify claimants to receive benefits?

Benefits may be allowed if a claimant:

- Is laid off due to:
  - lack of work;
  - business closure;
  - the end of a temporary job; or
  - adverse weather conditions;
- Quit for work related reasons, such as unsafe working conditions, a 20% or more reduction in hours/wages, harassment, and non-payment of wages; or
- Is discharged for reasons other than misconduct – such as unintentional one-time errors, or probationary period discharge because the employee is a poor fit for the job.

**Misconduct** is an intentional disregard for the interests of the employer.

Inability to perform the job is not considered misconduct.

The employer has the burden to prove misconduct occurred, or benefits will be paid.

**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. You may also be asked to provide proof the claimant knew about the policy, i.e. a signed acknowledgement

**Written warnings** - warnings must pertain to the same problem/action or show a pattern of negligence that directly led to the discharge.

**Witness statements** – particularly from those who were present during the final incident. Witness statements must be signed and dated, and they may be shared with the claimant during the UI investigation.

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,
- ✓ be signed and dated by employee, 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.

Copies of documentation can be uploaded with the initial response through the SIDES e-Response system.



### **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 requalifying wages are earned. In some circumstances your account may be charged for benefits paid after the ending date of the disqualification.

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

If a separation from employment has occurred for any reason other than lack of work, you will be contacted to obtain specific separation information. Fact-finding may be done via phone, fax, mail, or electronically via SIDES (see page 18). It is important that you respond timely and thoroughly to requests for information. If you have responded timely and adequately, you will receive an eligibility or chargeability decision that includes appeal rights should either party disagree. You can request a redetermination or appeal by calling the phone number on the decision letter, by emailing your request through Montana's File Transfer Service (see page 18), or by mail to:

UNEMPLOYMENT INSURANCE DIVISION  
PO BOX 8020  
HELENA MT 59604-8020  
Or  
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; and
  - ✓ Give employees a chance to improve poor performance.
- Provide specific separation information. 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. Be sure to date any warnings or notes about conduct. Be specific as to the date the behavior occurred.
- Provide witness statements for corroboration when it is your word against the claimant's. Witness statements should be written by the witness in their own words, and should be signed and dated.

### **Work Search Requirements and Why They Matter to You as an Employer**

The Unemployment Insurance Division is working to ensure that individuals are properly seeking employment while drawing unemployment benefits. Claimants are required to actively seek work and make appropriate employer contacts each week. Claimants are not eligible to receive unemployment benefits for any week they do not comply with work search requirements.

Our Division is increasing verification of work searches. To accomplish this, we make calls to employers who claimants reported as a work contact. We ask for your cooperation by keeping a simple record of job applicants – who applied and when. This will help to make the process quick and easy for everyone. It is critical for employers to be an active partner with UI in this effort, as improper payment of unemployment benefits has a detrimental effect on the Unemployment Trust Fund.



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

Job-attachment exempts a claimant from the usual requirement to seek work while requesting benefit payment. This allows an employer to retain qualified employees who are temporarily laid off and willing to return to their full time employment 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 to full time employment.

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.

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. The employer does maintain the right to deny an employee's request to be job attached. You can indicate that when you complete and return the filing/charging notices.

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.

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

If a claimant refuses suitable work without good cause, while actively claiming for benefits, the claimant may be disqualified. The department considers such factors as:

- Whether the offer of work was bona fide;
- The degree of risk to the claimant’s health, safety, and morals;
- Physical fitness;
- Prior training and/or 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, while actively claiming benefits, the claimant may be 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 Potential Charge Notices 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 claimant’s 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.*

The **UI Employer Benefit Charging phone line at (406) 444-0399** is available to assist employers with questions, concerns, or responses regarding unemployment insurance charges to their accounts. This service is available Monday – Friday from 8:00 a.m. – 4:00 p.m. (closed 12 – 1 p.m.).

**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 or
- The claimant quit to attend or return to Department approved training, 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 work.

**How charging determinations differ from eligibility determinations:**

- Do not allow or disqualify the claimant to receive benefits;
- Only decides 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 eligibility 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 for that employer will be relieved if they are a base period experience-rated employer;
- If benefits are allowed, the base period experience rated employer is charged, unless relieved via a charge relief decision.

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 information regarding work refusals, availability, etc.

**When is the Notice of Benefit Charge Activity (formerly known as Statement of Benefits Paid) sent?**

Notices are sent out quarterly by the Unemployment Insurance Contributions Bureau that show the benefit charges and any charges credited to your account during the quarter indicated.

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

**Can I have UI benefit related forms sent to a different address from the address used for my UI Tax notices?**

Yes. This can also be made easier through SIDES, which will allow you to set up an email address for responding to separation and potential benefit charge requests. If you want benefit-related notices mailed to an alternate address, complete an Addresses and Locations request using UI eServices for Employers, or you may send a written request signed by an authorized representative to PO Box 6339, Helena MT 59604-6339. Be sure to specify if you want claimant separation and notice of potential charges forms, quarterly Notice of Benefit Charge Activity (formerly known as Statement of Benefits Paid), or both, sent to the alternate address. Quarterly Notices of Benefit Charge Activity are mailed and are also available to employers in UI eServices for Employers.

**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 Notice of Benefit Charge Activity 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 a third party representative is handling your UI matters, you will need to contact us to authorize the release of information to them.



## **SECTION 8: MISCELLANEOUS**

### **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 certification stating your UI account is current. You must present this certification before receiving final payment on that job. You can get a certification 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. Your request for redetermination or appeal must be received within 10 days from the date of the determination or redetermination. If you want to appeal a determination made by the UI Division, you need to send a written response explaining why you believe the determination is incorrect. Instructions for requesting a redetermination or appeal are included in the decision.

### **Confidential Information**

The Montana Unemployment Insurance Division is required to notify employers that wage information and other confidential unemployment insurance information may be requested and utilized for other governmental purposes, including, but not limited to, verification of an individual's eligibility for other government programs.

We take our security responsibilities very seriously, and protect the confidentiality of both employer and claimant information. We do not release information without careful verification of the requesting authority. Your name, address, Federal employer identification number, UI account number, wage information, and social security numbers of individuals are all considered confidential.



## **SECTION 9: ONLINE & ELECTRONIC SERVICES**

Montana Unemployment Insurance offers online and electronic services for employers. Employers and/or their authorized representatives interested in electronic filing or payment may do so either using UI *eServices for Employers* (*eServices*) or via electronic file exchange. We encourage you to use all of our secure, electronic services.

### **UI *eServices* for Employers:**

#### **Online Registration, Reports, Payment, General Account Maintenance, and SIDES eResponse**

UI *eServices for Employers* provides employers and their authorized representatives secure, online access to their UI account information. Registering, filing, paying and responding to benefit claim inquiries electronically can save both time and money for employers and the department. Since accurate data is key to proper tax payments and to timely benefit payment processing, everyone stands to benefit from electronic reporting.

UI *eServices for Employers* may be accessed at: [uieservices.mt.gov](http://uieservices.mt.gov) Users must log in using the ePass Montana portal. Those who do not have an ePass Montana account will need to create one. After entering the ePass Montana account information, the user will be redirected to *eServices*. A first-time set up will be required when logging into *eServices* to establish a web profile. Subsequent logins will require entering an ePass Montana user name and password AND an *eServices* secret answer (second password).

Employers and/or authorized employer representatives may access the following Unemployment Insurance services through *eServices*:

- Register (apply) for a new Unemployment Insurance (UI) account.
- File reports using file Import (CSV or Excel file formats), Load Previous Quarter's SSN tab (loads the name and SSN or employees from previous quarter), or full manual entry of all required information.
- Make payments via ACH Debit or Credit Card (credit card payments include an additional fee).
- Maintain SIDES contact information and access the SIDES eResponse portal for responding to benefit claim inquiries.
- Submit and receive Fiscal Rate Exchange Files.
- Submit bulk ICESA or FSET files.
- Submit SIDES Broker Client Lists (brokers only).
- Request Demographic changes (Addresses, Responsible Parties, Dissolution of Business, Method of Payment), Payment Plans, Refunds, Appeals and Email Reminders.
- View Benefit Charge Information, Rate Information, and Letters.
- Secure web messaging between *eServices* users and staff.

Note: Access to all or some of the features above is based on the security level granted when your user profile is established.

### **Employer Representatives**

To become an authorized employer representative and gain access to your client's *eServices* information, complete the Add Employer's Account Access request and upload a signed *eServices* authorization form within *eServices*. You can find our authorization form at: [uid.dli.mt.gov/forms](http://uid.dli.mt.gov/forms).

### **What is SIDES?**

The State Information Data Exchange System (SIDES) is a secure and convenient way to respond to request for information regarding unemployment insurance benefit claims. It was developed in partnership by the U.S. Department of Labor and the National Association of State Workforce Agencies (NASWA) and is now available for use in Montana through UI *eServices for Employers*.

For more information on SIDES or other *eServices* features call (406) 444-3834 (Option 2) or email [uieservices@mt.gov](mailto:uieservices@mt.gov)





### ACH Debit Blockers

If you have an ACH Debit block on your bank account and you wish to make ACH Debit payments via eServices, please provide your bank with Department of Labor & Industry's company identification number 1081030240 and ask them to remove the block for this payment. Failure to notify your bank may result in the payment being rejected.

### Electronic Payments

Through eServices, you may submit payment for your UI Contributions via ACH Debit (we pull the money from your account on the date you specify) or Credit Card. Credit Card payments do require an additional fee for processing.

### ACH Credit Payments

We accept both the National Automated Clearing House Association (NACHA) Cash Concentration & Disbursement (CCD+) and Corporate Trade Exchange (CTX) standard formats. CCD+ can be used if making a single employer payment, CTX with a separate addenda record for each employer must be used to make payments for multiple employer accounts.

Employers and third party representatives will need to coordinate with their respective banks regarding notification of ACH transfer amounts and/or specific deadlines you must meet. You will also need to provide your bank with the following account information:

Montana UI Contributions Banking Information for ACH credit payments:

- Bank Account Number 156041206772
- Bank Routing Number 092900383

See ACH Credit formatting specifications: [Montana UI Contributions eFiling Handbook](#)

### Bulk Filing and Payment using ICESA and FSET Formats

Reports, wages and payments can be reported using the ICESA or FSET format:

ICESA format:

- Both UI tax and wage information are required within the format

FSET format:

- Federal/State 4.4 Schema
- UI tax, wage and ACH Debit payments can be submitted within the format

Bulk files can be submitted through the DLI web services and UI eServices *for Employers*. For detailed file specifications and submission instructions, refer to our [Montana UI Contributions eFile Handbook](#).

To submit the file using the web service, a user ID and password must be assigned by UI staff. Please contact us at (406) 444-3834 (Option 2) or email us at [uieservices@mt.gov](mailto:uieservices@mt.gov) to receive this information.

To submit the file using UI eServices *for Employers*: create or log into your eServices account, click on the Bulk Services tab and upload the ICESA or FSET file. For more information on creating an eServices account, please see our website: [uid.dli.mt.gov/Portals/55/Documents/eServices/dli-uid-es016.pdf#page=1](http://uid.dli.mt.gov/Portals/55/Documents/eServices/dli-uid-es016.pdf#page=1)



## **SECTION 10: UNEMPLOYMENT INSURANCE PROGRAM INTEGRITY ACTIVITIES**

Ensuring integrity of the UI program is a joint responsibility of employers and the Montana Unemployment Insurance Division. In order to maintain a viable program, it is important we work together to ensure only individuals who are eligible receive benefits. The UI Division performs a number of integrity activities to help ensure proper benefit payments to claimants and proper assignment of contribution rates to employers.

Reducing the amount of benefits paid in error not only helps integrity, but also helps prevent UI tax rates from increasing unnecessarily. The front inside cover of this Handbook provides suggestions for employers to help reduce improper payments.

### **What does the UI Division do to ensure integrity of the UI program?**

The UI Division performs many activities to ensure integrity. For example, the UI Division:

- Performs a cross-match of wages reported by claimants who are filing for partial benefits with the wages reported by employers. The outcome of a discrepancy may result in a claims investigation audit (see below).
- Performs cross-matches with vital statistics, workers' compensation, and child support new hire information with our claimant files.
- Investigates tips received.
- Prosecutes cases of fraud.
- Recoups payment from claimants who received benefits in error and from employers who owe tax.
- Performs internal audits of our processes to assure proper determinations and payment of benefits.
- Reviews employer accounts for SUTA Dumping, a tax rate evasion scheme.

### **What is a Claims Investigation Audit?**

The purpose of a claims investigation audit is to assure that claimants have reported their hours worked and gross earnings correctly during the time they collect partial 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 the time period indicated on the audit form.

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.

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.
- Dates of employment. If a claimant takes time off work, please list the dates off work and the reason(s).
- Hourly rate of pay. If the person was paid in some other form, provide explanation of pay, i.e., commission, salary, etc.
- Name and phone number of person completing the form.



### **What is considered fraud and how are tips reported?**

Unemployment Insurance (UI) Fraud is a crime that affects everyone. It causes frustration for law-abiding employers and workers and can drive up the cost of UI taxes for businesses. The Montana Department of Labor and Industry takes UI Fraud very seriously; all reports of potential, alleged, or suspected fraud are thoroughly reviewed and investigated accordingly. Those found to have committed UI fraud are subject to penalties and/or criminal prosecution.

Sound prevention measures are essential in stopping fraud. As an employer, your awareness and preventative actions will not only help protect your interests and help keep your tax rates at the lowest possible level, but will do the same for other employers as well.

### **Here are some of the many things you, as an employer, can do to prevent UI fraud:**

- Reply to UI letters and requests for information within the time frame indicated.
- Ensure all information you provide to UI is accurate and current.
- Properly report all employees and wages earned each quarter.
- Properly report hours worked and wages earned on Claims Investigation audits.
- Insure you have current Independent Contractor Exemption Certificates (ICEC's) for ALL independent contractors you hire.

### **What information is desired for reporting tips on potential claimant or employer fraud and how do I report it?**

- Worker's name and social security number (if available).
- Name and location of the business where the work is performed.
- Business mailing address and phone number (if available).
- Time period in which the person is/was working.
- If employer is misclassifying workers, report names, phone numbers and other pertinent information of all known workers.
- If you have reason to believe a claimant is receiving benefits they aren't entitled to receive or an employer is committing fraud, please contact the Claims Investigation Unit at (406) 444-2880 or go online at [uid.dli.mt.gov/report-fraud/report-claimant-fraud](http://uid.dli.mt.gov/report-fraud/report-claimant-fraud).

### **What happens to claimants who commit fraud?**

The claimant must repay the overpaid amount plus a minimum of 33% penalty amount, up to a 100% penalty. Additionally the claimant could lose up to 52 weeks of future benefits and can also be prosecuted in District Court.

### **How are overpayments collected?**

When a claimant is paid benefits they are not entitled to receive, they are required to reimburse the UI Trust Fund. Employer accounts receive credit as soon as an overpayment is established, unless the employer's rights were forfeited for failing to respond to UI requests.

Claimants can repay by personal payment (lump sum or payment plan) and/or we may offset up to 50% of their future weekly benefits. If voluntary repayment is not achieved, the Department may file liens, or offset state income tax refunds, state lottery winnings and other state warrants issued. In cases of fraud, court ordered repayment is often required.



### **How is benefit payment 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 properly paid or denied. 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 other federal and state reviews 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. These programs are intended to reduce future improper payments by deterring future unemployment claimants from submitting inaccurate information on the claim application.

### **Employer Investigations and Audits**

When a business pays wages in cash "under the table" or uses other schemes to conceal their true tax liability, it gives that dishonest business an unfair advantage and may cause inequitable competition in the marketplace by forcing honest businesses to pay higher taxes and expenses. Employees of these businesses are also affected as they may not be able to claim unemployment benefits or their benefits may be delayed because of unreported wages.

Employers who attempt to circumvent the law can be subject to investigations, audit, payment of tax, penalties and interest and a potentially higher UI tax rate. If you know of a business that does not pay its fair share of taxes, report it by contacting 406-444-0072 or completing our tip reporting form at [report-fraud](#).

In addition, Federal law requires we conduct payroll audits on employers to help assure integrity. If we select your business for audit, the auditor will review your business records to ensure compliance with Montana UI laws. If the results show you owe additional taxes, we will give you details of the findings, as well as your appeal rights. If the results show you have overpaid, you will have the option to apply your credit on future tax payments or request a refund if the overpaid amount cannot be used within the year. For more information about UI Tax Audits, call us at 406-444-3834.

### **State Unemployment Tax Act (SUTA) Dumping**

SUTA dumping refers to a tax-evasion scheme some employers have used to pay less tax than they owe. The result can cause other employers who report and pay their taxes correctly to pick up the tab for those who do not. If someone tells you about a way to lower your unemployment taxes and it sounds too good to be true, it probably is. SUTA dumping is against the law. Protect your tax dollars by calling us at (406) 444-3834 or send an email to [dliuidci@mt.gov](mailto:dliuidci@mt.gov) if you know of employers or a tax adviser involved in or recommending SUTA dumping.

Federal law requires the unemployment tax system to be fair for all employers. It specifically requires states to close loopholes that allow employers a favorable tax rate by using SUTA dumping techniques.

The law also requires penalties for those who attempt or recommend such illegal schemes.



## SECTION 11: IMPORTANT PHONE NUMBERS

### **Unemployment Insurance Numbers:**

Unemployment Insurance Contributions Bureau (406) 444-3834

Option 2: Registration

Option 2: UI eServices for Employers, SIDES, Electronic payment or filing & Delinquent Reports

Option 3: Tax Rates

Option 4: Amended reports

Option 5: Collections

Option 6: Reimbursable Charges

FAX (406) 444-0629

TDD for deaf & hard of hearing (406) 444-0532

UI Benefit Charging Questions (406) 444-0399

Claims Processing Center (406) 444-2545

UI Claims Investigation (406) 444-3783

FAX (406) 444-2699

SIDES Registration ..... (406) 444-3834 (Option 2)

### **UI Field Representatives**

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

Field Office	Field Representative	Phone Number
		(all area codes are 406)
<b>Billings</b>	Sharon Myran.....	255-1128
624 North 24 <sup>th</sup> Street	Mike Creeden.....	255-1141
Billings, MT 59101	FAX.....	444-0629
<b>Bozeman</b>	Brandy McManus.....	595-8306
	Ann Buskovick.....	594-6632
	Fax.....	444-0629
<b>Great Falls</b>	Amy Everaert .....	791-5858
300 Central Avenue, Suite 330	Fax .....	444-0629
Great Falls, MT 59401		
<b>Kalispell</b>	Joseph Reiner.....	758-5900
121 Financial Drive, Suite G	Fax .....	444-0629
Kalispell, MT 59901		
<b>Missoula</b>	Scott Moothart .....	329-1420
2681 Palmer Street Suite I	Michael Martin.....	329-1415
Missoula, MT 59808	William Wheeler.....	329-1438
	Gina Bonomo .....	329-1440
	Fax.....	444-0629



### Other Agency Phone Numbers:

Department of Revenue .....	(406) 444-6900
New Hire Reporting Help Desk.....	(406) 444-9290 or 1 (888)866-0327
Contractor Registration .....	(406) 444-0563
Independent Contractor Central Unit .....	(406) 444-9029
Internal Revenue Service (toll free).....	(800) 829-1040
IRS Applications for Federal ID #'s .....	(800) 829-4933
Professional Employer Organization Registration.....	(406) 444-0776
Secretary of State .....	(406) 444-2034
Social Security Administration (toll free) .....	(800) 772-1213
Montana State Fund.....	(406) 495-5000
Montana State Fund (toll free).....	(800) 332-6102

### Job Service

In the past several years, each of the 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. Please see the following page for a complete list of Job Service Offices.

#### 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 [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. A list of Job Service offices is on the following page, or you may go to [jobservices.dli.mt.gov/](http://jobservices.dli.mt.gov/) or call (406) 444-4100.

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.



## Job Service Office

### BILLINGS

2121 Rosebud Dr , Suite B

[BillingsJSC@mt.gov](mailto:BillingsJSC@mt.gov)

Phone (406) 652-3080 Fax 652-0444

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### BOZEMAN

121 N Willson Ave

[BozemanJSC@mt.gov](mailto:BozemanJSC@mt.gov)

Phone (406) 582-9200 Fax 582-9210

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### BUTTE

2201 White Blvd

[ButteJSC@mt.gov](mailto:ButteJSC@mt.gov)

Phone (406) 494-0300 Fax 494-5481

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### CUT BANK

501 E Main

[CutBankJSC@mt.gov](mailto:CutBankJSC@mt.gov)

Phone (406) 873-2191 Fax 873-5393

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### GLENDIVE

211 S Kendrick Ave

[GlendiveJSC@mt.gov](mailto:GlendiveJSC@mt.gov)

Phone (406) 377-3314 Fax 377-5831

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### GREAT FALLS

1018 7th St S

[GreatFallsJSC@mt.gov](mailto:GreatFallsJSC@mt.gov)

Phone (406) 791-5800 Fax 791-5889

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### Havre

160 First Ave

[HavreJSC@mt.gov](mailto:HavreJSC@mt.gov)

Phone (406) 265-5847 Fax 265-1386

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### HELENA

715 Front St

[HelenaJSC@mt.gov](mailto:HelenaJSC@mt.gov)

Phone (406) 447-3200 Fax 447-3224

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### KALISPELL- FLATHEAD CO.

427 First Ave E

[KalispellJSC@mt.gov](mailto:KalispellJSC@mt.gov)

Phone (406) 758-6200 Fax 758-6290

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### LIBBY

417 Mineral Ave, Suite 4

[LibbyJSC@mt.gov](mailto:LibbyJSC@mt.gov)

Phone (406) 293-6282 Fax 293-5134

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### Miles City

12 N 10<sup>th</sup> St

[MilesCityJSC@mt.gov](mailto:MilesCityJSC@mt.gov)

Phone (406) 232-8340 Fax 232-6270

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### MISSOULA

539 S 3rd St W

[MissoulaJSC@mt.gov](mailto:MissoulaJSC@mt.gov)

Phone (406) 728-7060 Fax 721-7094

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### POLSON- LAKE CO.

417-B Main St

[PolsonJSC@mt.gov](mailto:PolsonJSC@mt.gov)

Phone (406) 883-7880 Fax 883-4564

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### THOMPSON FALLS- SANDERS CO.

2504 Tradewinds Way, Suite 1

[ThompsonFallsJSC@mt.gov](mailto:ThompsonFallsJSC@mt.gov)

Phone (406) 827-3472 Fax 827-3327

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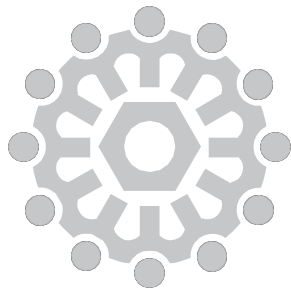
### WOLF POINT

201 Main St

[WolfPointJSC@mt.gov](mailto:WolfPointJSC@mt.gov)

Phone (406) 653-1720 Fax 653-1196

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Cost of Production