



INDIANA DEPARTMENT OF  
**WORKFORCE**  
DEVELOPMENT



UNEMPLOYMENT INSURANCE  
**AGENT**  
HANDBOOK

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## **DWD CONTACT INFORMATION**

**General Questions:** (800) 891-6499

**Web Address:** [unemployment.IN.gov](http://unemployment.IN.gov)

**Email:** [DWDESSCommunications@dwd.in.gov](mailto:DWDESSCommunications@dwd.in.gov)

**SIDES:** [SIDES@dwd.in.gov](mailto:SIDES@dwd.in.gov)

## **UNEMPLOYMENT INSURANCE – AGENT HANDBOOK**

The Unemployment Insurance (UI) program is administered by the Indiana Department of Workforce Development (DWD). This guide helps agents understand how they can work with DWD and their client (the employer) effectively. This guide is intended to be a supplement to the Employer’s handbook and does not repeat information found in that document. This guide explains the following:

- How to register as an employer representative with DWD;
- The difference between an Accounting Services Organization (ASO), a Third Party Advisor (TPA), and a correspondence agent;
- Reporting and Amending Wages;
- Payment options for Agents;
- Tax notices, protests, waivers, and payment agreements;
- Civil penalties to non-employers;
- Merit rate delinquency / penalty rates.
- Benefit Claim notices and determinations;
- SIDES for benefit filing responses;
- Professional Employer Organizations as agents of their clients

To facilitate accessibility and screen readers, the Employer Self-Service (ESS) application is represented as E S S wherever possible.

This guide will be updated as changes are made in the UPLINK E S S application. Agents are encouraged to check for updates each quarter. The date at the bottom of the cover page indicates the latest revision date.

DWD is governed under Title 22, Article 4 of the Indiana Code (IC 22 4). Wherever the handbook references “the Act,” it is a reference to IC 22 4. For copies of statutes and regulations relating to DWD, visit <http://www.in.gov/legislative>. This guide is not a substitute for the statutes or regulations and is intended only to offer general advice on interacting with DWD.

## I. Who or What is an Agent?

### **Third Party Agent / Agency Defined:**

DWD defines a third-party agent (agency) as any individual or business authorized by the employer to represent the interests of that employer in interacting with DWD. Third party means that the agent (agency) is not an employee or responsible party of the employer.

For purposes of discussing third party representation, an agency is a business that an employer can engage to represent them. Agency, when referring to DWD, has the definition provided in Statute<sup>1</sup>. Anywhere “agency” is used in this handbook, it is a reference to a third-party business authorized by an employer to represent their interests to DWD in unemployment insurance matters. To minimize confusion, the term agent will be used wherever possible to indicate the third party.

DWD is not a party to the relationship between an employer and a third-party agent. The employer does not need to authorize the agent in E S S for the agent to file quarterly wage reports on the employer’s behalf. However, if the employer does not authorize the agent via E S S, DWD cannot provide confidential information regarding the employer’s account to the agent.

To accommodate the filing of reports by an agent that is not authorized to receive confidential information, and to allow one agent to file multiple quarterly reports, two types of agent accounts are created in UPLINK. A full discussion of the types of agent accounts maintained by DWD in UPLINK is provided later in this handbook.

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<sup>1</sup> Per IC 22-4-2-19 "Agency" means any officer, board, commission, or other authority designated by an unemployment insurance law in force in any state or in Canada to administer the unemployment insurance fund for which provision is made by such unemployment insurance law.

## **II. Employee or Responsible Party Defined:**

For the limited purpose of differentiating between an employer and an agent, an individual is considered an employee if the employer reports wages on a federal W-2 form for that individual.

A responsible party is an individual that controls, manages, or directs the employer and the disposition of the employer's funds or assets.

**IMPORTANT:** This definition of employee is not the same as in IC 22-4-8 and should not be used for the purpose of determining employment under the Act.

### **Third Party Agent vs. Third Party Agency in ESS**

An agency is the business that an employer authorizes to represent their, the employer's, interests. A business becomes an agency when it has registered in E S S using the option to create a new user account as an agent or when DWD issues the business credentials to file quarterly reporting on behalf of an employer in E S S.

An agent is an authorized user (individual) on the agency's account. At this time, agency and agent are used synonymously by DWD. As DWD recently implemented saved banking credentials in E S S, the distinction has become important. Banking information is stored at the agent (user) level and not at the agency level.

A full discussion of agency level authorization in UPLINK is provided later in this section. To be clear, for the limited purposes of this discussion, agency is a third-party representative of an employer and is not an Agency as defined in Statute and is not a reference to DWD.

### **Types of Agencies in ESS**

#### *TPA (Third Party Advisors)*

All agencies that register via E S S are called TPA or Third-Party Advisors / Representatives. Once an agency has registered via E S S, employers can designate the TPA as an external authorized user and / or as a correspondence agent. The difference between an external authorized user and a correspondence agent is explained later in this section.

Before DWD can release any potentially confidential information regarding an employer account to an agency, the agency must be authorized by the employer as an external authorized user or as a correspondence agent in E S S.

#### *ASO (Accounting Services Organization)*

An ASO or Accounting Services Organization requires a specific request for credentials and is not established via the E S S registration process. An ASO does not have E S S access to any employer account and cannot be selected by an employer as their DWD representative.

The only reason that ASO accounts exist is to process quarterly reporting for one or more employers where the agency and the employer(s) have an agreement to which DWD is not a party and for which no authorization has been provided via E S S for DWD to release confidential information to the agency.

An ASO can only perform three functions in E S S: exchange data via the [ESC \(Employer Service Company\) upload file process](#); upload one multiple employer quarterly wage report; pay the outstanding balance on the most recently uploaded file in full.

### **III. Registering as an Agency in E S S for a TPA**

Employers and agencies register in E S S in much the same way. The primary difference between an agency registration and an employer registration is that agency registrations do not rely on a unique identifying element other than a user's email address. An employer must provide their FEIN so that DWD can confirm that the employer does not already have an account. Agencies do not have to provide this, and can, as a result, create multiple agency accounts for the same organization.

The individual registering the agency in E S S will automatically be assigned the administrator role in E S S. As the administrator, the individual completing the registration will have the ability to create additional users, but cannot assign them roles in E S S. It is important to understand that the employer assigns the agency's role on their account; therefore, selection of an agent for the agency as "benefits only" is irrelevant with regard to the employer's designation of the agency on the employer account. If the agency is selected by the employer to serve as an administrator, every agent (user) on the agency's account is an administrator on the employer's account. At this time, all agents assigned to an agency are administrators on the agency account.

Until DWD moves from the current User ID / password / email address system to one where the user's verified email address is also their User ID, each agent of the agency must have a unique email address that has not been associated to another employer or agent user ID. Once the anticipated changes are made in the way that users are identified, users will be able to be associated (linked) to multiple agencies or employers. Internal account users (employees) for more than one employer can already link their user ID to multiple employer accounts.

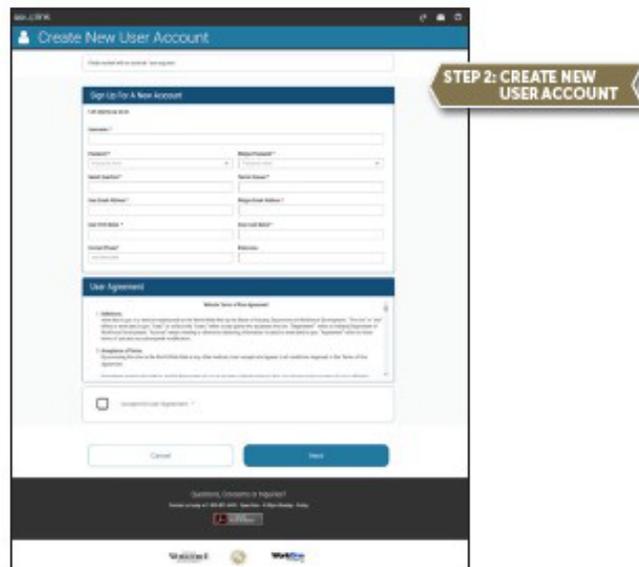
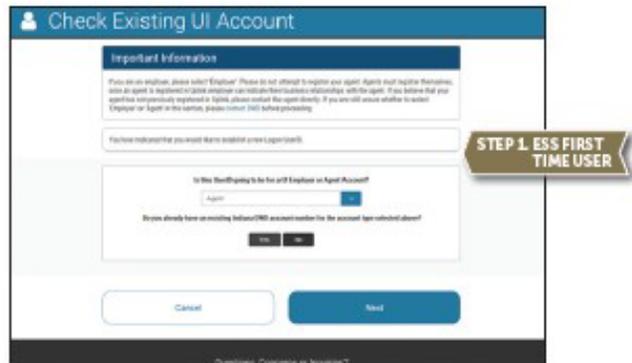
As of March 2022, internal users are offered an opportunity to register a new account from the Select an Account screen in E S S. This change should eliminate the need to create a new user to add a related account to an administrator. This change, however, does not yet extend to TPA users.

See the infographic on the next page for a walkthrough on establishing a TPA agency in E S S for additional assistance.

# How do I register to access the Employer Self Service portal as an agent?



Please visit ESS and click "New User" to begin the registration process.  
The registration process will require a valid email address to be provided.  
Once created, your user account can be associated to one or more existing employer (SUTA) accounts.



[www.in.gov/dwd/ess\\_faq.htm#information](http://www.in.gov/dwd/ess_faq.htm#information)

## *New Agent*

Please follow these steps to enroll if you do not already have an agent number:

1. Go to the UPLINK / ESS website at <https://uplink.in.gov/ESS/ESSLogon.htm>
2. Click New User
3. Answer the question – Is this User ID going to be for a UI Employer or Agent - “AGENT”
4. Answer the question – Do you already have an existing Indiana DWD account number for the account type selected above – “NO”
5. Click “NEXT”
6. Complete the fields to create the username and password. If your email address is already associated to an account in ESS, you will need a unique email address to create a new agent account. If you get a message that says, “account already in use”, it means that the username you have selected is being used by someone else and you need to create a unique username.
7. Accept the user agreement.
8. Print the New User Account Confirmation Screen.
9. Check your inbox for an email verification to arrive, if it arrives in your junk/spam folder you will need to move it to your inbox for the link to work properly.
10. Click the link to verify your email address and be taken to the login screen to access your account.

Once you are enrolled as an agent, work with your clients to determine the nature of your relationship with the client.

Agents may not, per Indiana Administrative Code, act as an internal authorized user in ESS.

## **IV. Registering as an Agency in E S S for an ASO**

All agencies that register via E S S are TPAs. Currently, an agency cannot self-register as an ASO.

To register as an ASO, a responsible party for the ASO must send an email to the [DWDESSCommunications@dwd.IN.gov](mailto:DWDESSCommunications@dwd.IN.gov) mailbox and request ASO credentials.

Please use “ASO Credential Request” as the subject line on the email.

In the body of the email, please provide the following information:

- Company Information:
    - ASO Business Name
    - ASO Street Address
    - ASO Zip Code
    - ASO phone number
    - ASO Country
    - ASO County
-

- User Information:
  - Unique Email Address
  - Agent First Name
  - Agent Last Name
  - Security Question
  - Security Answer

The ASO's username will be the email address provided in the email and must not be in use by any other agent of any other agency including the same agency's TPA account.

Once the information has been processed, DWD will return the password to the username (unique email address) by secured email.

Agencies should have only one TPA account to avoid confusion for their clients and the requirement to maintain multiple agency usernames and passwords to effectively service all of the agency's clients.

Agencies may maintain as many ASO accounts as they deem necessary to file and pay the original timely quarterly reports for their clients so long as they have a separate, unique, email address to use as the User ID for each requested account.

DWD recommends having multiple ASO accounts so that the file sizes and processing times are more manageable for the ASO, but this is, ultimately, a decision of the representative.

## **V. Associating an TPA to an Employer**

A TPA type agency can be associated to an employer as either an external authorized user or a correspondence agent. An ASO type of agency cannot be associated to an employer in any way.

### **External Authorized User**

An external authorized user is an agency – including all internal users of the agency as agents – selected by the employer to represent them in E S S and in communication with DWD. Each agent of the agency can access the employer’s account at the authorization level assigned to the agency by the employer. There are currently three levels of authorization that an employer can assign to an agency: Benefits only; Tax / Wage Records, and Administrator. An external authorized user is assigned by the employer under the “User Maintenance” menu.

#### *Benefits Only*

An external authorized user assigned “Benefits Only” access can view benefits related correspondences and make payments. This type of user has no other E S S functionality at this time. Note – Base Period Separation Notices are not benefits related correspondences in E S S. Electronic delivery of Base Period Separation Notices is available via State Information Data Exchange System ([SIDES](#)) program enrollment only.

#### *Tax / Wage Records*

An external authorized user assigned “Tax / Wage Records” access can view assessment related correspondences, load original quarterly reports, amend previously filed quarterly reports, and make payments.

#### *Administrator*

An external authorized user assigned “Administrator” access can view all correspondences, take all actions available to other user types, update the employer’s address, add correspondence agents, add or modify users, submit status change requests, submit waiver requests, and link multiple employer accounts together for single sign-on access via E S S.

### **Correspondence Agent**

A correspondence agent in E S S is an agency that receives mailings and notices on behalf of an employer, but that has no on-line access to the employer’s unemployment insurance account through E S S. A correspondence agent is assigned by the employer under the profile maintenance menu.

Only an agency that is live in [SIDES](#) and is designated by the employer as a “Benefits Correspondence Agent” has [SIDES](#) access to the employer’s benefit information.

If a correspondence agent is selected on the employer’s account, the employer will not receive any routine mailings of that type, benefits, appeals, or tax, from DWD.

All such mailings are directed to the mailing address of the agency by the employer when they accept the authorization statement in ESS.

If the agency changes mailing addresses and does not update E S S, the employer notices returned as undeliverable will not be re-mailed to the employer.

The employer will not be directly notified of a delinquency or inadequacy reporting problem on their account until the matter is escalated and a “Penalty letter” is issued to the employer. A penalty letter is a ten-day demand for correct reporting. A penalty letter is issued for missing quarterly reporting, non-electronic reporting where the employer does not have an e-filing waiver, and invalid social security number data. Failure to adequately respond to the penalty letter will result in an irrevocable fine of \$25 being assessed to the employer’s account.

The employer will not be directly notified of a tax liability problem on their account until the matter is escalated to collections and a “Notice and Demand” for payment is issued to the employer.

The employer will not be notified at all with regard to a failure to respond for a benefits mailing as there is no non-response escalation protocol for this type of mailing.

If an agency has been designated as a correspondence agent by a client in error, the agency should contact the client and request that the client update E S S to remove the agency as a correspondence agent.

If an agency has been designated as a correspondence agent by an employer that is not a client of the agency, the agency may submit a request in writing to be removed from the employer’s account. The request must be for one employer only and include:

- The E S S agency number and name of the agency to be removed;
- The name and SUTA account number of the employer from which the agency should be removed;
- A statement from the agency that the employer is not a client of the agency and should be removed

On receipt of the written request to remove the agency from the employer account, DWD will delete the correspondence agent relationship between the named parties.

To be clear, DWD will not remove an agency from an employer’s account in E S S for any purpose other than correspondence agent and will not execute a request that contains more than one employer SUTA account number.

Request to remove a correspondence agent can be emailed as an attachment to [DWDESSCommunications@dwd.IN.gov](mailto:DWDESSCommunications@dwd.IN.gov)

## VI. Quarterly Wage and Employment Report Filing

Whether the agency has a TPA or an ASO account, quarterly report filing is the same. Each agency may upload one multiple employer account (bulk) file per quarter between the first day of the last month of the quarter and the last day of the month following the due date of the report. This is a three-month window allowing the agency to timely file the month before the report is due, the month that the report is due and the month after the report is due.

There is no required agency / employer relationship required for a TPA or ASO to include an employer in their bulk file.

Only one original report may be filed for an employer in each quarter. If the employer or another agency has filed on the employer's behalf prior to the TPA or ASO bulk file upload, the TPA or ASO will receive an upload error (critical error) and will be required to remove the non-original report from their bulk file to be successful for their remaining employers.

If the agency is unable to file a report during this time period, a TPA agency can file at the employer account level for any employer that has designated them as an external authorized user with wage records or administrator privileges on their account. If the TPA is a correspondence agent or has not been authorized to submit reporting by the employer as an external authorized user, the agency will be unable to file a report for their client.

An ASO cannot file at the employer account level.

Late bulk filing is not supported in E S S.

Once the agency's file has been successfully submitted, E S S will produce a payment summary report for the agency's records. This report will contain one line item for each employer in the agency's file. Agents can access this file from the same screen used to submit wages.

Each line item will show the gross wages for the quarter / year, the merit rate of the employer, the contribution assessed, and the net amount due.

If the employer has a pre-existing credit on their account, the amount due indicated in the file will be reduced by the application of the credit.

See the [Payments section](#) for information on available payment methods.

## **VII. Amending prior Quarterly Employment and Wage Reports**

### **ASO**

An ASO cannot amend an employer's original employment and wage reports.

### **TPA**

A TPA agency can file an amended report at the employer account level for any employer that has designated them as an external authorized user with either the wage records or administrator role.

Amendments are filed at the individual employer account level for each quarter that requires corrections. Agents must access the employer's account directly to file late reports or amend previously filed reports.

There is no mechanism available to make "cascade" changes or to make multiple quarter changes to an employer's report.

For example, if an employee has been reported under the incorrect social security number for four years, the employer or agent must file sixteen amended reports.

Wage reports are amended by replacing the entire original file unless the employer has fewer than fifty (50) employees. If the employer has fewer than 50 employees, the record can be corrected on the screen as an individual record amendment.

If the amended gross wages are different than the original gross wages for the employer, meaning that the change is more substantial than correcting a social security number or similar identification field, the changes must be approved by a DWD auditor before the change will be reflected on the employer's account.

The user that submits the amended report containing a change in gross wages will receive a confirmation of the filing, but the changes – and relevant change in contribution, if any – will not be made to the employer's account until the change has been approved.

An amended report that does not change the gross wages does not result in an E S S confirmation. The amended report is self-approving and immediately replaces the original report.

Amending any quarter prior to 1Q2019 will cause the original UC1 reporting to be replaced by the amended quarterly wage and employment report requirements for the entire year. To be clear, all wages in the amended year will be re-evaluated per the requirements passed in 2019.

If the employer has previously self-calculated a wage base credit for an employee that performed services in more than one state or for an unreported successorship, the credit may be lost pending additional reporting by the employer due to the changes in reporting requirements.

Successorship credits will be automatically applied to the extent that the transfer was reported to DWD with correct date information. The successor gets credit for any wage base paid by the predecessor. Therefore, credits for a quarter where a worker performs services for both employers are not awarded,

because the predecessor would not have paid the contribution at the time the concurrent employment occurs during the quarter.

Credits for wages paid to another jurisdiction are entirely dependent on the correct localization of the worker during the calendar year and the timely application for such credit by the employer.

An expanded discussion of localization and wage base credits is found in the next section.

To be clear, self-calculation of out-of-state wage base credits will result in the employer's account being considered delinquent until and unless such credits are properly applied for and have been approved by DWD. If the employer or agent fails to pay the assessment in full, or fails to apply for a credit, has erroneously calculated a credit, or fails to respond to DWD regarding the credit in a timely manner, the employer will be considered delinquent for all purposes under the Act and will be subject to aggressive collection action including the assessment of the two-percent increase in their next annual merit rate.

## **Correcting Inadequacies**

At this time, a quarterly wage and employment report is considered inadequate only if the employer has failed to provide a potentially valid social security number (SSN) or individual tax identification number (ITIN).

This means that any set of nine-digit numeric data that does not specifically violate the numbering conventions used by the IRS will be considered adequate for DWD wage and employment reporting purposes.

If the employer does not know the SSN or ITIN of the worker, they are advised to secure the information or to report using 000-00-0000 and the name of the worker. If the employer has more than one employee for whom the SSN or ITIN was not secured, the employer may use 000-00-000X where X is a different number as reporting more than one worker with the same SSN or ITIN will result in a critical error and prevent the employer from uploading the file. Unknown SSN or ITIN reporting must use invalid criteria such as 00 in the middle segment of the data field.

Do not use potentially valid SSN or ITIN information to avoid the warnings or fines. Intentionally reporting wages under the wrong worker identity is a violation of the Act.

At this time, DWD does not consider a report to be inadequate for any non-critical missing information. The employer will get a warning as discussed in the section on wage reporting but is not required to provide the missing or inaccurate information.

The employer can correct an inadequate or incomplete report in the same way that they could originally report. An employer with 50 employees or less can make corrections manually in E S S. An employer with more than 50 employees must replace the entire file using a file upload.

Prior quarter corrections must be done at the employer level by an internal account representative or by a TPA with either wage records or administrator authorization. An ASO cannot access this function in E S S. Agents with benefits only access cannot make corrections.

Correcting an inadequate or incomplete report may change the liability assessment to an employer even where there is no change in the gross wages reported. This is because the employer's taxable wages are based on the cumulative earnings of the individual worker compared to the Indiana wage base of \$9,500. If the identity of the individual is changed, the amount of wage base credit attributed to the worker from prior quarters will also change. The identity of the worker is based solely on their SSN or ITIN.

Where the employer's gross wages are not changed as a result of the file replacement or manual correction, a tax worker is not required to approve the correction and no confirmation number is issued.

## VIII. Localization / Multi-state Employment

Employee wages are usually only reported to one state per year by their employer.

Unless the organization is an American employer with international locations and the worker performs no services within the United States, wages are only reported to a state where the worker performs some part of their services.

If an employee performs all duties in one state, or if any duties performed in other states are incidental to the work in the primary state, or if the duties performed outside of the primary state are temporary or transient in nature, the employee's wages are reportable to the state where the employee usually performs services.

EXAMPLE – The worker is part of a road construction team based in Michigan. The Michigan Company gets a contract to repair a section of a highway that is partially located in Michigan and partially located in Indiana. When the Michigan team works on the Indiana section of the highway, the work in Indiana is temporary or transient in relation to the work that they perform full time in Michigan, so the work is localized to Michigan.

Now let's look at what happens if the Michigan team starts to run behind schedule, and they add a few workers to finish the repairs in Indiana. The additional workers are not going to work in Michigan for the company. They will not be needed once the project in Indiana is completed. These workers are reported to Indiana because they performed all their work in Indiana. This is true even if the workers are residents of Michigan at the time that they perform the work in Indiana.

The Michigan Company will have to register for an unemployment account in Indiana to report these workers localized to Indiana. Employers must follow localization rules, even where it is inconvenient for them to do so.

If an employee performs duties in more than one state and the work is not incidental, temporary, or transient, the following tests are used to determine the correct state for wage reporting:

Test 1: Report wages to the state from which the employee has a base of operations if some part of the work is performed in the same state as the base of operations. The base of operations can be a corporate office, regional office, legal address of a sole proprietor, etc. The base of operations is for the worker, so it may be a location from which the worker is dispatched if the worker always starts their current assignment from the same location. If there is no base of operations, or work is not performed in the same state as the base of operations, go to test 2.

Test 2: Report wages to the state from which the employee is directed and controlled if some part of the work is performed in the same state as the origin of the direction and control. This is the state from which basic authority or control emanates and should not be confused with the location from which an individual directly supervises the work performed under orders from a place of basic authority. If there is no work performed in the state where direction and control originates, go to test 3.

Test 3: Report wages to the state in which the employee resides if some part of the work is performed in the state of residence.

If none of these tests apply, contact DWD at 800-891-6499, and select the employer tax option.

If the organization needs additional localization examples, or wants to see the Unemployment Insurance Policy Letter (UIPL) issued to all states on localization, please [click here](#).

## **IX. Wage Base Credits – Multiple State Employment**

Employers are entitled to a credit if they have paid wages to a state other than Indiana and the worker permanently relocates to Indiana during the calendar year.

Employers must apply for this credit as an adjustment to the amount assessed by DWD when the quarterly wage and employment report was filed.

Please note that the assessment should be paid in full, or the employer will be considered to be delinquent. Applying for a credit does not change the amount assessed or the employer's duty to pay in full on or before the due date.

To successfully apply for a credit in E S S, go to the request menu and select the Penalty/ Interest / Waiver option.

For each individual that permanently relocated and is now localized to Indiana, please provide the worker's Social Security Number, Name, Prior State Name, Prior State Reported Gross Wages, Prior State Wage base, and the reason for the request in the comments box.

In the box marked Amount, type in the Prior State Reported Gross Wages. Please do not calculate or type in the amount of the contribution credit requested as DWD is required to calculate this amount based on the information provided.

Depending on the nature and completeness of the information submitted in ESS, a DWD auditor may need to reach out to the employer by email or phone to clarify or confirm the information provided. Please promptly return any calls or emails to expedite the approval process.

DWD will make one of three determinations based on the information provided, the requirements of the Act, and the UIPL discussed in the prior section on localization:

1. The worker has permanently transferred to Indiana and the wage base credit has been approved. The employer will receive a credit against the original assessment which can be refunded to the employer or used by the employer as a credit against their next assessment.
2. The worker is not localized to Indiana and the employer should amend their Indiana reporting and reporting to the correct state to move the wages to the state where the worker is localized. The request for credit will be denied, but the employer will receive a credit when they amend the wage report removing the worker entirely from Indiana.
3. The worker is localized to Indiana and the employer should amend their reporting to Indiana and the reporting to the incorrect state to move the wages to Indiana. The request for credit will be denied, but the employer may be entitled to a credit from the state to which employment was reported in error.

## **X. Payment Options**

DWD requires electronic payment.

To facilitate this requirement, DWD offers multiple payment options to agencies and employers<sup>2</sup>.

DWD expects payment in full of the amount assessed to the employer without regard to the employer's self-assessment of credits due for any reason. If the employer has a pre-existing credit for overpayment of contribution, DWD will reduce the amount due by the amount of the credit.

If the employer believes that they are due a wage base credit on a quarter, they should check the status of their waiver request.

If the employer believes that they are entitled to a credit for wage base paid by their predecessor, they should check to see if the successorship has been reported to DWD. Successorships are supposed to be reported via ESS, meaning that the employer should be able to see if the request has been processed or not. If both the disposer and the acquirer employed the same person in a calendar quarter, wage base credit is not given to the acquirer until the subsequent quarter and only for a complete transfer. If the transfer is a partial transfer, the credit for payment of wage base and liability for unemployment claims are only transferable through the end of the last completed quarter.

If using any VPS payment method, the number required to authorize the transaction on an account with a debit block is T356000158 for e-check and 9803595965 and 1264535957 for debit or credit cards. Credit cards are processed by World Bank. E-Checks are processed by T-Tech on behalf of VPS.

If payment on an employer's account is received via any method except ESS, the payment is applied to the oldest outstanding liability not in warrant. The payment is not applied to the most recent quarter filed unless the employer is in good standing. If an employer is in a repayment agreement, making a current quarter payment via any method except E S S can put the employer agreement in default.

If the agent uses any payment method other than the integrated E S S file payment, the agent is responsible for understanding the employer's liabilities and for providing a correct SUTA number for the payment.

DWD posts employer payments by the SUTA number. When the payment is submitted, the user certifies that they understand this and that they intend to make a payment on the SUTA account indicated.

DWD does not move payments between employer accounts without the permission of the employer to which the payment is certified. If the agent does not represent the employer to which the payment is certified, the agent may not be able to recover the payment from that employer.

Agents are strongly encouraged to use the ESC Upload functionality to verify employer SUTA numbers and prevent certifying payments to the incorrect SUTA account.

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<sup>2</sup> DWD has discontinued offering the VPS Lockbox payment option effective 02/05/2020 due to multiple agents violating their user agreements.

## **E S S Integrated Payments (payer’s bank account is debited)**

After submitting a multiple employer file successfully, E S S will produce a payment summary report for the agency’s records. This report will contain one line item for each employer in the agency’s file.

Each line item will show the gross wages for the quarter / year, the merit rate of the employer, the contribution assessed, and the net amount due.

If the employer has a pre-existing credit on their account, the amount due will be reduced by the application of the credit.

Agencies are not allowed to create additional credits on an employer’s account when reporting and paying in ESS.

Wage base credits must be applied for separately and are not deducted from the amount of contribution assessed.

When selecting the Pay Now option, the user will be redirected to a secure, linked, VPS website for processing and will be returned to E S S after the payment is completed.

The payment file is created in real-time. If the employer – or another agent – were to make a payment on the SUTA between the file upload and the payment file download, the file would include that credit.

VPS now offers the option of storing bank information at the agent (user) level. A unique token is created to identify the employer or agency and the user to assure that the stored information is only for the user that authorized the storage of the information. The user will be able to pay using another method / account, or the user will be able to select the stored information for use in making the payment.

### **EFT / EDI using CCD+ or CTX 820:**

DWD accepts ACH Credit with a correctly formatted addenda record. Please consult with a bank or other payment processor if unfamiliar with these requirements before making a payment using this method.

Please contact [DWDESSCommunications@dwd.IN.gov](mailto:DWDESSCommunications@dwd.IN.gov) for the appropriate bank account and routing numbers.

The following table provides the addenda record, also called record 7, information only.

Element	Comments	Content	Attribute 1	Attribute 2	Attribute 3
N/A	Segment Identifier	TXP	M	ID	3/3
TXP01	Tax Identification Number	Employer SUTA	M	A N	1/20
TXP02	Tax Payment Type Code	130	M	ID	1/5
TXP03	Date	CCYYMMDD	M	DT	8/8
TXP04	Tax Information ID Number	Employer F E I N	M	A N	1/30

Element	Comments	Content	Attribute 1	Attribute 2	Attribute 3
TXP05	Tax Amount	\$\$\$\$\$\$CC	M	N2	1/10

Each element is separated by an asterisk (\*).

SAMPLE: 705TXP\*111111\*130\*20210930\*123456789\*000726648 5\

Payments will be posted to the account as identified in TXP01. The payer is responsible for the accuracy of this information.

### **ACH + Payment distribution file (DWD’s bank account is credited)**

DWD allows agents representing ten or more clients to deposit one lump sum into a ZBA maintained by DWD and to follow-up that deposit with a distribution file.

This is for entities that do not have the ability to use a NACHA ACH Credit (.CTX file).

This is a limited use deposit with a file communication requirement that is provided as a courtesy to agents. Please do not use this payment method for less than ten employers and do not make a “penny test” against the bank account.

For bank account and file specifications, please contact [DWDESSCommunications@dwd.IN.gov](mailto:DWDESSCommunications@dwd.IN.gov).

**WARNING:** As of the publication of this revision, several agents are violating the ten or more-client deposit requirement for use of this payment method. Continued misuse of this method may result in withdrawal of this payment type as an alternative to E S S integrated payments or ACH credit (.CTX) payments.

### **Individual account payments via VPS**

Employers and agents can make payments at the individual account level using a stand-alone VPS website ([www.payingov.com/DWD](http://www.payingov.com/DWD)). This website does not communicate with the UPLINK system, so the SUTA account number and FEIN are not verified against E S S.

If using this website, please be sure that you select Employer Liability Payments from the first screen.

On the second screen, please select the pay now option to make a same day deposit to an employer account or select future one-time payment to schedule the payment at a later date.

DWD does not recommend selecting recurring payments unless the employer has a repayment agreement with DWD, as it is unlikely that the employer would have the same amount due periodically.

In the First and Last Name fields, DWD would like the user to indicate the name of the individual DWD should contact if there is a problem with the payment. The user can provide the business name in these sections if they would like, but it is not recommended. If paying by a credit card, this should be the name on the account.

The account address (mandatory field) should be the mailing address of the employer as indicated in UPLINK if known. If paying by credit card, the billing address is used.

The Business Name is a mandatory field under Payment Information.

The Payment Method dropdown box has the following options: Credit Card, Debit Card, ECheck. There is no charge for ECheck. Using a credit or debit card will result in a service charge of 2.49% with a \$1.00 minimum. This is a pass-through of the merchant fees and will be shown as a separate line item on the user's credit card statement. This money is collected by VPS on behalf of VPS and no part of the service fee is paid to DWD.

For questions about employer qualification, please contact DWD at (800) 891-6499 and select the employer tax option.

## XI. ESC file Upload

Agents have functionality available that allows them to verify employer account numbers and merit rates via a file exchange which is called ESC File Upload.

This functionality is not used for reporting wages.

A wage file will appear to successfully upload if the user selects ESC File Upload from the menu, but the file will not be processed for quarterly reporting and the file exchange will fail due to invalid data.

To successfully download the output files, the user must have 7 Zip or a similar decompression software loaded.

UPLINK will return the maximum year available at the time the exchange file is initiated. This means that an exchange file requested after merit rates are produced for the next calendar year, generally late November of the current year, will return the next year's rates.

### Rate Exchange Input file Layout:

ID	Field Name	Location	Length	Comments
I1	Employer F E I N	1 through 9	9	Numeric Right Justified leading zeros
I2	SUTA Number	10 through 15	6	Numeric Right Justified leading zero
I3	Space	16	1	Space
I4	Merit Rate per the user	17 through 21	5	Numeric Right Justified Leading zeros. No Decimal
I5	Employer Name	22 through 61	40	Left Justified. Fill with spaces
I6	Employer Address line 1	62 through 101	40	Left Justified. Fill with spaces
I7	Employer Address line 2	102 through 141	40	Left Justified. Fill with spaces
I8	Employer City	142 through 164	23	Left Justified. Fill with spaces
I9	Employer State	165 through 166	2	USPS standard abbreviation
I10	Employer Zip Code	167 through 175	9	Zip + 4. Do not include hyphen. Zero fill if unknown.
I11	Employer phone number	176 through 185	10	Zero fill if unknown. Numeric. Do not include hyphens
I12	Employer fax number	186 through 195	10	Zero fill if unknown. Numeric. Do not include hyphens
I13	Employer contact name	196 through 225	30	Left Justified. Fill with spaces

## Rate Exchange Output file Layout:

ID	Field Name	Location	Length	Comments
O1	Employer F E I N	1 through 9	9	Numeric Right Justified leading zero if necessary
O2	SUTA Number	10 through 15	6	Numeric Right Justified leading zero if necessary
O3	Space	16	1	Space
O4	Merit Rate per DWD	17 through 21	5	Numeric Right Justified Leading zero. No decimal
O5	Employer Name	22 through 61	40	Left Justified. Fill with spaces
O6	Employer Address line 1	62 through 101	40	Left Justified. Fill with spaces
O7	Employer Address line 2	102 through 141	40	Left Justified. Fill with spaces
O8	Employer City	142 through 164	23	Left Justified. Fill with spaces
O9	Employer State	165 through 166	2	USPS standard abbreviation
O10	Employer Zip Code	167 through 175	9	Zip + 4. Do not include hyphen. Zero fill if unknown.
O11	Employer phone number	176 through 185	10	Zero fill if unknown. Numeric. Do not include hyphens
O12	Employer fax number	186 through 195	10	Zero fill if unknown. Numeric. Do not include hyphens
O13	Employer Seasonal Indicator	196	1	Y if seasonal
O14	Employer Payment Method Indicator	197	1	R for Reimbursable; T for Taxable
O15	Merit Rate Changed Indicator	198	1	Y if the merit rate has been changed

The output file will be updated only in the event of an exact F E I N / SUTA match. Field I13 is deleted and Fields O13, O14, and O15 are added. Field I4 is updated to the current agency record in Field O4. If Field O4 does not match Field I4, the change indicator is set to Y in field O15. All other fields are submitted on the input file.

In addition to the output file, the user will receive an error message report. The following table provides the user with the error number, the failed edit, and the corresponding error message. Service providers should contact their customer to resolve reported edit failures to avoid incorrect quarterly reporting for the upcoming quarter.

### Potential Error Messages:

Input File Issue = Displayed Error Message:

F E I N Blank, Zeros or Not Numeric = INVALID F E I N NUMBER.

F E I N Not Found and Input SUTA Blank = F E I N NOT FOUND

F E I N Found SUTA Not Found = NO MATCH ON STATE EMPLOYER ACCOUNT NUMBER - FOUND FEIN 99-999999 WHICH HAS STATE ACCOUNT 999999XX.

F E I N Found and SUTA Found but not the same employer = MIS-MATCH ON F E I N/STATE ACCOUNT – F E I N 99-999999 HAS STATE ACCOUNT 999999XX - STATE ACCOUNT 999999XX HAS F E I N 99-999999.

F E I N Not Found SUTA Found= F E I N NOT FOUND - MATCHING STATE ACCOUNT 999999XX HAS F E I N 99-999999.

SUTA Account is Transferred Complete = EMPLOYER ACCOUNT 999999XX IN XXXXXXXX STATUS - SUCCESSOR STATE ACCOUNT IS 999999XX.

SUTA Account is Transferred Partial = EMPLOYER ACCOUNT 999999XX IN XXXXXXXX STATUS - MULTIPLE

PARTIAL SUCCESSORS INVOLVED.

SUTA found. Status is invalid for filing = EMPLOYER ACCOUNT 999999XX IN XXXXXXXXX STATUS.

F E I N matches multiple SUTA where SUTA was not on input file = MULTIPLE F E I N MATCHES – F E I N 99-999999 MATCHED ACCOUNTS 999999XX, 999999XX, 999999XX, 999999XX.

F E I N matches multiple SUTA where SUTA was on input file = MIS-MATCH ON FEIN/STATE - STATE ACCOUNT 999999XX HAS F E I N 99-999999 – F E I N 99-999999 HAS MULTIPLE STATE ACCOUNTS

SUTA does not have current year Merit Rate = MERIT RATE FOR REQUESTED YEAR NOT CALCED.

F E I N not found and SUTA not found = F E I N NOT FOUND AND EMPLOYER ACCOUNT NOT FOUND

If the agency does not have proficiency in creating or using files of this type, DWD has staff that are available to assist in using Excel to create the required ASCII (ICESA) formatted file. Please send an email to [DWDESSCommunications@dwd.IN.gov](mailto:DWDESSCommunications@dwd.IN.gov) for assistance.

## **XII. Tax Notices, Protests, and Waivers other than out of state wage base credits**

### **Correspondence History**

When an employer authorizes a TPA in E S S, the TPA is given access to the employer's correspondence history. The correspondence history option in E S S provides copies of all notices mailed to the employer by DWD for the last two years (731 days).

The correspondence history provides copies of all notices appropriate to the user's role assignment. If the user has been assigned a role of benefits only, the user can access only determinations related to claim filing which does not include Base Period Separation Notices. Access to an employer's Base Period Separation data is available electronically only through [SIDES](#) enrollment. An administrator can see every notice mailed to the employer except Base Period Separation Notices.

DWD will direct request for documents to E S S. If the requestor is authorized to receive the documents, they will have access in E S S to review or print a copy of the notice. If the requestor cannot access the documents in E S S, they do not have the employer's authorization to receive the notice.

### **Reimbursable Invoice**

Reimbursable employers will receive a monthly invoice which will reflect any unpaid invoices in addition to the current amount being assessed. If a reimbursable employer wishes to dispute the amount of any current invoice, they must do so by filing a written protest not later than fifteen (15) days after the invoice is mailed by DWD. The mailing date and the invoice date printed on the invoice are the same date. If the employer does not protest the current portion of the invoice within the time period allowed by statute, then the employer must pay the invoice in full by the end of the month. The employer tax protest form, SF55109, can be found [here](#).

Please be aware that DWD has the presumption of being correct when issuing an invoice, so the accrual of interest is not stopped (stayed) by a protest. The employer should also be aware that part of the election to be reimbursing is a certification that the employer will make payment in full as invoiced.

If the employer does not win the protest, they will be required to pay all assessments including any interest associated with the failure to make a timely payment. DWD will not initiate any collection action during the time that the invoice is under protest, but the employer is strongly encouraged to make the payment in full by the due date and to seek a refund if the protest has been decided in their favor by the liability administrative law judge to avoid being assessed with interest.

### **Notice of Assessment / Notice and Demand**

Contributory employers receive an on-screen notice of assessment only when contribution is established for a quarter. If the employer is relying on an agent to file the quarterly wage report, the agent is the entity receiving the assessment when the wages are accepted and posted in E S S.

In addition to any other notices regarding an assessment, DWD will issue a notice and demand to a contributory employer if collection action is to be initiated. Employers should respond promptly to the notice and demand – in writing or by creating a repayment agreement. The notice and demand provides information with regard to the unpaid portion of the assessment only. To see the details of the assessment including the taxable wages, merit rate, and application of credits, please use the E S S wage summary screens and printable documentation.

Employers have fifteen (15) days from the date of the notice and demand to protest the amount that DWD has determined that they owe. The employer tax protest form, SF55109, can be found [here](#).

As with reimbursable invoices, DWD is considered to have correctly assessed the employer at the time the assessment is made. DWD will not initiate collection action while the assessment is under protest, but the protest does not stop the accrual of interest on the balance due. Employers are strongly encouraged to pay all assessment, even if they are protesting, to keep interest from accruing on the balance due. If the employer wins the protest, they can receive a refund of any payment where DWD has wrongfully assessed the amount due.

## **Merit Rate Delinquency and Penalty Rates**

All contributory employers that have missing quarterly reports, outstanding assessments, or outstanding predecessor liabilities are issued a merit rate delinquency notice warning the employer that their merit rate in the next year will be increased by 2%.

If the employer has elected to be represented by a tax correspondence agent, the merit rate delinquency notice will be mailed to the tax correspondence agent and not to the employer's legal address.

Designating a TPA through the user maintenance function in E S S does not cause the mailing to go to the agent, as mailing is controlled by the use of a correspondence agent only.

Employers and agents are specifically warned not to use an agent address for the legal address of the employer when registering or updating the employer account information. If DWD initiates a collection action against the employer and the employer has certified in E S S that the legal address for service of a notice is the agent address, the county sheriff will execute the warrant – and DWD may file the tax lien – against the property indicated as the employer's legal address.

The merit rate delinquency notice is not subject to protest. The mailing is a required by statute to warn the employer that they are subject to the penalty rate. It is not an original determination or assessment.

If an employer or agent receives this warning, do not delay. Access the employer's account in E S S to determine the nature of the issue, file all missing quarterly wage and employment reports, and make any payment indicated as due and owing by the due date on the face of the notice, or the employer will be penalty rated.

## **Merit Rate Notices**

DWD issues every contributory employer a merit rate notice each year based on the employer's reserve balance as a ratio of their potential liability. The employer's reserve balance, or experience account balance, is the sum of all contribution payment received less all-chargeable benefit awards, mutualized

benefit distributions, and refunds. Potential liability is defined as the sum of the last three fiscal years' taxable wages. The quotient of the employer's reserve divided by the potential liability is the employer's reserve ratio which is used to assign an employer a merit rate once the employer has sufficient data for a rate to be calculated.

An employer is considered to have sufficient data for the rate to be calculated when the most recently completed three fiscal years show continuous liability to report and some amount of taxable wages in each of the three fiscal years. For DWD purposes, the fiscal year is July 1 to June 30.

This means that most new employers, that are not successor employers, have a new employer rate for four calendar years. This also means that an employer that leaves Indiana or is dormant – has no taxable wages - for one of the fiscal years will go back to the new employer rate for at least three calendar years.

Unless Indiana is borrowing from the Federal Treasury, i.e. the Trust Fund is insolvent, rate notices are created in November with a mailing date in December.

If Indiana is in a position that requires borrowing to pay unemployment benefits, rates are usually not issued until January of the rating year.

DWD must issue the rates no later than March 30 of the year in which they are effective per statute.

Merit rates are always effective for a full year from January 1 to December 31. Employers are not assessed with two different rates during the same year, but employers can be recalculated (rerated) for cause retroactively. A rate recalculation replaces the original rate for the entire calendar year.

The primary cause for an employer to be recalculated is failure to report the acquisition of another employer's assets and /or workforce. A rate can be recalculated up to four years in arrears if there is cause for DWD to believe that the rate was wrong.

Annual merit rates are not subject to an employer protest, as all factors that create the merit rate calculation are determinations that were protestable at the time that they were issued to the employer.

If an employer is determined to be a successor employer, the employer is best served by a protest of the underlying determination of successorship and not the calculation of the merit rate.

Each employer, or tax correspondence agent, is mailed one copy of the merit rate notice each year. If the employer or TPA needs additional copies of the notice, the documents are available in E S S under the correspondence history menu. DWD does not mail or fax merit rate notice copies. If the requestor is authorized to receive the document, the document is available in E S S. If the requestor cannot access E S S, they do not have the required authorization to receive the document.

## **Employer Liability Protests**

Liability Administrative Law Judges (LALJs) conduct hearings concerning employer coverage and premium liability.

The LALJ's jurisdiction is limited to disagreements between employers and DWD regarding:

Assessments for interest, taxes, contributions, payment in lieu of contribution, surcharge, and penalties;

Successorship, including these related issues:

The transfer of accounts;

The determination of rates of contributions;

Determinations under the SUTA Dumping Prevention Act (Ind. Code § 22-4-11.5)

Employer benefit charging;

Claims for refunds or adjustments;

The definition of covered employment (worker misclassification) under Ind. Code § 22-4-8.

The organization may protest an initial determination by delivering an Unemployment Insurance Tax Protest (SF55109) to the email address, [DWD\\_Tax\\_Liability\\_Protests@dwd.IN.gov](mailto:DWD_Tax_Liability_Protests@dwd.IN.gov), as indicated on the Unemployment Insurance Tax Protest form.

In addition to the State Form 55109, please submit:

- information regarding the basis for the protest;
- the facts or evidence the protesting party relied on in determining that the actions of DWD were erroneous;
- a copy of the document that prompted the protest; and
- any supporting documents that the protesting party would like to have examined in support of the claim.

The protesting party must sign the protest. If the protesting party is represented by counsel, the name and contact information for the representative and for the protesting party should be included on the protest document. The protesting party also may appear either pro se or through an authorized full-time employee. Non-attorney agents cannot represent a protesting party in a tax liability hearing per Ind. Code § 22-4-32-3. This requirement is different from representation in a hearing on claimant benefit eligibility where a lay person or agent may represent a party per Ind. Code § 22-4-17-3.2.

Protests must be received within fifteen (15) days after the date the initial determination or notice being protested is sent. Filing a protest after the fifteen (15) day deadline may result in a dismissal.

### **Proceedings before a Liability Administrative Law Judge (LALJ):**

Upon receipt of the protest, the LALJ will set a date for a telephonic Pre-Hearing Conference and notify the interested parties. The LALJ will provide each party with a Notice of Pre-Hearing Conference. The Notice will inform the parties of the issues raised by the protest, the date and time of the telephonic Pre-Hearing Conference, the requirement for the protesting party to contact IDWD Legal no later than seven (7) days prior to the Pre-Hearing Conference to discuss the status of the protest. The parties should be prepared to discuss their availability and availability of witnesses for future conferences and hearing, whether the case has settled, and additional issues or parties that may be necessary to resolve the matter.

Appearance at the Pre-Hearing Conference is mandatory and failure to appear within fifteen (15) minutes of the scheduled start time may result in dismissal of the protest in its entirety. The LALJ will contact the parties for the Pre-Hearing Conference at the telephone contact number that they submit to the LALJ in writing prior to the hearing. Parties are to remain available at the contact number that was provided to the LALJ up to and including sixty (60) minutes from the scheduled start time.

In general, the Indiana Rules of Trial Procedure and Indiana Rules of Evidence shall govern proceedings before an administrative law judge. 646 Ind. Admin. Code 5-10-5.

Parties are encouraged to engage in settlement negotiations and keep the LALJ updated regarding status of settlement negotiations. Parties may make requests of the LALJ and should send copies of their requests to all noticed parties. Parties may file requests for continuances of an upcoming Pre-Hearing Conference and requests for enlargement of time for pending deadlines if the Pre-Hearing Conference has occurred.

If the protested matter proceeds to a hearing the LALJ will discuss during status conference and Final Pre-Hearing Conference, hearing dates, hearing location, dates for exchange of final witness and exhibit lists, dates for parties to exchange exhibits, and a date for parties to file joint stipulations as to facts and documents not in dispute.

After the hearing, the LALJ will issue a written decision to all interested parties. Decisions of the LALJ are appealable. The decision of the LALJ becomes final 30 days after the mailing date, unless there is a filing of a Notice of Appeal within the 30 days, and a subsequent case filed with the Indiana Court of Appeals. The Notice of Appeal delays the decision for 30 days.

### **Reasonable Cause Waivers for Late Payment of Contribution or Reimbursement**

The Department has limited discretionary authority to waive the assessment of interest or the assessment of a delinquency (penalty) rate where the employer can show that a reasonable businessperson in the same circumstances would not have been able to comply with the statute to report and pay their unemployment on time.

To initiate a request for a waiver of penalty or interest for not making timely payment on a quarterly report or reimbursable bill, go to E S S and select the menu/commands Requests > Request Interest/Penalty Waiver > Add Waiver. The organization will need to select the quarter and year for which a waiver is being requested and provide information about why the Department should grant the waiver request.

A tax worker will reach out to the organization, usually by email, about the request as additional documentation is always required before DWD can approve a waiver request. If the organization does not respond to the request for additional information, or if the organization does not provide the documentation requested within ten (10) days of the tax worker making the request, then the request will be denied. A notice indicating approval or denial of the waiver is sent to the account holder.

Reasonable cause includes circumstances as prescribed by the department for such unavoidable events as:

- Acts of

- Nature;
  - God;
  - Terrorism;
  - War;
- Death or incapacitation of an owner or preparer;
  - Theft, embezzlement, or deceit by a responsible party, fiduciary, or trusted employee;
  - E S S unavailable / widespread internet outages (does not apply to employer password issues);
  - Reliance on a third-party provider (does not apply to interest assessments but can be a basis for removing a penalty assessment). The third-party must be able to prove to the satisfaction of the Agency that they have changed their business practices in a manner that effectively eliminates the potential for reoccurrence. Administrative errors, staffing issues, data entry errors, and similar reasons to not meet the standard for waiver approval.

This list is not intended to be all inclusive as each request is evaluated on the merits and documentation provided by the employer.

If the organization has an electronic filing waiver submit a request in writing to DWD.

Requests must be mailed to:

IDWD – Employer Account Maintenance  
 ATTN: Request for Waiver  
 10 N Senate Ave. RM SE 202  
 Indianapolis, IN 46204-2277

## **Nonrule Policy Document # 2021-06 Waivers of Increased Unemployment Insurance Contribution Rates**

**DATE ADOPTED:** December 20, 2021. Applicable to all waiver requests for increased unemployment contribution rates imposed under Indiana Code § 22-4-11-2(c) beginning with calendar year 2022 rates.

**ADOPTED BY:** Department of Workforce Development — Frederick D. Payne, Commissioner

**SUPERSEDES:** Unemployment Insurance Board Resolution Oct. 21, 2009

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**DISCLAIMER:** This nonrule policy document is intended to supplement applicable rules and laws. It does not replace applicable rules and laws and, if it conflicts with these rules or laws, the rules or laws shall control. Decisions made under this nonrule policy document are not subject to review unless such review is separately granted by statute.

**Overview:** To provide guidance regarding waivers of increased unemployment contribution rates imposed for untimely, delinquent, and/or outstanding unemployment insurance reports or liabilities. This guidance supersedes the Unemployment Insurance Board Resolution, dated Oct. 21, 2009.

**Background:** If an employer fails to timely report or pay its quarterly unemployment insurance liabilities, the Department is required under Indiana Code § 22-4-11-2 to increase the employer's unemployment contribution rate by 2%. The department may waive the imposition of this increased rate if it finds the employer's failure was for excusable cause.

**Policy:** Employers are required to pay unemployment insurance contributions in the form and manner required by the Department. Ind. Code § 22-4-29-1. For each year, the Department determines the contribution rate applicable to each employer. Ind. Code § 22-4-11-2(a). The rate is increased by 2% "unless all required contributions and wage reports have been filed within thirty-one (31) days following the computation date and all contributions, penalties, and interest due and owing by the employer or the employer's predecessor for periods before and including the computation date have been paid" by the date specified by the Department. *Id.* at (c). "The department or the department's designee may waive the imposition of rates under this subsection if the department finds the employer's failure to meet the deadlines was for excusable cause." *Id.*

The Department may waive this increased rate only if:

The employer or the employer's agent requests the waiver via e-mail to the Agency at [DWDESSCommunications@dwd.IN.gov](mailto:DWDESSCommunications@dwd.IN.gov) no later than December 31 of the year for which the waiver is being requested;

The employer has filed an accurate report in the form and manner prescribed by the Department for each quarter the employer was required to file;

The employer and any predecessors of the employer have no outstanding liability for unemployment insurance contributions, interest, penalties, costs or special charges; and

The Department determines the failure to timely pay all outstanding contributions, penalties, and interest was due to excusable neglect.

The Department may find the failure to pay was caused by excusable neglect if the failure was caused by:

Acts of nature; God; terrorism; or war;

Death or incapacitation of an owner or preparer;

Theft, embezzlement, or deceit by a responsible party, fiduciary, or trusted employee;

ESS unavailable / widespread internet outages (not including employer password issues);

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Administrative errors by employees or agents of the employer;

Filing in a manner other than that required by the Department while an initial request for an alternative method is pending;

Error by the Department;

Reliance on a third-party provider.

This list is not intended to be all inclusive as each request is evaluated on the merits and documentation provided by the employer. Lack of knowledge or understanding of the filing or payment requirements do not meet the standard for waiver approval. The Department may issue a waiver conditioned upon the employer and/or employer's agent's adherence to a corrective action plan. Failure to adhere to the corrective action plan may result in rescission of the waiver or denial of future waiver requests.

### **Merit Rate Penalty Waiver Administration**

On receipt of the initial request for a merit rate penalty waiver, the Agency will evaluate the information provided and will respond by sending one of these three responses by reply email:

The waiver is approved;

A corrective action plan is required from the employer;

Additional information is needed to evaluate the request.

If the waiver is approved, the employer will be mailed a merit rate recalculation approval letter followed by a revised merit rate notice.

If a corrective action plan is requested, the employer will have ten business days to return the plan to DWDESSCommunications@dwd.IN.gov. If the plan is not received, the employer will receive a merit rate recalculation denial letter. If the plan is received but incomplete, insufficient, or otherwise not eligible to be approved, the employer will receive a follow-up email with additional information and, where appropriate, an offer to correct and resubmit the plan. If the plan is received and approved, the employer will receive a merit rate recalculation approval letter followed by a revised merit rate notice.

If additional information is required, the employer will have ten business days to supplement their request for waiver. If the additional information is not received, the employer will receive a merit rate recalculation denial letter. If the additional information is received, the additional information email will be treated as an initial request.

If the employer is approved for a waiver and the employer is later determined to have violated the conditions for the waiver, the Agency will notify the employer by email to the address from which the waiver request was submitted.

If the Agency determines that the violation requires the employer's waiver to be rescinded, the email notification will be followed by a merit rate recalculation approval letter, a revised merit rate notice, and a notice and demand for the additional contribution, penalties, and interest payable as a result.

An employer will be determined to have violated the conditions for the waiver if the payment used to satisfy the delinquency is subsequently dishonored, stopped, or returned by the payer's bank.

### **XIII. Collection Actions**

Employers are required to make payment in full for all assessment of contributions, surcharges and / or reimbursements on or before the due date provided in statute.

The due date for reimbursement is the end of each calendar month for the prior month's benefit charges. The due date for contribution and surcharge is the last day of the month following the last day of the calendar quarter.

If an employer fails to make required payment timely and in full, the employer can be subject to a number of punitive measures such as interest, penalties, fines, fees, damages, and court costs.

If the employer has not protested the assessment or paid its assessed liability, DWD has the authority under the law to take aggressive collection action.

- DWD can file a tax warrant with the county clerk, which places a lien on real and/or personal property of the business, including the responsible parties as described in the prior section.
- DWD can request that the sheriff collect on the tax warrant, which may include such actions by the sheriff as a bank levy or seizure of the business assets for sale at auction.
- DWD can file a request with the Attorney General to enjoin a business against operating in Indiana.
- DWD can levy the bank account and / or the accounts receivable of the business.
- DWD can intercept any tax returns of the business – and of the responsible parties as described in section XV.

Employers can avoid collection action by filing all required returns in a timely manner, communicating changes in the filing status of the business promptly to DWD, and responding to all mailings from DWD in writing.

If the employer's business experiences a cash flow problem or needs additional time to make payment in full on a quarterly return, payment agreements are available if certain conditions are met. Please contact DWD to learn more about payment agreements before DWD is forced to take collection action against the employer or the business.

A communication between the employer and their agent does not carry any weight or authority with regard to the collection of assessment. Agents must be careful to instruct employers to contact DWD in the event that a collection notice is received. If the Agent is not authorized by the employer to represent them in E S S, the Agent will not be able to access information about the employer account via a phone call to DWD. DWD is required by statute to protect the confidentiality of the employer's records. An employer authorizes DWD to release information to a named agency by designating the TPA as either an external authorized user or as a correspondence agent through the user or profile maintenance functions in E S S.

## **XIV. Civil Penalties to non-employers**

Most of the fines, penalties, and interest associated to payment delinquency, inadequate, inaccurate, or missing reports are directed to the employer without regard to their representation by an agent. However, the SUTA Dumping Prevention Act introduced civil penalties for non-employers that advise or assist an employer in violating any provision of the Act where the violation prevents DWD from assessing or collecting the correct amount of contribution.

The civil penalty for a non-employer, such as a third-party agent, is \$5000 per violation.

## **XV. State Information Data Exchange System (SIDES)**

### **What is SIDES**

SIDES is a web-based system that allows electronic transmission of information requests from UI agencies to employers and/or Third Party Administrators (TPAs), as well as transmission of replies containing the requested information back to the UI agencies. There are two ways employers or TPAs can connect with SIDES.

### **SIDES E-Response**

SIDES E-Response is a secure website that employers use to exchange UI information with state agencies electronically. When a UI claim is filed, IDWD will send an email notification within 24 hours to the designated email address. Participating employers or their third-party administrators (TPA) submit a response to the request for UI separation information online, attach supporting documentation, and receive an immediate date-stamped confirmation of receipt. In Indiana, you also receive potential charging liability information for UI claims online.

### **UI SIDES**

UI SIDES is best suited for employers and TPAs who typically deal with a large volume of UI information requests from multiple states or territories. UI SIDES is best suited for employers or TPAs processing between 150 and 200 claims per year in five or more states / territories.

While SIDES requires up-front IT integration resources and efforts, it has the potential to streamline the UI response process.

Currently, employers and TPAs use SIDES to exchange separation information with 50 states and territories in a standard format.

In Indiana, you also receive potential charging liability information for UI claims through SIDES.

The NASWA SIDES Team provides resources such as the Concept of Operations and Implementation Guide, Developers' Guide, and model software for connecting to the Central Broker. Technical staff is also available to answer questions during the integration development process.

## **XVI. Professional Employer Organizations (PEOs) as Agents of the Client**

### **PEO level PEOs**

PEO entities electing to be treated as the employer do not act as agents of their clients. These PEOs are treated as the employer for all purposes and have the ability to establish internal authorized users and correspondence agents, including SIDES participation, at the employer account level.

### **Client level PEOs**

PEO entities electing or defaulting to client level reporting assume financial and reporting responsibility for their clients, but the client retains rights to the SUTA account that is managed through the co-employment relationship with the PEO. This dual ownership of the SUTA account can create administrative difficulties for the PEO which are resolved by establishing the PEO as an agent on the shared SUTA account.

If the client of the PEO has a SUTA account prior to joining the PEO, the PEO is strongly encouraged to work with the client directly to be added as an external authorized agent with administrator level access to the account. This is the best solution for smoothly transitioning the account from the client to the PEO. If the client does not add the PEO as an external authorized agent, the PEO will, generally, have to file a quarterly report on behalf of the client before they will be able to answer the three security questions to link the PEO to the client as an administrator on the account.

The PEO is able to access all of their assigned clients using the Agent ESC Upload mechanism in E S S, but the PEO will not have the last gross wages reported until the client provides the information, or the PEO files a valid report.

To protect the confidentiality of the employer's quarterly reports, the PEO specialist will not provide this information to the PEO. The PEO must either secure the information from the client directly or secure the information through a combination of the Agent ESC Upload process and their own quarterly reporting records.

As a courtesy, the PEO specialist will assign the PEO as the correspondence agent on the client's account based on the PEO's properly filed SF52099. This will provide the PEO with notices as described by regulation as appropriate for the employer's agent. To utilize SIDES, the PEO will need to establish administrator credentials on the SUTA account and designate their SIDES agent as the benefits correspondence agent for the SUTA account.

If the client of the PEO did not have a SUTA account prior to joining the PEO, the PEO specialist will provide the SUTA established for the client to the PEO on receipt of a properly filed SF52099. The PEO will be able to link the account to their existing credentials either as an internal or external agent by using zero for the last gross wages reported.

## **XVII. Useful Links**

Employer Self Service (ESS)- <https://uplink.in.gov/ESS/ESSLogon.htm>

SIDES- <https://www.in.gov/dwd/sides.htm>

Employer Handbook - [https://www.in.gov/dwd/files/Employer\\_Handbook.pdf](https://www.in.gov/dwd/files/Employer_Handbook.pdf)

Unemployment Insurance Page - <https://www.in.gov/dwd/3474.htm>

Forms and Downloads - <https://www.in.gov/dwd/2406.htm>

Webinars and Instructions - <https://www.in.gov/dwd/3454.htm>