Contents
DWD CONTACT INFORMATION ........................................................................................................... 7
UNEMPLOYMENT INSURANCE – EMPLOYER HANDBOOK ............................................................. 7
UI at a Glance .................................................................................................................................. 8
I. INTRODUCTION TO UNEMPLOYMENT INSURANCE .................................................................. 8
  UI – In General ............................................................................................................................... 8
  Federal Unemployment Tax Act (FUTA) U.S. Code Title 26, Subtitle C, Chapter 23 ............... 8
  State Unemployment Tax Act (SUTA) Indiana Code Title 22 Article 4 .................................... 9
  Federal Certification ....................................................................................................................... 9
  Employer Method of Payment for State Unemployment Taxes ................................................. 10
II. GETTING STARTED .................................................................................................................... 11
  Employer Qualifications ............................................................................................................. 11
  Definition of Employer ................................................................................................................. 11
    Regular Business Entity (Ind. Code § 22-4-7-1) ....................................................................... 12
    Complete Acquirer (Ind. Code § 22-4-7-2(a)) ......................................................................... 12
    Partial Acquirer (Ind. Code § 22-4-7-2(b)) .............................................................................. 12
    FUTA Liable Entity (Ind. Code § 22-4-7-2(f)) ......................................................................... 12
    Exempt Entity that wants to Voluntary Elect to extend the Act (Ind. Code § 22.4-7-2(d)) .......... 12
    Agricultural Entity (Ind. Code § 22-4-7-2(e)) ......................................................................... 13
    Governmental Entity (Ind. Code § 22-4-7-2(g))* .................................................................... 13
    Not-for-Profit (501(c)(3)) Entity (Ind. Code § 22-4-7-2(h))* ..................................................... 14
    Individual or College Fraternal entity with persons engaged to perform domestic services (Ind. Code § 22-4-7-2(i)) .......................................................... 14
    PEO – Professional Employer Organization (Ind. Code § 22-4-6.5) ....................................... 14
  Employee Classification .............................................................................................................. 15
  Multi-State Employment ............................................................................................................. 16
  Employer Registration ................................................................................................................. 17
  Required Poster ........................................................................................................................... 18
  New Hire Reporting/Preventing Fraud ......................................................................................... 18
    Why is new hire reporting important? .................................................................................... 18
    How to report new hires: ........................................................................................................... 18
  New Employer Premium Rate .................................................................................................... 19
  Reimbursable Employers ............................................................................................................ 20
    Become a reimbursable employer by: ....................................................................................... 20
III. QUARTERLY EMPLOYER REPORTING ................................................................. 21

Quarterly Reports ............................................................................................... 21
Reporting Payroll ................................................................................................. 23
Covered Employers / Covered Employment ......................................................... 23
Quarterly Report Due Dates .............................................................................. 24
Paying the Amount Due ...................................................................................... 24
Retroactive Payments ......................................................................................... 24

IV. BUYING, SELLING, TRANSFERRING, OR REORGANIZING A BUSINESS .......... 25

Complete Transfer of Indiana Operations (Ind. Code § 22-4-7-2(a)) .................. 26
Partial Transfer of Indiana Operations (Ind. Code § 22-4-7-2(b)) ......................... 27

V. SEASONAL EMPLOYMENT .................................................................................. 29

Seasonal Employment ....................................................................................... 30
Qualifying as a Seasonal Employer .................................................................... 30
Loss of Seasonal Employer Status ..................................................................... 31

VI. STATE PREMIUM RATE COMPUTATION ...................................................... 31

New 2019 Employer Premium Rates ................................................................... 32
How to Determine the Premium Rate ................................................................. 32
Rate Schedule for Accounts with a Credit (positive) Reserve Balance .................. 34
Rate Schedule for Accounts with a Debit (negative) Reserve Balance ................... 34
Applied Rate Schedule for Accounts with a Credit (positive) Reserve Balance ...... 35
Applied Rate Schedule for Accounts with a Debit (negative) Reserve Balance ...... 36

VII. EMPLOYER EXPERIENCE ACCOUNTS ....................................................... 39

Employer Experience Accounts ......................................................................... 39
Qualifications for UI Benefits ............................................................................ 40
Examples of Individuals NOT Eligible for UI Benefits ..................................... 40
Workers Employed at a Business During a Short-Term Shutdown or Unpaid Vacation .... 42
Employees of Certain Head Start Programs Who are on Planned Breaks (such as summer vacation) .......... 43
Employees Receiving a Voluntary Buyout ........................................................ 44
Deductible and Non-Deductible Income ............................................................. 44
Pension, Retirement, Annuity Distributions .................................................................44
Severance, Vacation, and Holiday Pay ........................................................................45
How a Former Employee’s Benefit Claims are charged to an employer: ..................45
How a Former Employee’s Benefit Claims create an invoice for a reimbursable employer: 45
Partial UI Benefits Paid to a Current, Former or Laid-Off Employee ..........................45
Voluntarily Leaving Employment ..............................................................................46
Discharge for Just Cause .........................................................................................46
Gross Misconduct ..................................................................................................47
Suspension of and Requalifying for Benefits ............................................................47
Mutualized Benefit Charges ....................................................................................47

VIII. WHAT TO EXPECT IF A FORMER EMPLOYEE FILES A CLAIM ........................................49

Separating and Base Period Employer Notice ..........................................................49
Determination of Eligibility .....................................................................................50
Statement of Benefit Charges ..................................................................................50
Combined Wage Transfer .......................................................................................50
Filing an Appeal ......................................................................................................51
Wage Investigation ..................................................................................................51
Wage Data and other Confidential Information ......................................................51

IX. THE APPEALS PROCESS ......................................................................................52

Appeals ....................................................................................................................52
Benefit Eligibility Appeals ......................................................................................52
Recommended Documentation and Practices .........................................................53
Postponement of Hearings ......................................................................................53
Review Board Proceedings ......................................................................................53
Employer Liability Protests ....................................................................................54
Indiana Court of Appeals ........................................................................................55
Reasonable Cause Waivers .....................................................................................55

X. MAINTAINING INTEGRITY IN THE UNEMPLOYMENT INSURANCE PROGRAM ..................57

Reporting New Hires ..............................................................................................57
Report UI Fraud .....................................................................................................57
Report Work Refusals .............................................................................................58
Employer Audits .....................................................................................................58
XI. FREQUENTLY ASKED QUESTIONS ................................................................. 65

What is Unemployment Insurance? .......................................................... 65
Who pays Unemployment Insurance? .................................................... 65
Who is an Employer? ............................................................................. 65
What is a Reimbursable Employer? What do they pay? .............................. 66
Who is an Employee? ........................................................................... 66
What are Wages? .................................................................................. 66
Who must register with the Indiana Department of Workforce Development (DWD)? ................................................................. 66
How do I register? ................................................................................ 67
What will the organization’s rate be? What must the organization pay? ......................... 67
Do the organization’s workers qualify for UI coverage EVEN if the organization does not qualify as an employer under the Act? ................................. 67
What records must the organization keep? .............................................. 68
The business is a corporation, and the only employee is a corporate officer. Is the organization required to report the wages that the corporate officers earns from the corporation? ......................... 68
In what type of situation can the organization treat workers as independent contractors? ................................................................. 68

XII. GLOSSARY .............................................................................................. 69

XIII. SPECIAL TYPES OF EMPLOYMENT AND PAYMENT ................................. 71

XIV. ESS Wage Reporting Guide ................................................................. 76

Reporting: Using the ESS / UPLINK Web Application ............................ 77
Common Terms / Definitions ................................................................ 77
Other Important Considerations ............................................................ 79
The Unemployment Insurance (UI) program is administered by the Indiana Department of Workforce Development (DWD). This guide helps employers understand how they are affected by the law governing the UI program in Indiana. This guide explains the following:

- How DWD opens and maintains an employer account;
- An employer’s responsibilities if they cease or transfer operations;
- Employers’ premium obligations and merit ratings;
- The conditions under which former employees can collect UI benefits;
- An employer’s responsibilities when a former employee files a claim for benefits;
- DWD’s efforts to maintain program integrity and prevent fraud;
- The responsibilities of commonly owned, managed, and controlled entities;
- Special employment tax issues.

Please see the glossary for an explanation if a term is unfamiliar.

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.

For the sake of clarity and consistency, the organization, trade, or business to which the Act applies is called “the organization.” “The organization” may refer to any entity, organization, employer, or employing unit whether covered under the Act or not. “The employer” is used to refer to a specific entity that has been determined to have liability for unemployment insurance coverage for their workforce in Indiana.

This guide is for general information, not to cover all phases of law or to answer all questions. The Employer Handbook is a living document and will include changes from the US Congress and the Indiana General Assembly as they are finalized.
UI at a Glance

CLAIMANT:
Maximum Weekly Benefit Amount: $390
Minimum Weekly Benefit Amount: $37
Benefit Length: 1-26 weeks (one week waiting period per Benefit Year)

EMPLOYER:

---

I. INTRODUCTION TO UNEMPLOYMENT INSURANCE

UI – In General

Unemployment Insurance is a collaborative federal-state program financed through mandatory employer payments into two separate trusts, one administered by the United States Department of Labor (USDOL) and one administered by the State Workforce Agency, which in Indiana, is the Department of Workforce Development (DWD). The program is jointly regulated under the Federal Unemployment Tax Act (FUTA) and the State Unemployment Tax Act (SUTA).

The purpose of the Unemployment Insurance Program is to protect society from the deprivations caused by workers being unemployed through no fault of their own. The Unemployment Insurance program accomplishes this goal by providing short-term cash assistance to those workers who qualify for benefits.

Federal Unemployment Tax Act (FUTA) U.S. Code Title 26, Subtitle C, Chapter 23

The IRS collects FUTA taxes and requires covered employers to file a Form 940 each year, no later than January 31st for the prior calendar year’s covered wages.
The FUTA wage base is $7,000, meaning that employers pay tax on the first $7,000 in covered wages to each worker for each calendar year. If the employer has been determined to be a successor employer, the employer may take credit for wages paid by a predecessor in the same calendar year.

The FUTA tax rate is 6.0%. Part of the collaboration between the federal and state programs allows any state that is fully compliant with FUTA requirements to receive a credit for their employers of up to 5.4%. This means that most employers have an effective tax rate of 0.6%, or a maximum expense of $42 per year per worker.

If a state is not fully compliant with FUTA requirements, the state can be penalized by losing all or part of the FUTA credit for its employers. One of the primary reasons for a state to lose all or part of the credit is having an insolvent trust fund. Indiana was a FUTA credit reduction state for 940 filing from tax year 2010 through tax year 2015 due to this reason.

State Unemployment Tax Act (SUTA) Indiana Code Title 22 Article 4

Employers are required to either pay SUTA contributions or reimburse the state for benefit payments. These payments are deposited into the Indiana Unemployment Benefit Trust Fund. Money received from employers is used solely for the payment of unemployment benefits to qualifying claimants.

Many factors are used in determining the total premium rate of an employer. New employers and employers restarting Indiana employment after a break of one or more years have fixed rates by industry. Employers that have been operating for three or more years are rated based on their usage of the unemployment system and their potential liability for claim filing.

This means that an employer’s rate is determined by variables such as the number of former employees receiving benefits, the employer’s total payroll subject to UI contribution, voluntary payments, and the transfer of all or part of an existing Indiana business.

Premiums are paid by the employer without deduction from the wages of an employee. Employers are not allowed to actively discourage or work to prevent former employees from applying for benefits. Employers are expected to cooperate in any request for information about the earnings or separation of their former employees promptly. Employers that routinely fail to respond to DWD can cause their rate to increase if the failure results in a former employee being awarded benefits they are not eligible to receive.

Indiana also adds percentage points to the employer’s rate for missing or inadequate reports, outstanding assessments, unpaid predecessor liabilities, and failure to report mandatory transfers under the SUTA Dumping Prevention Act. Each type of violation is explained in full detail later in this handbook.

Federal Certification

The IRS requires DWD to federally certify each employer’s reports and payments for a particular calendar year if the employer applies for a FUTA tax credit on their IRS form 940. This certification includes information about the timeliness of any payments.

If the wages and payments the employer reported on their annual IRS Form 940 do not align with what
was reported and paid to DWD, the employer may receive a discrepancy letter from the IRS or DWD requesting an explanation.

If a discrepancy exists, the employer must either file a corrected IRS 940 or correct the wage information with DWD.

Not all potential discrepancy letters from DWD require the employer to make corrections, as DWD does not receive the full 940 filing information for multistate employers.

Wage information associated to an unemployment tax audit, wage investigation, or estimation, cannot be adjusted by the employer. If DWD has made a determination that wages needed to be increased or decreased as a result of one of these actions, the discrepancy is handled by disclosing the basis for the difference to the IRS and then following the guidance of the IRS.

If DWD has determined that the employer is operating a single employing unit under multiple federal employer identification numbers (FEINs), a manual Federal Certification is required for calendar years before 2019.

Beginning in 2019, employers report the FEIN for each worker as part of the quarterly wage report which DWD will use to federally certify wages to the IRS eliminating manual certifications for single enterprise employing units.

**Employer Method of Payment for State Unemployment Taxes**

The two methods of payment under SUTA are reimbursement and contribution. DWD classifies employers using these terms as reimbursable or contributory.

Only governments and qualifying not-for-profit (501(c)(3) employers can elect to be reimbursable. Reimbursable employers make payments in lieu of contribution for each month that their account is assessed any benefit claim activity. Reimbursable employers file wage reports each quarter but pay monthly only if there is activity (contributory employers file and pay quarterly).

Very few employers are eligible to elect reimbursable payment status, and only a portion of the eligible employers makes that election. Additional information on reimbursable election is covered in Section II.

All employers that are not reimbursable are contributory, so the majority of employers are contributory.

The merit portion of employer premium payments are defined as contributions. Contributory employers file quarterly reports and make a payment based on the wages that they self-report. Premiums must be paid on or before specific due dates, or the employer is subject to interest charges, late payment penalties, and collection costs.

Beginning in 2019, both types of employers will be required to file quarterly wage reports electronically unless they have applied for, and been granted, an electronic filing waiver.

Electronic payment by check is free for the employer. Credit cards are accepted, but the merchant fee must be paid by the employer in the form of a courtesy fee.
II. GETTING STARTED

Employer Qualifications

Entities of all types that pay covered wages in Indiana are required to open a state unemployment account with DWD. Covered wages, which are also called subject wages, are defined as wages in employment under SUTA.

In general, a business is considered an employer and is required to open a state unemployment account with DWD if it meets the criteria defined in Section II B. Almost all entities that compensate an individual to perform services will fit under one of these criteria.

Registering new entities that are commonly owned, managed, or controlled by existing Indiana employers is subject to certain limitations and may be subject to additional reporting requirements. For additional information on commonly owned, managed, or controlled entities, please see Section X.

For questions about employer qualification, please contact DWD at (800) 891-6499 option 2.

Definition of Employer

Entities are liable for UI premiums under SUTA and are considered an employer if ANY of the
following describe the entity:

**Regular Business Entity (Ind. Code § 22-4-7-1)**

The entity has liability to pay one dollar ($1) or more in remuneration to a covered worker and is not an agricultural business, a 501(c)(3), or an individual employing someone to perform domestic services in a household.

If the entity is an agricultural business, a 501(c)(3), or an individual employing someone to perform domestic services in a household, please continue reading as the entity may still be an employer. These types of employers do not become an employer with the first $1 of liability to pay wages.

**Complete Acquirer (Ind. Code § 22-4-7-2(a))**

The entity has acquired all or some of the assets of an existing employer’s organization, trade or business, and uses these assets in the continuance of a trade or business. For the purpose of employer qualification, the workforce of an existing business is considered to be an asset of the business. For purposes of SUTA, to acquire means to gain by any means; to take or to use as one’s own.

**Partial Acquirer (Ind. Code § 22-4-7-2(b))**

The entity has acquired the assets of a distinct and separate portion of an existing employer’s organization, trade, or business, and uses it in the continuance of a trade or business. For the purpose of employer qualification, the workforce of an existing business is considered to be an asset of the business. For purposes of SUTA, to acquire means to gain by any means; to take or to use as one’s own.

**Acquirers - Special Consideration - Mandatory Transfer (Ind. Code § 22-4-11.5-7)**

If entities share substantial common ownership, management, or control, and all or part of the workforce moves from one entity to another entity, a mandatory transfer of experience balance has occurred and must be reported to DWD. If the receiving entity is not an employer at the time of the transfer, the receiving entity automatically becomes liable under the Act. See Section X for additional information about employing units with substantial common ownership, management, or control.

**FUTA Liable Entity (Ind. Code § 22-4-7-2(f))**

The entity is liable for any Federal UI premiums (FUTA, see Section I) in another state. This makes the entity immediately liable when they have workers employed in Indiana.

**Exempt Entity that wants to Voluntary Elect to extend the Act (Ind. Code § 22.4-7-2(d))**

The entity wants to elect to be subject to SUTA to the same extent as a regular employer even though they do not meet any of the other definitions of employer listed in this section.

If the work is excluded separately from the type of organization, the entity cannot extend SUTA to cover the excluded work – just an excluded type of organization.
EXAMPLE:

Churches are exempt because they are churches.

A church can ask to extend SUTA coverage - meaning that it wants the workers to be covered by unemployment insurance and it wants to pay taxes to get this coverage for the workers.

Voluntary election provides unemployment insurance to all of the workers – EXCEPT -

A church cannot elect to extend SUTA to cover a minister because members of the clergy are specifically excluded due to the nature of the work that they perform.

Agricultural Entity (Ind. Code § 22-4-7-2(e))

The entity has agricultural employees and pay $20,000 or more in wages in a calendar quarter, or

The entity has 10 or more agricultural employees for some part of a day for 20 weeks during a calendar year.

Note – if the entity operates both an agricultural enterprise and a non-agricultural enterprise under the same employer identification number, they must keep separate accounting for the payroll related to the work being performed and must report any non-agricultural wages under the appropriate qualification section. Failure to keep separate records may result in all wages paid being re-classified as covered employment under Ind. Code §22-4-7-1. If this situation applies, DWD will issue two different SUTA account numbers for reporting wages correctly.

Governmental Entity (Ind. Code § 22-4-7-2(g))*

Service performed by an individual for any domestic (U.S.) government entity for any amount of wages, unless the nature of the work is specifically excluded, is covered employment. The State, municipality, division of a municipality, Indian Tribe, or similar entity that pays wages to a covered worker is a governmental employer. Governmental employers are required to pay UI premiums starting with the first dollar of payroll. Work for a division of the federal government is covered under a special unemployment plan called UCX, for military employers, and UCFE, for federal civilian employers.

Exclusions include:

- Elected officials;
- Members of a legislative or judiciary body;
- Members of the state National Guard or Air National Guard;
- Employees serving on a temporary, emergency basis;
- Individuals designated in major non-tenured policy-making or advisory positions.
Not-for-Profit (501(c)(3)) Entity (Ind. Code § 22-4-7-2(h))*

The entity is a 501(c)(3) per an IRS ruling – or has applied to the IRS for a ruling to be recognized as a 501(c)(3) – and employs four or more individuals in 20 different weeks during the same calendar year.

Do not count workers that are excluded because of the work that they perform, such as members of the clergy, and do not count anyone if the entity is a church, convention of churches, association of churches, or an entity that is primarily operated for religious purposes and which is supervised, managed, controlled, or principally supported by a church, or by a convention / association of churches.

There is no minimum dollar amount associated with this qualification, and the workers do not need to perform services on the same day or at the same time.

* If the entity is a Governmental or Not-for-Profit employer, they may opt to become a Reimbursable Employer, as opposed to an employer paying quarterly premiums.

Individual or College Fraternal entity with persons engaged to perform domestic services (Ind. Code § 22-4-7-2(i))

The entity hired household help of any kind and paid a total of $1,000 or more in wages in any calendar quarter in any calendar year.

Some common examples of this qualification include college fraternal organizations that employ household help in a shared residence such as a fraternity or sorority house, a family that has hired the services of a nanny, and individuals paying a caregiver in a private home for a person who is elderly or disabled.

PEO – Professional Employer Organization (Ind. Code § 22-4-6.5)

A PEO must register with DWD specifically as a Professional Employer Organization and must make an election at the time of qualification to be treated as either a single employer for internal and client employees (PEO Level), or to be treated as multiple employing units for internal and client organizations (Client Level).

If the PEO fails to make a timely election, or fails to register as a PEO with DWD, the PEO will automatically be treated as a client level PEO.

A PEO at the employer level qualifies on the first dollar of payroll to any internal employee or to an employee of a client.

A PEO at the client level will need a separate account for the PEO itself only if the PEO has internal employees with work localized to Indiana. Each client of the PEO reporting at the client level maintains a separate account under the FEIN of the PEO.

Commonly owned, managed, or controlled PEOs must make one election for all affiliated PEOs and may maintain only one PEO level account.

Depending on the election of the PEO, the client may face serious financial ramifications when exiting a
PEO.

For example, clients of a PEO that have elected PEO level reporting are treated as predecessor employers when they enter the PEO and successor employers when they exit the PEO.

Please see our separately published PEO FAQs to learn more about how the organization may be affected by the PEO’s reporting type election.

See Section XIII for a chart listing special types of employment and payments with their status regarding UI liability.

Employee Classification

An employee is an individual that performs a service for the organization in the normal course of the business and receives value in exchange for that service.

In order for this individual to be eligible for UI benefits, the individual must be an employee, not an independent contractor.

Individuals will be considered independent contractors for the purposes of unemployment insurance ONLY IF ALL of the following apply:

- The individual is free from direction and control in connection with the performance of their service, and
- The service is performed outside the usual course of business, and the individual’s usual area of employment is not within the usual course of the business, and
- The individual is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as the work she/he does for the organization, or is a sales agent who is paid on commission only and has complete control over their own time and effort.

Unless EACH of the above apply to the individual, that individual is an employee.

NOTE: Employment as defined for UI purposes is different than it is defined for IRS purposes, workers compensation, etc. If you have questions about a specific work relationship, please call (800) 891-6499 and choose option 2.

The existence of a contract between the worker and the entity for which the work is performed does not change the nature of the test for classification. Signing a contract where the worker agrees that they will be treated as an independent contractor and then issuing the worker a 1099 instead of a W2 does not make the worker an independent contractor for Unemployment purposes.

Unintentionally treating an employee as an independent contractor is called worker misclassification and can result in the employer being assessed additional contribution, interest, and penalties.
Multiple findings of worker misclassification can result in the employer being assessed with fraud penalties and/or civil penalties. Accountants and other advisors that assist or encourage employers to engage in worker misclassification can also be subject to civil penalties.

In extreme cases, employers can be subject to criminal prosecution for intentional worker misclassification.

**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 they usually perform 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.

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:

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. 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.

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. If there is no work performed in the state where direction and control originates, go to test 3.

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, option 2.

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

If the organization is an employer as defined in Section II, it must register with DWD during the first quarter it is liable to report wages. Please note that the organization should provide both a mailing address and the physical address where the work is performed in Indiana if those are not the same.

Do not wait until the first report is due to start the registration process as interest and penalties apply if the organization does not complete and pay the report on time.

If the organization employs only teleworkers in Indiana, then the physical address where work is performed is the worker’s address. DWD does not use the physical address for mailing purposes. The address information is used to verify localization as described in section C, above.

If the organization is not an American company, but it has workers that perform services in Indiana, it may have Indiana unemployment if other conditions are met. Please contact DWD for more information about foreign companies operating in Indiana.

The organization can register online using the Uplink Employer Self Service program, at https://uplink.in.gov/ESS/ESSLogon.htm. The Uplink Employer Self Service System gives the organization immediate access to services and information 24 hours a day, 7 days a week.

Uplink Employer Self Service (ESS) allows you to do the following online:

- Register as a new employer
- Review and maintain unemployment insurance account information
- Submit quarterly unemployment insurance wage reports
- Make payments by e-check (no fee) and credit card (certain fees apply)

If the organization is an employer with an existing SUTA account number and wishes to create an ESS account, click ‘New User’ on the Employer Self Service logon screen, then check the ‘Yes’ option button.

In addition to your SUTA number, the organization will need its FEIN number and the total gross (subject) wages from the last posted quarter.

If the organization is unable to use the on-line registration process, it may register by completing State Form 2837 (SUTA Account Number Application and Disclosure form). Please be aware that filing a paper registration form can significantly delay the registration process.

The form is available at https://www.in.gov/dwd/2406.htm or by calling DWD at (800) 891-6499, option 2. Completed forms must be mailed to:

IDWD – Employer Status
Reports
10 N Senate Ave Rm SE 202
Indianapolis, IN 46204-2277

DWD will give the organization an individual account number if it qualifies.

It is an employer’s responsibility to register on time and to file all reports on time. If correct premiums are not paid on time, interest and penalties will be charged as outlined in Section VI.
is liable for unemployment contributions, a report must be timely filed. If the organization must file without knowing the account number, SF2837, described earlier in this section, must be attached to the report.

Required Poster
All employers as defined in Section II must prominently display the Unemployment Insurance informational poster available from DWD.

Download the poster at http://www.in.gov/dwd/2455.htm.

Posters should be posted in multiple locations at each worksite so that every employee can adequately view the information. If the organization does not have a permanent common worksite that is regularly visited by all employees, DWD will provide individual notices for employees on request.

When asked, the organization must give employees information about all UI rights and benefits under the law. This means that employers are not allowed to interfere with the worker’s right to file an unemployment claim. For example, an employer cannot tell employees that they cannot file a claim if they quit or are fired.

Workers have the right to file the claim if they have covered employment. They have covered employment if the employer has unemployment liability. DWD adjudication staff will determine if the worker qualifies for unemployment, based on the separation and other factors.

New Hire Reporting/Preventing Fraud
Under IC 22-4.1-4-2 and the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), all public, private, non-profit, and government employers are required to report all newly hired employees, or employees returning to work after a break of 60 days or more, within 20 days of hire (this should be the first actual date of work).

Failure to report new hires could result in a fine of $25 per employee not reported, or up to $500 if it is discovered the failure to report was part of a conspiracy between the employer and employee.

For more information, or to report new hires, please go to https://in-newhire.com/.

Why is new hire reporting important?
Reporting new hires helps protect the organization, and other employers, against fraudulent unemployment claims.

How to report new hires:
1) Gather information
The needed information includes the employee’s:
- Name
- Mailing address
- Social Security Number(SSN)
- Date of hire
• Date of birth
• Eligibility for medical insurance

2) Create the report

• Visit www.in-newhire.com. Instructions will guide the organization through the process.

3) Submit the report

• The organization can submit reports via any method discussed on the new hire website (listed above.)
• The organization’s payroll service can also report new hires. (It is the organization’s responsibility to make sure the payroll service completes this process.)

New Employer Premium Rate

Because rates are determined as of June 30th each year for the next calendar year, most new employers are assessed a rate of 2.5% for the first four calendar years that they operate in Indiana. Governmental entities, construction companies, and successor employers have different new employer rates.

The new employer rate for construction companies (with NAICS beginning with 23) is the lesser of 4.0 or the average rate for all construction companies. The new construction company rate for 2019 is 2.73%.

The new employer rate for governmental entities, not electing to be reimbursing as discussed in Section II, is 1.6%.

New successor employers inherit the rate of their predecessor, so a new successor employer rate can range from 0.50% to 9.4% under the current rate schedules.

Merit rating is the way that DWD tries to estimate the use of the Unemployment Insurance System by each employer and is based on the employer’s history in Indiana. The number of claims as related to the amount of taxes paid is called the experience balance. In Indiana, the experience balance is made up of all contributions paid less all benefits paid to former employees of the employer or through mutualized benefit charges. The amount of potential to file claims for benefits is represented by the most recently completed thirty six months of payroll ending on June 30th of the year immediately before the year to which the merit rate is going to be applied. This thirty-six months of payroll is referred to as the lookback period for merit rating.

An employer is no longer considered a new employer when they meet BOTH of the following requirements:

• The employer has been registered as an employer subject to the Act for 36 consecutive calendar months ending on June 30th of the year immediately prior to the Merit Rate year (Requirement A);
• The employer has reported some wages in each of the three 12 month periods ending on June
30th of the year immediately prior to the Merit Rate year (Requirement B).

The lookback period for merit rating is always the 36 months ending June 30th of the current year for the following year’s rates.

If an employer has a gap in employment between any July 1st and June 30th period during the lookback, they will go back to the new employer rate under requirement B.

A gap in employment means that the employer had zero gross wages to report to Indiana. The employer will remain at the new employer rate until the year with the gap is no longer in the lookback period.

To qualify for the lowest possible premium, employers must meet both requirements A and B and have no delinquent quarterly reports, outstanding liabilities, or outstanding predecessor liabilities (Requirement C).

Once requirements A and B are met, the employer is eligible for an experience-based rate, also known as a merit rate.

Experience rates are detailed in Section VI.

Reimbursable Employers

Not-for-profit (501(c)(3)) and governmental employers may choose to be reimbursing employers. This means they reimburse the UI Trust Fund for benefit payments to their former employees instead of making regular quarterly contributions (referred to as payment in lieu of contribution).

Even if the employer has elected to make payment in lieu of contribution, the employer must file their quarterly payroll reports on time and with all required information as described in Section III.

Reimbursable employers must pay any invoice issued to them by DWD within 30 days of the mailing date of the invoice. Failing to timely pay will result in interest and penalties being assessed to the reimbursable employer.

Become a reimbursable employer by:

- Providing DWD a copy of the Internal Revenue Service (IRS) 501(c)(3) exemption status letter, or a copy of the application for exemption status; and
- Submitting a completed “Election to Pay Tax” form, DWD 1065, located at www.in.gov/dwd/2406.htm by the required deadline.

When the organization first becomes liable for unemployment as described in Section II, it has an opportunity to elect to make payments in lieu of contributions instead of paying quarterly contributions. If an election is not received by the election deadline, the employer is automatically contributory.

Election forms must be submitted within 31 days of the original qualification date. DWD counts the 31 days from the last day of the quarter that contains the qualifying event. Retroactive or late reimbursement
elections are not allowed.
For a government of any type, the qualifying event is compensating any worker not specifically excluded under the Act for performing services.
For a 501(c)(3), the qualifying event is compensating four (4) or more workers for performing services in twenty (20) different weeks in the same calendar year.
Once the organization successfully elects to be a reimbursable employer, the status cannot be changed for a minimum of two years and will remain in effect until the employer revokes the election. An employer may revoke the election to be reimbursable by filing DWD form 1065 on or before December 1st in the year prior to the year the revocation is to be effective.

Reimbursable employers are charged for all UI benefits, including extended benefits not reimbursed by a federal program, benefits expended in error, and benefits under appeal. Reimbursable employers do not receive credit for benefits paid by DWD until and unless DWD is successful in securing repayment from the claimant.
Reimbursable employers cannot be relieved of benefit charges where they are not the separating employer on the claim and are not employing the claimant on a part-time basis during the claim period. This is true even on a reopened claim where the employer was originally determined not to be chargeable when the worker separated from them.

See Section VII for more information on how benefit payments are charged.

III. QUARTERLY EMPLOYER REPORTING

Quarterly Reports
Beginning in 2019, quarterly reports must be filed electronically via Uplink Employer Self Service (ESS).
Beginning with 1Q2019, employers will only have to file one quarterly report, the wage report, each quarter instead of a wage report and a contribution report as separate reporting. For information or assistance on contribution reporting until the consolidation, please call 800-891-6499, option 2.

If the organization is unable to file electronically, it will need to request an electronic filing waiver, SF56625. Please call 800-891-6499, option 2, for information on an electronic filing waiver. The waiver is also available on-line through the IARA website.

Employers with up to 50 employees can add the employee wage records by manually entering the information directly into ESS. If the employer has more than 50 employees, a file upload will be required using either ICESA (ASCII) formatting or .CSV formatting. A .CSV file can be created in Microsoft Excel or other common spreadsheet programs. File format information is available on our website.

To properly administer the Act and to provide the best possible service to employers and workers in Indiana, DWD collects information about where people are working, when they started working, how much pay they are receiving, and what they are doing to earn their pay. The Unemployment Insurance division uses this information to determine employer contributions and benefit availability for qualified claimants. The Workforce division uses this information to plan training services, predict hiring trends, create apprenticeship opportunities, and develop programs for the benefit of employers and workers throughout Indiana.

Quarterly report information includes:

- The quarter and year being reported;
- The SUTA number of the employer;
- The FEIN number being used by the employer on their 940 for this worker. This should be the same as the FEIN on the worker’s 1099 or W2;
- The worker’s SSN or ITIN. Employers are required to secure a valid SSN or ITIN for each worker before allowing them to start performing services for remuneration;
- The worker’s last name;
- The worker’s first name;
- The worker’s middle initial, if any;
- The worker’s start date as reported to Indiana New Hire;
- The worker’s Standard Occupational Classification (SOC) code, which is a six digit representation of the worker’s job title or assigned duties usually shown as XX-XXXXX (if the code contains a decimal followed by two additional digits, the additional information is not required / reported);
- The primary zip code where the worker is performing services in Indiana;
- The worker’s status as a full-time, part-time, or seasonal worker;
- The worker’s gross subject wages;
- The worker’s active status (yes or no) during the pay period containing the twelfth (12th) day of each month. Active status means that the employee is being compensated for covered
Reporting Payroll

For UI premium purposes, if the organization is liable for any part of a calendar year, it is liable for the entire year and must report all wages for the entire calendar year.

EXAMPLE: Company A starts payroll in December, 2017. At the time Company A registers for an Indiana SUTA account, they would file reports for the first three quarters of 2017 showing zero wages (“zero reports”). On or before January 31, 2018, Company A would file a report for the 4th quarter with the wages.

If the employer correctly provides their payroll start date – meaning the first day on which they provided a covered worker with compensation for their services – ESS will automatically create any needed zero reports as a courtesy to the employer. It is the employer’s responsibility to make sure that those reports are filed, so please be sure to respond promptly to any notices sent by DWD regarding missing or incomplete reports.

If DWD determines that the organization failed to file any wage report, an estimate will be made based on internal policy. If a report is determined to be missing or inadequate, the employer will be notified of the issue. If the employer does not file an adequate report by the deadline on the notice, they will be fined $25 for each missing or inadequate report.

Benefits are determined based on each quarter’s wages; therefore wages cannot be reported in only one quarter for the entire year. Wages must be reported for the quarter in which they were paid.

If corrections to quarterly reports are required, the corrections must be made for each quarter in which an error was made. Beginning with the 1st quarter of 2019, the organization will be able to correct the report in the same way that the report was filed. This means that employers who manually enter wages for employees directly in to ESS, can return and correct the record on the ESS manual entry screen. If the employer uploaded a file with incorrect or missing information, they will correct the record by uploading a new file which will completely replace the prior file.

For assistance or more information, visit www.in.gov/dwd or call (800) 891-6499 option 2.

Covered Employers / Covered Employment

Once a business becomes liable for unemployment taxes, the business is called a covered employer and the workers are engaged in covered employment for unemployment purposes. An employee must be engaged in covered employment before they can qualify for unemployment benefits based on the separation from the employer.

If the business falls below the level of qualifying employment as described in Section II, the employer may be eligible to terminate their unemployment account.

The employer must fall below the level of qualifying employment for two consecutive years, and believe that they will never qualify again to apply for account termination.

Employers have until January 31st to file an application to terminate coverage for the current year. The organization must continue to file quarterly reports – even if the report is zero - until it is notified that the account has been terminated or made inactive.

For UI premium purposes, there is no distinction between a full-time employee and a part-time employee.
If an employee works for any amount of time during a calendar week, report the remuneration paid. There is also no distinction between S-Corporations and business corporations (C-corporations). All corporate officers must report all payments for services.

**Quarterly Report Due Dates**

All covered employers must file a quarterly report no later than the report due date as shown in the following chart:

<table>
<thead>
<tr>
<th>Quarter</th>
<th>Wages Paid in Period</th>
<th>Report Due Date (on or before)</th>
</tr>
</thead>
<tbody>
<tr>
<td>First</td>
<td>January, February, March</td>
<td>April 30th</td>
</tr>
<tr>
<td>Second</td>
<td>April, May, June</td>
<td>July 31st</td>
</tr>
<tr>
<td>Third</td>
<td>July, August, September</td>
<td>October 31st</td>
</tr>
<tr>
<td>Fourth</td>
<td>October, November, December</td>
<td>January 31st</td>
</tr>
</tbody>
</table>

**Retroactive Payments**

The organization must notify DWD immediately when it makes a retroactive payment to an employee that would cover the same time UI benefits were paid, thus reducing the employee’s benefit amount.

Retroactive payments that may affect an employee’s benefits include wages, vacation pay, severance pay, or similar payments based on the services performed in the past but not compensated until a later date.

Please report the week(s) during which both the retroactive payment and the UI benefit payment occurred.

Report additional wages for prior quarters just like any other correction. See Section XIV for information on reporting payment to individuals collecting benefits.

**Paying the Amount Due**

Beginning in 2019, the organization will receive a Notice of Assessment when a report is filed that results in contribution liability being created. The organization will receive the notice for its records without regard to any payments or credits posted against the account. Please review the assessment carefully for errors. The organization will have fifteen (15) days after the notice is sent, to protest the amount that has been assessed on the account.

If the assessment amount changes, an Amended Notice of Assessment will be sent. Assessments are amended when the employer corrects an error, when their merit rate is amended due to a successorship
determination or waiver of the penalty rate, or when a similar action occurs. The organization will have fifteen (15) days after the amended notice is sent to protest the amount that has been assessed. Please be sure to review the notice when received.

The Notice of Assessment is about the amount of liability being assessed; it is not intended to show the balance due on the account. To get the balance due on the account, log into ESS and review pending and posted payments on the account.

Payment of the total amount due should be submitted by the due date of the quarterly reports. The amount due shown in ESS will include any applicable fees, interest, penalties, or administrative assessments and will be reduced by the amount of any credits on the account.

DWD accepts payment by electronic check with no fee. Credit cards are accepted but the user is required to pay the merchant cost in the form of a courtesy fee for using this service.

DWD offers two portals for electronic payments, both administered for DWD by Value Payment Systems (VPS).

The recommended payment method is the integrated payment option that is linked from DWD to VPS. This option is a real-time interface to make payments for any type of debt except a tax warrant. Tax warrants must be paid to the sheriff of the county in which the warrant was issued.

The second method is to visit https://payingov.com/dwd and select Employer Liability Payment from the payment type field. This website allows an employer to set up reoccurring payments, email reminders, future one-time payments, and same day payments.

Please do not make voluntary payments from the external website as they will not be processed correctly on your account from payingov.com/dwd.

If your account is not in good standing and has been referred to the collection and enforcement division, please see the section on DWD collection actions.

The ESS home screen will alert the organization if the account is not in good standing with the DWD.

IV. BUYING, SELLING, TRANSFERRING, OR REORGANIZING A BUSINESS

Buying, selling, transferring or reorganizing a business will likely impact the Indiana unemployment insurance account.

DWD determines acquisitions based on the continuation of all or a part of an existing trade or business from the previous owner to the new owner. If the organization intends to acquire all or part of an existing Indiana business and to use the acquired assets in the operation of the business, then file an intent to acquire notice with DWD no less than five (5) days prior to the expected transfer date. Once this notice has been filed, the organization is allowed limited access to information regarding the proposed disposer’s UI experience balance and standing with DWD.

A determination of successorship does not require that the ownership of the corporation change or that the predecessor and successor share ownership, management, or control. For purposes of successorship, the transfer of the workforce is the transfer of an asset, and can be considered to be a continuation of the
previous business in certain circumstances. For questions on the applicability of successorship rules to a specific organization, please contact DWD at (800) 891-6499 option 2.

Please note that predecessor and disposer mean the same thing and acquirer and successor mean the same thing.

There are certain types of business reorganizations that may not be used to set up a new SUTA account in Indiana because the businesses are the same employing unit for Indiana Unemployment purposes. In general, new entities created during the reorganization of a business are eligible to set up a new or separate SUTA account only if the new entity is an independent business operationally. Business entities created solely for accounting purposes or for allocating costs are not eligible to set up a new SUTA account and should use the original employer account number.

For additional information related to commonly owned, managed, or controlled entities, please see Section X.

Professional Employer Organizations (PEO) not registered as employers with DWD as described in Section II, are required to report client accounts under the client’s assigned SUTA account (client level). If the PEO has elected PEO level reporting, the clients of the PEO are predecessors to the PEO when they join the PEO and are partial successors of the PEO when they leave the PEO.

Employers using a PEO are still required to report the operational changes. The business has to report when they join the PEO and transfer the employees to the PEO for reporting. The employer is the disposer when they join the PEO because they are disposing of their employees to the PEO for reporting purposes.

When an employer leaves a PEO, the PEO becomes the disposer and the employer acquires back the portion of the PEO that represents their business as a percentage of the total business of the PEO.

The PEO is separately required to report client additions and deletions to DWD.

**Complete Transfer of Indiana Operations (Ind. Code § 22-4-7-2(a))**

Whether the business is new to the state of Indiana or is already paying Indiana UI premiums, it must notify DWD when a transfer of an organization, trade, or business occurs. This notification is required even if the business does not agree that a successorship for unemployment purposes has happened.

DWD will determine that the transfer is a **complete successorship** in the following circumstances:

- An entity acquires (purchases, leases, or takes control of) **substantially all** of the operational assets of an Indiana employer which results in the continuance of an organization, trade, or business in full or in part;
- An entity is issued a new federal identification number, merges, incorporates, or reorganizes the business in any manner, or
- An entity gains the **right** to operationally control an organization, trade, or business operating as an employer in Indiana.

DWD will make a determination of successorship, which the entity is able to protest if it disagrees with the determination.
A complete transfer of Indiana Operations occurs when a new employer has the right to use the assets of a business that discontinued operating in Indiana as an employer.

**Example:** A new business buys all of an automotive service center, but only intends to operate an oil change facility. The new business sells all of the assets acquired that are not useful and does not retain any of the former owner’s employees. This is a complete transfer for the limited purposes of unemployment insurance.

The reason that DWD is required to hold successorships as described in this example is to correctly assess the risk of unemployment claim filing as a result of the change – or lack of change – in the business operations.

A successorship for Unemployment purposes is not the same as a statutory merger or a transfer of ownership for any reason other than determining the unemployment rate and liability of the surviving business.

New successor employers take over the experience account balance, liabilities, and premium rate of the previous owner.

If the business is a current employer, it retains the current rate through the end of the calendar year of the acquisition, and then receives a blended rate for subsequent years.

Where the employers correctly report the transfer, DWD will use the wage data reported by the previous owner for computing the excess wages for the employees retained.

All outstanding liabilities are assumed by the successor. If the successor has notified DWD of the intended transfer no less than five days in advance, the successor is entitled to receive information on the standing of the disposer.

Please contact DWD at (800) 891-6499, option 2 for additional information on employee standing. There is no specific state form for intended transfer notification.

The acquirer must notify DWD via ESS or complete State Form 2837 (SUTA Account Number Application and Disclosure Form). This notification is required even if the acquirer already has a SUTA number.

The disposer must notify DWD via ESS or complete State Form 46800 (SUTA Account Termination or Transfer Request).

Notification is required from both the acquirer and the disposer no more than 30 days after the transfer has occurred. If the transfer occurs after the beginning of a calendar quarter, both the disposer and the acquirer must file quarterly reports for the quarter in which the transfer occurred.

The disposer must report the wages paid from the first date in the quarter until the transfer of ownership. These reports and any associated UI premiums are due from the disposer immediately following the transfer of ownership even if the quarterly due date is sometime in the future. The acquirer’s liability cannot be assessed until DWD knows the amount of wages reported for the transferred workers, if any, from the disposer’s.

It is recommended to file in ESS. If a hard copy state form is used, ensure it is a current form. Using older versions of a form may delay processing. These forms can be found at [http://www.in.gov/dwd/2406.htm](http://www.in.gov/dwd/2406.htm)

**Partial Transfer of Indiana Operations (Ind. Code § 22-4-7-2(b))**
Whether the business is new to the state of Indiana or is already paying Indiana UI premiums, it must notify DWD that a transfer of an organization, trade, or business has occurred even if the business does not agree that a successorship should be determined.

DWD will determine that the transfer is a partial successorship in the following circumstances:

- A distinct and separate (segregable) portion of an organization, trade, or business operating as an employing unit in Indiana is acquired (purchased, leased, or taken control of by any means); or

- All or part of the workforce of the business is transferred to a new entity or between existing employing units in Indiana and the transfer results in a partial continuation of the disposer’s business.

DWD will make a determination of successorship, which the employer is able to protest if they disagree with the determination.

If the business is determined to be a successor, it may use the wage data reported by the previous owner for computing the excess wages for the employees the new owner retains. The previous owner must transfer a proportionate amount of the experience balance and the merit rate based on the portion of the business being transferred.

The new owner must notify DWD via ESS or complete State Form 2837 (SUTA Account Number Application and Disclosure Form). This notice is required even if the new owner already has a SUTA number.

The previous owner must notify DWD via ESS or complete State Form 46800 (SUTA Account Termination or Transfer Request). Notice from both employers is due to DWD no more than 30 days after the transfer date.

Failure to notify DWD will result in DWD making a determination of the portion of the transfer based on the best information reasonably available to DWD. Usually, this means that DWD will use the amount of wages transferred to determine the percentage of business transferred. DWD can use any percentage for the change between 0.01 and 99.99 depending on the information available.

If the new owner has an existing DWD account, the owner’s merit rate will be retained until the following calendar year.

**Important – there can be serious costs for not reporting a transfer to DWD.**

Always report transfers to DWD, even if the business does not think DWD should hold a transfer under the Act. A determination of transfer can be protested by the disposer or the acquirer if the employer does not believe that a continuation of business has occurred. The business has fifteen (15) days from the date that DWD sends the determination notice to protest in writing. See Section IX for more information on how to appeal a determination.

DWD is required to detect and hold successorships between Indiana employing units even if the parties to the transfer do not report that a transfer occurred. DWD will use the internet, press releases, wage
record movement, employee interviews, and the continuation of identity (such as an acquirer using Facebook, telephone numbers, websites, YELP listings, Better Business Bureau account, physical address, or other non-tangible assets of the disposer) as the basis for determining that the parties have failed to report a required transfer. Failure to report a transfer can result in a retroactive increase in the merit rate of the acquirer which means that they will be assessed additional contributions, interest, penalties, surcharge (when applicable), and penalty rates as required.

DWD has up to four years from the date on which the transfer occurred to make a determination, and can assess interest retroactively for all four years at 1% per month. Interest will continue to accrue from the point in time of the assessment of additional contribution, until all of the contribution has been paid.

If DWD determines that the employer intentionally failed to report a transfer, and there is evidence of substantial common ownership, management, or control between the predecessor and successor, civil penalties can be applied.

If DWD can show that the acquirer knew that they were required to report, then they can go back more than four years and add another 50% penalty for the intentional failure. Thus, failing to report can be a costly error for the employer. When in doubt, report and let DWD make a determination if any conditions apply to the business.

V. SEASONAL EMPLOYMENT
Seasonal Employment

Seasonal employment is service performed for a DWD approved seasonal employer during the approved seasonal period of less than 26 weeks. UI benefits may be paid to individuals on the basis of service performed in seasonal employment only if the claim is filed within the approved seasonal operating period. If the claim is filed outside the seasonal operating period, benefits may be paid only on the basis of any non-seasonal wages.

Thus, having seasonal status protects the employer’s experience balance – and the Indiana Trust Fund – from a seasonal worker being paid while unemployed during the off-season. An employer has to pay contribution on seasonal wages because a claimant can use the wages if they meet certain qualifications – like being laid off from a subsequent job during the seasonal employer’s “on” season.

Qualifying as a Seasonal Employer

A seasonal employer operates all or part of a business for recurring periods of less than 26 weeks in a calendar year due to either the seasonal nature of the business or climatic conditions. As part of the application process, employers are required to submit information about the nature and function of all jobs that should be classified as seasonal and for all jobs that are not classified as seasonal.

It is very important that employers complete this job analysis carefully and completely. Seasonal status cannot be granted for a job which is functionally similar to a non-seasonal job. The location of the work
is not a factor in this determination - only the work that is actually performed is taken into consideration.

As an example, there are employers that maintain rental properties that are open year round and rental properties that are open only during a distinct tourist season. During the tourist season, the employer hires housekeeping staff for the purpose of cleaning the properties that are only open during the tourist season. Because the duties being performed by these staff are the same as the duties performed by housekeeping staff on the year round properties, this is considered a temporary increase in staffing, not seasonal employment.

On the other hand, if the same employer hires security personnel to maintain the seasonal properties while they are not available for rental, the security personnel might qualify for seasonal status if the off season for these properties is less than 26 weeks each calendar year.

Employers may qualify for multiple seasonal periods, but the total of all seasonal periods must be less than 26 weeks each calendar year.

In order to be considered a seasonal employer for UI reporting purposes, the employer must file Form 2003 (Request for Seasonal Determination Status) with DWD. DWD will issue a decision within 90 days of receiving the request. After DWD approval, an employer assumes seasonal employer status effective the first day of the next calendar quarter.

In order to qualify as a seasonal employer for a portion of the business, that portion must be identifiable as a distinctly different operation. For example, a municipally owned golf course would be considered a distinctly different operation from the municipality. If it is in operation less than 26 weeks each calendar year, the golf course could qualify as a seasonal employer.

As a part of the application process, the business must inform DWD of the number of positions it wants to have classified as seasonal within the approved seasonal portion(s) of the business. Opening and closing dates of each seasonal operation must also be specified. DWD provides special forms for this information. Please call (800) 891-6499, option 2 to request the forms.

If the business is approved, it must keep an accurate account of wages paid to seasonal workers within the approved seasonal period. The business should report all covered wages quarterly, and seasonal wages are covered wages for all reasons. One of the fields on the wage report is used to indicate the season number approved by DWD for the employer.

**Loss of Seasonal Employer Status**

If the employer’s seasonal operation exceeds 26 weeks in a calendar year, the organization must notify DWD within 30 days.

Seasonal status is automatically lost for the period of operation after that calendar quarter. The employees can use the wages paid in this period as regular wages to establish UI claims. Once lost, seasonal employer status can be re-applied for in any calendar year after the year in which the designation was revoked.

---

**VI. STATE PREMIUM RATE COMPUTATION**
New 2019 Employer Premium Rates

The organization receives a notice annually from the Department of Workforce Development with the applied rate. The applied rate is a combination of the premium rate and the solvency surcharge. The solvency surcharge for 2019 is 0 percent of the premium. To estimate the rate, follow the steps below.

How to Determine the Premium Rate

The premium rate will be determined based on the employer’s individual experience account status as of June 30th of each year.

The premium rate is determined by following these steps:

1. Determine the type of UI premium rate (new employer, penalty or merit)
2. Determine the experience rate ratio
3. Determine the premium rate from the applicable schedule.
4. Determine the Applied Premium Rate (the premium rate multiplied by 1.00 to reflect the interest surcharge)

Determine the type of UI premium rate.

There are three types of UI premium rates: New Employer, Penalty or Merit Rate

New Employer Rate (does not apply to new successor employers): A new employer rate of 2.5%, NAICS code 23 rate of 2.73%, or a government rate of 1.6% applies unless the following conditions are met. New employers are exempt from the solvency surcharge.

1. The organization has been subject to paying UI premiums for the past 36 months prior to June 30.
2. The organization has reported liability in each of the three 12 month periods immediately preceding June 30.
3. The organization is not subject to the penalty rate.

Penalty Rate: Any employer, new or merit-rated can be assessed the penalty rate. The penalty rate is the rate as calculated in step 1 or 3 plus 2%. The organization is subject to the penalty rate if:

1. It failed to file any required quarterly report within 10 days of the specific date noted on the Merit Rate Delinquency Notice.
2. It failed to pay the premiums, interest and/or penalty charges owed for past quarters within 10 days of the specific date noted on the Merit Rate Delinquency Notice.
3. It failed to pay the premiums, interest and/or penalty charges owed by a predecessor account within ten (10) days of the specific date noted on the Merit Rate Delinquency Notice.

All three types of delinquency may be noted on the same Merit Rate Delinquency Notice. For questions on why a Merit Rate Delinquency Notice was issued, please call (800) 891-6499, option 2.

**Merit Rate:** Employers that no longer hold new employer status and are not subject to the penalty rate qualify for an experience-based merit rate.

**A merit rate is computed based on:**

- The experience balance as of June 30th
- The past 36 months’ payroll

**Determine the experience rate ratio**

The merit rate is based on the status of the DWD employer experience account. The experience account compares all premiums (contributions) paid into the account and all benefits charged against the account. Be sure to convert to a ratio (percentage) prior to comparing to the appropriate rate chart.

<table>
<thead>
<tr>
<th>Reserve Ratio =</th>
<th>Experience account balance as of June 30 (may be positive or negative)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total taxable wages paid by the employer/predecessor during the 36 months</td>
</tr>
<tr>
<td></td>
<td>immediately preceding June 30</td>
</tr>
</tbody>
</table>

**Determine the premium rate from the applicable schedule**

The experience account will have one of the following status designations:

- **Credit reserve balance** - The state UI premiums paid exceed benefits charged to your account. The organization has a positive experience balance.
- **Debit reserve balance** - UI benefits charged to the account exceed state UI premiums paid into the account. The organization has a negative experience balance.

Be sure to convert to a percentage prior to comparing to the appropriate rate chart.
Rate Schedule for Accounts with a Credit (positive) Reserve Balance

<table>
<thead>
<tr>
<th>Rate Schedule for Accounts with Credits Balance as of June 30</th>
<th>As Much As</th>
<th>But Less Than</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.00</td>
<td>3.00</td>
<td>0.50</td>
<td></td>
</tr>
<tr>
<td>2.80</td>
<td>3.00</td>
<td>0.70</td>
<td></td>
</tr>
<tr>
<td>2.60</td>
<td>2.80</td>
<td>0.90</td>
<td></td>
</tr>
<tr>
<td>2.40</td>
<td>2.60</td>
<td>1.20</td>
<td></td>
</tr>
<tr>
<td>2.20</td>
<td>2.40</td>
<td>1.40</td>
<td></td>
</tr>
<tr>
<td>2.00</td>
<td>2.20</td>
<td>1.60</td>
<td></td>
</tr>
<tr>
<td>1.80</td>
<td>2.00</td>
<td>1.80</td>
<td></td>
</tr>
<tr>
<td>1.60</td>
<td>1.80</td>
<td>2.00</td>
<td></td>
</tr>
<tr>
<td>1.40</td>
<td>1.60</td>
<td>2.20</td>
<td></td>
</tr>
<tr>
<td>1.20</td>
<td>1.40</td>
<td>2.50</td>
<td></td>
</tr>
<tr>
<td>1.00</td>
<td>1.20</td>
<td>2.70</td>
<td></td>
</tr>
<tr>
<td>0.80</td>
<td>1.00</td>
<td>2.90</td>
<td></td>
</tr>
<tr>
<td>0.60</td>
<td>0.80</td>
<td>3.10</td>
<td></td>
</tr>
<tr>
<td>0.40</td>
<td>0.60</td>
<td>3.40</td>
<td></td>
</tr>
<tr>
<td>0.20</td>
<td>0.40</td>
<td>3.60</td>
<td></td>
</tr>
<tr>
<td>0.00</td>
<td>0.20</td>
<td>3.80</td>
<td></td>
</tr>
</tbody>
</table>

Rate Schedule for Accounts with a Debit (negative) Reserve Balance

<table>
<thead>
<tr>
<th>Rate Schedule for Accounts with Debit Balance as of June 30</th>
<th>As Much As</th>
<th>But Less Than</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.00</td>
<td>1.50</td>
<td>4.90</td>
<td></td>
</tr>
<tr>
<td>1.50</td>
<td>3.00</td>
<td>5.10</td>
<td></td>
</tr>
<tr>
<td>3.00</td>
<td>4.50</td>
<td>5.30</td>
<td></td>
</tr>
<tr>
<td>4.50</td>
<td>6.00</td>
<td>5.50</td>
<td></td>
</tr>
<tr>
<td>6.00</td>
<td>8.00</td>
<td>5.70</td>
<td></td>
</tr>
<tr>
<td>8.00</td>
<td>10.00</td>
<td>6.00</td>
<td></td>
</tr>
<tr>
<td>10.00</td>
<td>12.00</td>
<td>6.40</td>
<td></td>
</tr>
<tr>
<td>12.00</td>
<td>14.00</td>
<td>6.80</td>
<td></td>
</tr>
<tr>
<td>14.00</td>
<td>16.00</td>
<td>7.10</td>
<td></td>
</tr>
<tr>
<td>16.00</td>
<td>Or more</td>
<td>7.40</td>
<td></td>
</tr>
</tbody>
</table>

Next, determine the Applied Rate:
Determining the applied rate is very easy once the premium rate is determined. From step one, determine the rate type.

- If the organization is subject to the new employer rate, it is not subject to the solvency surcharge. The applied rate is 2.5%, 2.73%, or 1.6% depending on the employer industry type.

- If the organization is subject to the penalty rate, but is also a new employer, it is not subject to the surcharge. The premium rate is 4.5%, 4.73%, or 3.6% depending on the industry type.

- If the organization is a merit rated employer, multiply the premium rate above by 1.00 to determine the applied rate. The surcharge for 2019 is 0 percent. The charts below convert the premium rate to applied rate for 2019.

**Applied Rate Schedule for Accounts with a Credit (positive) Reserve Balance**

<table>
<thead>
<tr>
<th>Rate Schedule for Accounts with Credit Balance as of June 30</th>
<th>Premium Rate</th>
<th>Applied Rate</th>
<th>Penalty Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>As Much As But Less Than</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>0.5</td>
<td>0.500</td>
<td>2.500</td>
</tr>
<tr>
<td>2.8</td>
<td>0.7</td>
<td>0.700</td>
<td>2.700</td>
</tr>
<tr>
<td>2.6</td>
<td>0.9</td>
<td>0.900</td>
<td>2.900</td>
</tr>
<tr>
<td>2.4</td>
<td>1.2</td>
<td>1.200</td>
<td>3.200</td>
</tr>
<tr>
<td>2.2</td>
<td>1.4</td>
<td>1.400</td>
<td>3.400</td>
</tr>
<tr>
<td>2</td>
<td>1.6</td>
<td>1.600</td>
<td>3.600</td>
</tr>
<tr>
<td>1.8</td>
<td>1.8</td>
<td>1.800</td>
<td>3.800</td>
</tr>
<tr>
<td>1.6</td>
<td>2</td>
<td>2.000</td>
<td>4.000</td>
</tr>
<tr>
<td>1.4</td>
<td>2.3</td>
<td>2.300</td>
<td>4.300</td>
</tr>
<tr>
<td>1.2</td>
<td>2.5</td>
<td>2.500</td>
<td>4.500</td>
</tr>
<tr>
<td>1</td>
<td>2.7</td>
<td>2.700</td>
<td>4.700</td>
</tr>
<tr>
<td>0.8</td>
<td>2.9</td>
<td>2.900</td>
<td>4.900</td>
</tr>
<tr>
<td>0.6</td>
<td>3.1</td>
<td>3.100</td>
<td>5.100</td>
</tr>
<tr>
<td>0.4</td>
<td>3.4</td>
<td>3.400</td>
<td>5.400</td>
</tr>
<tr>
<td>0.2</td>
<td>3.6</td>
<td>3.600</td>
<td>5.600</td>
</tr>
<tr>
<td>0</td>
<td>3.8</td>
<td>3.800</td>
<td>5.800</td>
</tr>
</tbody>
</table>
**Applied Rate Schedule for Accounts with a Debit (negative) Reserve Balance**

<table>
<thead>
<tr>
<th>Rate Schedule for Accounts with Debit Balance as of June 30</th>
</tr>
</thead>
<tbody>
<tr>
<td>As Much As But Less Than</td>
</tr>
<tr>
<td>--------------------------</td>
</tr>
<tr>
<td>0</td>
</tr>
<tr>
<td>1.5</td>
</tr>
<tr>
<td>3</td>
</tr>
<tr>
<td>4.5</td>
</tr>
<tr>
<td>6</td>
</tr>
<tr>
<td>8</td>
</tr>
<tr>
<td>10</td>
</tr>
<tr>
<td>12</td>
</tr>
<tr>
<td>14</td>
</tr>
<tr>
<td>16</td>
</tr>
</tbody>
</table>

**Voluntary Payments**

Voluntary payments can be made by eligible employers within 30 days from the date on the face of the annual merit rate notice. If the organization is eligible for a merit rate, has no delinquencies, and is not already at the lowest rate for the calendar year, the organization will be offered an opportunity to buy down the contribution portion of the total premium.

Employer rate reassessments are not subject to voluntary payment offers and changes in the employer’s experience balance can result in the offer being void. This means if the liability on the account is reassessed for any reason, the annual voluntary payment offer will be subject to change and may no longer be valid due to the change in the experience balance of the employer.

Accounts can be reassessed because the employer corrects a prior reporting error, gets a refund of a prior
contribution overpayment, is determined to be a successor/predecessor, or is subject to a compliance audit.

If the organization makes the voluntary payment, the reduction to the surcharge amount will automatically be applied.

If paying by mail, voluntary payments must be submitted with the voluntary payment offer form, must be submitted on or before the offer expiration date, and must be for no less than the full amount of the voluntary payment offered. In ESS, the payment screen will show the voluntary payment offer as a selectable option during the valid payment period.

Employers may pay more than the voluntary payment offer if they wish to increase their experience balance enough to buy down additional levels. The employer is responsible for calculating this additional amount. The offer provided by DWD is sufficient to buy down one level based on the experience balance as of the calculation date. If the experience balance is changed as described above, the offer made by the DWD may be insufficient to buy down the rate.

It is not always in the best interest of the employer to make a voluntary payment. Voluntary payments cannot be refunded in full or in part, and only one voluntary payment can be made per year.

If the organization represents more than one SUTA account, do not combine your voluntary payment with the payment on other accounts. Each payment will be applied to only one account. Do not combine the voluntary payment with the payment on any liability owed to the DWD or State of Indiana. If a voluntary payment is made, it cannot be refunded.

**Premium Rate Summary**

The premium rate is determined based on the solvency of the UI Trust Fund as well as the organization’s individual account status. The fund ratio, which determines the rate schedule, is how the UI Trust Fund solvency is factored into the rate. The credit/debit reserve ratio incorporates the individual account status into the rate.

Many factors affect the premium rate. A rate increase may be the result of employee pay increases or more of the former employees of the organization receiving UI benefits, which decreases the experience account balance. Also, the UI Trust Fund suffers when statewide total benefits paid exceed total premiums collected. As a result, if the UI Trust Fund is not solvent, all employers pay a higher rate in order to replenish the funds. Please read Section VII, for more information on how UI Benefits are determined and how the organization’s account is affected.

**Collections and Legal Action**

If the organization fails to report / pay quarterly UI premiums timely, the following will occur:

- A penalty charge of 10% of the quarterly contribution amount will be assessed to the account;
- The organization will be charged 1% interest on the premium amount due for each month, or partial month, the amount is outstanding; and
- A penalty of 50% of the outstanding amount will be assessed if it is found that the organization committed fraud with the intent to evade payment.

If the quarterly assessment is not paid in full by the due date, a “Notice and Demand” will be sent. The
organization may get a Notice and Demand if a mailed payment has not been received and processed on or before the due date. Employers are strongly encouraged to pay electronically to avoid delays in payment posting and credit.

The Notice and Demand will detail all outstanding liabilities due for specific quarters, but does not show the total amount of the original assessment. Please refer to the Notice of Assessment or Notice of Amended Assessment to determine the basis for the liability.

Failure to pay a Notice and Demand will result in additional collection activities. For questions concerning the amount, please contact DWD immediately at 800-891-6499 option 2.

DWD may acquire a lien on the employer’s personal property for delinquent premiums, surcharge, interest, and penalty charges.

In Indiana, it is considered fraud with the intent to evade payment, a misdemeanor, for an employer to:

• Make a false statement to prevent or reduce benefit payments;
• Encourage or induce an individual to waive or forego benefits rights; or
• Fail to testify or answer any lawful inquiry.

The law also provides a penalty for any person who willfully violates any provision of the DWD Act.

DWD aggressively pursues delinquent accounts. Delinquent employers should either pay the amount due, or contact DWD as soon as possible to discuss payment options. Payment agreements are available to any employer that needs to arrange for payment over-time and has not previously defaulted on a payment agreement. Please contact DWD at 800-891-6499 option 2 for details on down payment and monthly minimums.
This section of the guide will explain how UI benefits are determined and how they affect the employer’s experience account. If the organization recently bought or sold any portion of the business, see Section IV for important details regarding the experience account.

**Employer Experience Accounts**

The contribution portion of all UI premiums is collected by DWD and deposited into the UI Trust Fund. An individual account record is maintained for every employer covered under the Act. One way to think about the Employer’s experience account is as an Unemployment Insurance checkbook.

Every time the organization pays UI premiums, voluntary payments, or reimbursements (if a reimbursable employer), the amount is deposited to the organization’s experience account. Money is withdrawn from the account only for UI benefits paid to former employees, employees working reduced hours, or laid-off employees, and for a portion of the Mutualized Benefit Charges.

The experience account may not be credited for overpayments if those overpayments resulted from a failure by the organization to respond in a timely or adequate manner to DWD’s requests for information related to...
a claim, and if the organization has a pattern of failing to respond to requests for information.

Claimants do not file against a specific business, they file a claim against their own earnings in the base period of a claim. DWD makes the decision on which accounts are, or are not, charged in a claim. The claimant has no control over this decision. UI benefit payments are charged proportionately to all of the claimant’s employers during the “base period”. (Base Period is discussed below.)

**Qualifications for UI Benefits**

In order to be eligible for benefits, an individual must:

- Earn sufficient wages during the base period;
- Be unemployed through no fault of their own; and
- Be able, available, and actively seeking full-time work.

Each of these criteria will be addressed in more detail below.

**Sufficient Wages Earned During Base Period**

An individual’s base period consists of the first four of the last five completed calendar quarters. To establish a valid claim, an individual must have total wages during the base period that are at least one and one-half (1.5) times greater than the claimant’s highest quarter wages. The claimant must also have base period wages totaling at least $4,200 with $2,500 of those wages earned in the last six months of the base period.

---

**Example:** A claim started January 6, 2018 has a base period that starts in October 2016 and ends in September 2017. In order to qualify for benefits:

- The claimant must have earned total base period wages that are 1.5 times greater than their highest quarter wages
- The claimant must have earned at least $4,200 during the base period (October 2016 through September 2017), AND
- The claimant must have earned at least $2,500 during the last 6 months of the base period (April 2017 through September 2017).

**Benefit Amount**

To determine the maximum weekly benefit amount, divide the total base period wages by 52. Then, multiply that number by 0.47. The weekly benefit amount should be rounded down to the next whole dollar amount. The WBA is based on the total wages earned in the base period. The maximum WBA in Indiana is $390.

- For example, if the total wages in the base period was $30,000 then the WBA would be: $30,000 ÷ 52 = $576.92
  × 0.47 = $271 (weekly benefit amount rounded down to the next whole dollar amount)
Unemployed Through “No Fault of Your Own”

Employees are only entitled to UI benefits if they are unemployed through no fault of their own. If the person quits voluntarily (without a good, work-related reason), is discharged for just cause, or is discharged for gross misconduct, that individual is not eligible for UI benefits. See Section VII for further explanation of just cause and gross misconduct.

Able, Available and Actively Seeking Work

Benefits can be denied or reduced if the individual:

- Refuses a suitable job offer;
- Refuses or fails a pre-employment drug screening - Report an individual who refuses or fails a drug test by filing a protest form, available online here.
- Fails to participate in required re-employment programs;
- Does not show proof they are actively searching for work according to the DWD specified work search requirements;
- Is temporarily not able to work due to illness, injury, leave of absence, or a suspension due to work-related misconduct.

A claimant’s weekly benefit payment can be reduced by one-third (1/3) for each day they are unavailable.

Examples of Individuals NOT Eligible for UI Benefits

On-Call or As-Needed Workers During any Week They Work or Refuse Work

- **Statutory Authority:** IC 22-4-3-3 [effective July 1, 2011]
- **Definition of on-call or as-needed worker:** Those who are regularly and customarily employed on an on-call or as-needed basis and are paid during any week for services by an employer, or have work available from the employer. If working for an employer, the individual works whenever the employer requires and there is no set work schedule.

- **How it works:** On-call and as-needed workers are not eligible for unemployment benefits if they receive pay OR refuse work during any week.

- DWD must be able to determine whether the individual knew at the time of hire they would not have a set work schedule and hours would fluctuate according to need AND must be able to determine when individual worked or refused work during any week.

Below are some examples of items that may assist DWD in making this determination:

1) Evidence of individual’s acceptance of offer to work.
   - Examples of evidence of individual’s knowledge of on-call or as-needed position: Job description, job posting or written published policy about specific position

2) Evidence showing that the individual was paid for services performed on behalf of the
employer.

- Examples of evidence for payment of earnings: individual’s paycheck, direct deposit form, or warrant specifying the weeks the individual was paid; or

3) Evidence that the individual declined available work at any point in time during the week or weeks at issue. This means evidence of

   1) when the employer notified the individual of available work AND
   2) when the individual failed to report to work.

- **Examples of evidence of proper notification:** written communications with dates, times and number of available hours, or verbal testimony by the individual’s supervisor reflecting the same information; established policy and procedures required to be followed to determine if work is available (i.e.: automated job lines or call in procedures).

**Factors used to determine whether individual is an ‘on-call’ or ‘as-needed’ worker:**

1) Whether individual accepted a position with knowledge of a flexible work schedule;

2) Whether individual had a reasonable expectation of regular employment;

3) Whether employer restricted pool of applicants on the job description to ensure the on-call or as-needed employee is available;

4) Whether the employer established policies and procedures detailing how the employer would make work available to the individual;

5) Whether the individual’s position was regularly or customarily known to the general public as an on-call or as-needed position.

*This list is not limited to only the above factors. Click [HERE](#) to view DWD policy.

**Workers Employed at a Business During a Short-Term Shutdown or Unpaid Vacation**

Some examples of factors used by DWD to determine an employee is not eligible under this criteria for unemployment insurance benefits:

1) A written contract between the employer and the employee providing notification for the short-term shutdown or unpaid vacation.

2) The short-term shutdown or unpaid vacation was the result of the employer’s regular policy or practice.

3) The employee had a reasonable assurance of continued employment following the short-term shutdown or unpaid vacation.
The assurance is not required to be directly communicated, but may be inferred by past policies, practice, custom, etc.

2) The employer voluntarily provided DWD with advance notice of the short-term shutdown or unpaid vacation.

*Employees of Certain Head Start Programs Who are on Planned Breaks (such as summer vacation)*

- **Statutory Authority:** IC 22-4-14-7 [effective July 1, 2011]

- **Definition of employees of certain Head Start programs:** Individuals who work in an instructional, research or principal administrative capacity for a Head Start program that operates in connection with a local school system (educational institution), governmental entity or a nonprofit organization, and provide services to or on behalf of an educational institution are not eligible for unemployment benefits during planned breaks.

- **How it works:** A determination will be made as to whether the employee of a Head Start program is ineligible for benefits using some of the following criteria:

  1) Is the program integrated with a local school system or have the primary purpose of educating students?

  2) Does the program have an established educational curriculum that is taught to participants of the program?

  3) Does the program have a set academic calendar?

  4) If an individual does not work in an educational institution, do they work for a governmental entity or a nonprofit organization and provide services to or on behalf of an educational institution?

  5) Do the program employees have a reasonable assurance of employment once the scheduled vacation or break concludes?

- DWD must determine whether Head Start employees were aware of the academic calendar at the beginning of an academic term or at the time of hire. Below are some examples of items that may assist DWD in making this determination:

  1) A copy of the academic calendar with start and end dates of academic terms, official and customary vacation periods, and holiday recesses.

  2) Evidence that the employee had reasonable assurance they would return to work to perform the same or similar services for Head Start at the beginning of the next academic term or
end of the vacation/break period.

- Examples of reasonable assurance that the employee would return to work:
  Official letter from Head Start to the employee providing a return to work date, contract between Head Start and employee setting forth terms of employment.

3) Employer must protest the DWD Separating/Base Period Employer Notice sent to the employer relative to the filing of a claim for unemployment benefits by an employee and must indicate:

- Whether the local school system is exercising some direction and control;
- Whether the teachers and assistants are required to have a specific educational background or specialized training;
- Whether the teachers are required to prepare lesson plans; and
- Whether the teachers receive their pay from a school system.

- Some factors used to determine if a Head Start employee performed services for a local school system and/or in an educational capacity:

  1) Whether the local school system is exercising some direction and control;
  2) Whether the teachers and assistants are required to have a specific educational background or specialized training;
  3) Whether the teachers are required to prepare lesson plans; and
  4) Whether the teachers receive their pay from a school system.

Click HERE to view DWD policy.

Employees Receiving a Voluntary Buyout

Employees who accept a voluntary buyout to resign or retire are not eligible for unemployment insurance.

Deductible and Non-Deductible Income

Pension, Retirement, Annuity Distributions

Distributions from pension, retirement or annuity plans are generally deductible income if the employer contributed to the plan and the employer is in the base period of the claim. These payments will not be counted as deductible income when an individual uses the distribution to satisfy a severe financial hardship resulting from an unforeseeable emergency that is the result of events beyond the individual’s control.
Severance, Vacation, and Holiday Pay
The amount received by an individual as compensation upon separation from employment, including severance and vacation payouts, is deductible income and will be deducted from unemployment insurance benefits. For example, if a claimant is eligible for $300 per week in UI benefits and receives $400 per week in severance pay after a plant closure, the severance pay will be deducted from the claimant’s weekly UI benefit. The claimant will not be eligible to receive benefits while the employer pays severance. Holiday pay is most often deducted for the week containing the holiday.

How a Former Employee’s Benefit Claims are charged to an employer.
UI benefit payments are charged in inverse chronological order against the accounts of all base period employers based on the amount of wages paid by each employer and the number of weeks claimed by the former employee. If an employee worked for two or more employers during the same quarter in the base period, the benefit payment charges are made first to the account of the most recent employer, then the next most recent and so on. If the order of employment cannot be determined, benefits are charged proportionately with regard to the amount of wages paid during the quarter.

How a Former Employee’s Benefit Claims create an invoice for a reimbursable employer.
When an employer makes an election to make payments in lieu of quarterly contribution, they are agreeing to repay the UI Trust Fund for every cent paid to a former employee where they are a base period employer even if the claimant has previously been determined to have separated from the employer and been disqualified if the claimant files another claim and a portion of the former employee’s base period is after the original claim period.

As explained elsewhere, the base period is the first four of the last five completed quarters. When a former employee files a claim, the quarter in which the claim is filed is the incomplete quarter. Because the incomplete quarter and the most recently completed quarter have not been used in the current claim, those wages can be used in a subsequent claim.

It is very important for a reimbursable employer to understand that they give up their protest rights on base period separations as part of their election to make payments in lieu of contributions. This is true even if DWD previously determined that the claimant did not qualify for benefits when they separated from the reimbursable employer.

When the former employee files a new claim, the reimbursable employer moves from being a separating employer who is eligible to protest the claimant’s qualification to receive benefits, to a base period employer with no protest rights and no rights under the Act to be relieved of charges related to the new claim.

Partial UI Benefits Paid to a Current, Former or Laid-Off Employee
Individuals may qualify for partial benefits if their current employer reduces work hours to less than a regular full-time work week. If a person currently receiving UI benefits takes a new part-time job and earns less than their weekly UI benefit amount they may be eligible for partial UI benefits. These individuals must report their part-time wages on each weekly voucher. The experience accounts of the base period employers will be charged according to how benefits are paid, as described below.
• If an individual earns pay equal to 20% or less of their weekly UI benefits from an employer not in the base period of the claim, no deduction of their weekly benefits will be made.

• If a claimant earns pay equal to more than 20% of their weekly UI benefits from an employer not in the base period, a dollar-for-dollar deduction will be made for all wages earned in excess of 20% of the individual’s weekly benefit.

Pay Earned From an Employer in the Base Period that Reduced Work Hours

• If any wages are earned from an employer in the base period of the claim that reduced work hours, a dollar-for-dollar deduction will be taken from the individuals weekly benefit payment.

**Examples:**

• A person’s weekly benefit amount is $200. That individual earns $50 per week working at a new part-time job. Since 20% of their $200 weekly benefit amount is $40, their benefits will be reduced by $10 weekly, making their payment $190 because that person made $10 in excess of 20% of their weekly benefit amount. The experience account of the base period employers would be charged accordingly.

• If this same person earned $40 or less per week from the part-time job, no deduction of weekly benefits would occur because $40 or less per week would be 20% or less of their weekly benefits amount.

• If the $50 was earned from a current employer who reduced weekly work hours, $50 would be deducted from the weekly benefit amount, reducing their payment to $150. The experience account of the base period employers would be charged accordingly.

**Individuals working full-time are not eligible for UI benefits even if pay from their full-time job is less than they would receive in weekly benefits.**

**Voluntarily Leaving Employment**

Quitting voluntarily without good cause in connection with the work is considered a “disqualifying separation.” With some exception, former employees who voluntarily quit without good cause in connection with the work are not eligible for benefits beginning the week the separation occurred. DWD makes these determinations on the most recent separation prior to the claimant filing a claim. Accepting a voluntary buyout package is an example of a voluntary quit.

Where a worker qualifies for benefits, but the separating or base period employer is relieved of charges, benefits for contributory employers are paid directly from the UI Trust Fund through the Mutualized Benefit Charge. See part C for details on how these charges work.

**Discharge for Just Cause**

Discharge for just cause is also considered a “disqualifying separation.” DWD determines whether the employer had just cause to terminate the claimant’s employment for the most recent separation prior to the claimant filing a claim.
Former employees that are discharged for just cause are not eligible for benefits beginning the week the separation occurred.

“Discharge for just cause” means discharging (or firing) an employee with complete documentation and acknowledgement of understanding by the employee of the following:

- Falsifying employment documents to obtain employment
- Knowingly violating a reasonable and uniformly enforced employer policy or rule, including a rule regarding attendance.
- Attendance problems, if the employee cannot show good cause for absences or tardiness (attendance policy must be documented and understood by employee)
- Damaging the employer’s property through willful negligence
- Refusing to obey instructions
- Reporting to work under the influence of alcohol or drugs where there was no potential to harm another individual
- Consuming alcohol or drugs at the workplace during working hours (drug use policy must be in effect, documented and acknowledged by the employee)
- Endangering the safety of self or co-workers
- Imprisonment following conviction of a misdemeanor or felony
- Any breach of duty reasonably owed to the employer

**Gross Misconduct**

The penalty for gross misconduct is that the claimant cannot use any prior earnings to establish a claim for benefits, back to the beginning of the base period for the related claim. Unlike other separations, DWD makes determinations on whether earnings are usable on separations for gross misconduct that occur in the base period as well as for the most recent separation prior to filing a claim. “Gross misconduct” includes:

- Workplace felony
- Work-related class A misdemeanor
- Reporting to work under the influence of alcohol or drugs where there was potential to cause harm to self or others.
- Other specified circumstances as defined in IC 22-4-15-6.1

**Suspension of and Requalifying for Benefits**

When DWD determines a claimant is not eligible for benefits due to the reason for separation (excluding gross misconduct), the claimant’s maximum claim balance is reduced by 25%. Additional disqualifications will result in further reductions of the claim balance. Claimants may again become eligible through subsequent employment following a disqualifying separation. The claimant must have at least 8 weeks of earnings and earn 8 times their weekly benefit amount.

**Mutualized Benefit Charges**
In addition to the direct benefit charges, once per year the organization’s contributory experience account will be assessed **Mutualized Benefit Charges**. Each year, all benefit charges that are relieved from contributory employer accounts, as described previously, are totaled and charged proportionally to all contributory employers. DWD determines the organization’s share of these charges by dividing the taxable wages by all taxable wages paid in the state. The organization will receive an annual Statement of Mutual Benefit Charges in conjunction with the annual premium notice. This is not a bill. The amount is deducted automatically from the employer’s experience account.
VIII. WHAT TO EXPECT IF A FORMER EMPLOYEE FILES A CLAIM

Separating and Base Period Employer Notice

Whenever an individual files an initial claim for benefits, their last employer and all of their base period employers are notified and asked to verify the reason for the claimant’s unemployment. This notifies the organization that its experience account may be charged.

Employers that have elected to participate in the State Information Data Exchange System (SIDES) or SIDES E-Response can respond to these notices electronically. SIDES allows employers to exchange UI separation information with DWD electronically. To learn more about SIDES and E-Response, click HERE.

If the organization is not signed up for electronic notice and response (SIDES), it may then use state form 640P to protest a claimant’s eligibility for benefits. The information the organization provides on this form could affect the claimant’s eligibility or any charges to the employer’s experience account for benefits paid. Form 640P is available online at www.in.gov/dwd/2465.htm.

If the organization has been determined to be a complete successor employer, base period separation notices with regard to UI filings by employees of the predecessor will be sent. These notices are required so that the organization is aware of potential charges against the transferred experience balance, but the organization
is not required to respond to the notice unless it has direct knowledge of the separation.

Employers have a duty to prevent unemployment benefits from being paid if the claimant is not entitled to receive benefits. To prevent benefits from being paid in error, the organization must respond electronically, or submit Form 640P, if a former employee seeking unemployment benefits is unemployed because that person:

- Quit voluntarily or was absent for unknown reasons
- Was discharged for just cause (see Section VII)
- Was discharged for gross misconduct (see Section VII)
- Is not entitled to ANY pay or benefits from the organization;
- Is ineligible for any reason listed in this handbook

Do not notify DWD if the employee was laid-off, unless the organization believes that person is ineligible for any reason listed in this handbook, (e.g., vacation pay, etc.)

Protest form 640P should be faxed to DWD at (317) 633-7206, if possible. Protests may also be submitted by mail to:

Indiana Department of Workforce Development
Attn: UI Claims Adjudication Center
10 N. Senate Ave., RM SE 113
Indianapolis, IN 46204-2277

**Determination of Eligibility**

If the organization believes a former employee is not eligible for benefits and the protest form was submitted, all relevant facts will be reviewed by DWD. After this review is completed, a Determination of Eligibility (DOE) will be issued by DWD. The DOE form will be sent to the organization and the employee.

**Statement of Benefit Charges**

Each month DWD sends a Statement of Benefit Charges (State Form 535) to employers whose accounts have been charged because benefits were paid to former employees. The organization should:

- Review the statement carefully
- Make sure the charges listed are correct
- Contact DWD as soon as possible if charges are incorrect. Call toll-free (800) 891-6499 option 1 for general benefit questions

Receiving a Statement of Benefit Charges does not reopen the question of the claimant’s eligibility to receive unemployment. The organization should, however, notify DWD promptly if the worker has returned to work, received any payments which they should have reported as deductible income (such as vacation or severance pay), or have refused an offer of work.

**Combined Wage Transfer**

If a former employee of the organization is receiving UI benefits from another state and has wages reported from the organization on their claim, it is called a “Combined Wage Transfer”. There is no difference to the
organization’s account whether the former employee lives in Indiana or elsewhere. DWD simply “combines” the wage information from Indiana employers pertaining to the former employee and “transfers” the information to the state in which the former employee is filing for UI benefits.

**Filing an Appeal**

Any party with standing may appeal the DOE and request a hearing before an Administrative Law Judge (ALJ). The organization has standing to appeal if the ALJ could change the outcome of the original decision in the organization’s favor. The appeal and request for a hearing must be made in writing. Appeal instructions are located on the back of the DOE form. Appeal requests should be sent to:

**UI Appeals**
100 N. Senate Ave., Ste. N800
Indianapolis, IN 46204
Fax: (317) 233-6888

An appeal must be filed within 10 days from the date on the DOE. The appeal period begins when DWD sends the DOE form, not when the organization (or the employee) receives the document. For more information on the appeals process, see Section IX.

**Wage Investigation**

When a worker files a claim for unemployment benefits, they are given a monetary determination which provides information on base period earnings from all employers. A worker may file an objection to the monetary determination on the basis of missing or incorrectly reported wages. This objection creates a condition called a “blocked claim”.

The wage investigation unit will examine the proof of earnings received from the worker, and will then contact the worker and the business to gather additional facts and evidence with regard to the nature of the relationship between the parties. It is very important that both the worker and the business respond to the investigator as the normal determination period for an investigation is 10 calendar days.

The investigator will analyze all facts and evidence provided and will make a written determination to the parties regarding the wages and employment of the worker. The parties have fifteen (15) days from the date on the face of the determination to protest the findings in writing.

**Wage Data and other Confidential Information**

Information provided by a claimant or employer is confidential under the Act and can only be shared if DWD receives a court order or because a State or Federal agency has the legal authority to request and receive access to the information.

If required to do so, DWD will release information received from a claimant or employer to authorized government organizations to be used for official purposes including, but not limited to, verification of an individual’s eligibility for government programs other than Unemployment Compensation.
IX. THE APPEALS PROCESS

Appeals
An employee or employer may appeal the initial determination for benefits. The organization may appeal a benefits determination to an Administrative Law Judge (ALJ). ALJ hearings are usually conducted over the telephone, but may occur in person. If the ALJ does not rule in the organization’s favor, it may appeal to the Review Board, followed by the Indiana Court of Appeals.

Employers may appeal certain determinations made with regard to their SUTA account to a Liability Administrative Law Judge (LALJ). Liability appeals are limited to original determinations of qualification or successorship, original liability assessments, calculation of the premium rate, audit findings, investigation findings, and benefit charge posting. Please note, benefit charge posting and a determination that the claimant is eligible for benefits are not the same. The employer can protest only the order and percentage of charges posted against their experience balance as it relates to other employers in the base period through the LALJ.

Benefit Eligibility Appeals
The ALJs and Review Board have jurisdiction over benefit eligibility appeals. Employers or individuals appealing a Determination of Eligibility may request a hearing before an ALJ. ALJ hearings are informal, but the fundamental rules of evidence and procedure apply.

When there is a hearing, the parties involved have an obligation to be present with all relevant documents and witnesses. Relevant documents might include:

- Attendance records
- Performance reports
- Counseling records
- Work rules or policies
- Physician’s statements
• Employment handbook (and signed employee acknowledgement documentation)
• Written policies and procedures (and signed employee acknowledgement documentation)

**Recommended Documentation and Practices**

1) It is important to create and adopt workplace policies and procedures. These should be documented in writing to eliminate confusion and doubt.

2) The organization should also adopt an Employee Handbook containing all policies and procedures and the appropriate enforcement steps.

3) Inform and train employees on policies, procedures, and the Employee Handbook.

4) Require employees to sign a document stating they understand and agree to the policies and procedures, and that they know what is contained in the Employee Handbook.

5) Enforce all policies uniformly and document all violations carefully.

6) Any noted violation of policies, procedures, or the Employee Handbook should be well documented by the organization with the date of infraction, and acknowledgement by the organization, the immediate supervisor, and employee, if possible.

7) Documents that are signed by a supervisor or manager of the employer who disciplined and witnessed the former employee’s violations of policy, etc. are not accepted as evidence. The witness **must be present** in the hearing, just as any other judicial hearing.

The ALJ will make a decision based upon the evidence and testimony the parties present at the hearing. The ALJ will consider all evidence that would be admissible under common law and the statutory rules of evidence.

Testifying witnesses should have personal knowledge (from their own first-hand experience) of the facts or circumstances. The ALJ can accept written statements, whether notarized or not, but will give them no weight because they are not subject to cross-examination or rebuttal.

**Postponement of Hearings**

Hearings are postponed in cases of emergency only. Any other request to postpone must be made as soon as possible and well in advance of the scheduled hearing date. Written request to postpone a hearing must be received by the ALJ at least three (3) days before the date of the hearing. A copy of the request must be sent to the other party. The organization must specify on the request that a copy was sent. **ALJs will not automatically grant a postponement.** The ALJ will consider the merits of each request.

If the organization is the appealing party and fails to appear at the hearing and a request for postponement was not granted, the ALJ will dismiss the appeal. A “**Notice of Dismissal**” will be sent to both parties. The organization had seven (7) days from the date of the Notice of Dismissal to file a written request with the ALJ for reinstatement of the appeal. The organization’s request must include a good reason for the failure to appear.

**Review Board Proceedings**
Any party with standing may appeal the ALJ’s decision. To appeal an ALJ decision regarding UI benefit eligibility, the organization must send a letter to the Review Board that states its desire to appeal and the reason for the appeal within 15 days of the date the ALJ decision was mailed to the organization. This letter should specifically and concisely explain why the organization believes the ALJ’s decision is wrong.

The Review Board does not handle appeals pertaining to premium liability. These must be directed to the Indiana Court of Appeals.

In most cases, the Review Board will examine the record of the ALJ hearing and will reach its decision based upon the ALJ hearing. The Review Board may grant a request to introduce additional evidence, if the appealing party shows good cause that the new evidence is relevant and explains why the new evidence was not previously presented to the ALJ. A request to introduce new evidence should be included with the letter requesting a Review Board appeal.

Any party with standing may appeal the Review Board decision by filing a request for an appeal with the Indiana Court of Appeals. A Review Board decision becomes final 30 days after the decision is mailed to both parties if neither party has filed an appeal request with the Indiana Court of Appeals.

**Employer Liability Protests**

Liability ALJs conduct hearings concerning employer coverage and premium liability. The LALJ’s jurisdiction includes disagreements between employers and DWD regarding:

- Assessments for interest, taxes and penalties
- Transfers of an employer’s experience balance and rates in cases of ownership transfers
- Protests related to worker classification
- Premium rates calculated by DWD
- SUTA Dumping (see Section X)

The organization may protest an initial determination by delivering an Unemployment Insurance Tax Protest (**SF55109**) to:

**DWD Tax Administration**
**ATTN: Director UI Tax Administration**
10 N. Senate Ave. SE 202
Indianapolis, IN 46204

Protests should be filed on the form provided by DWD. If the organization is not able to use the protest form, please submit the protest in writing and include the basis for the protest, the facts or evidence the organization 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 organization would like to have examined in support of the claim. If the organization is represented by counsel, please indicate the name and contact information for the representative and for the organization on the protest document.

The protest must be received within 15 days after the date on the initial determination or notice being protested. The LALJ will set a date for the hearing and notify the interested parties. The organization can appear in person and/or have an attorney represent it. Representation is not required. Legal representation is at the organization’s own expense.
Employer protests of UI Tax determinations are with regard to the correct application of the Act to their SUTA liability and are not considered Tax Protests for purposes of the Indiana Court of Appeals.

To be successful, the employer must show that DWD has incorrectly interpreted or applied the statute(s) to the facts surrounding their account. This may include the math underlying a calculation, as in the instance of a rate appeal or an appeal of a liability assessment, or it may be the application of the 1/2/3 test to employer / worker relationship in a compliance audit notice of findings. In each case, the employer must show the court that the application of the law is incorrect.

When the organization is preparing the protest, please be sure to address the issue at the root of the determination. For example, if the premium increased because of claimant collection against the employer experience account, filing a protest of the rate calculation will not, generally, be successful in that the calculation of the rate does not give the organization an additional opportunity to protest a claim.

The Liability Administrative Law Judge is specifically prohibited from making a determination of qualification for UI Benefits. Please see section A of this chapter for information on appealing a UI claim decision.

The decision of the ALJ 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.

**Indiana Court of Appeals**

Appeals to the Indiana Court of Appeals may be made if the appealing party disagrees with the Review Board or LALJ decision. These appeals are held under the same terms and conditions that govern appeals in all civil actions. (See www.in.gov/judiciary for more information.) The Court does not re-try cases, but it does clarify questions of law raised by court decisions.

**Reasonable Cause Waivers**

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 business person 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 ESS and select “Submit a Request.” 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;
- Timely mailed but not delivered (after 1Q2019 will be applicable only for employers with electronic filing waivers)
- ESS 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).

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, and all requests for waiver of the delinquency merit rate modifier (penalty rate) are made by submitting a request in writing to DWD.

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

Penalty Rate waiver requests can also be emailed using the contact us option on our website. Select AskWorkOne, and then select employer / merit rate from the options on the screen.
X. MAINTAINING INTEGRITY IN THE UNEMPLOYMENT INSURANCE PROGRAM

Reporting New Hires
Under IC 22-4.1-4-2 and the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), all public, private, non-profit and government employers are required to report all newly hired employees, or employees returning to work after a break of at least 60 days, within 20 days of hire (this should be the first actual date of work).

Failure to report could result in a fine of $25 per employee not reported, or up to $500 if it is determined the failure to report was part of a conspiracy between the employer and employee. The organization can report new hires at www.in-newhire.com.

Why is new hire reporting important?
Reporting new hires helps protect the organization’s account and other employers against fraudulent unemployment claims.

Report UI Fraud
If someone receives UI benefits and they know they are not eligible, it is considered fraud. One such example would be an individual that receives benefits while working full-time. Other examples of fraud include receiving benefits while working and receiving pay “under the table,” receiving benefits under another individual’s name, or receiving benefits while working part-time and not disclosing it on the weekly voucher. Report UI fraud:
  • Online at http://www.in.gov/dwd/2343.htm
Identifying information is not required in order to report unemployment insurance fraud. However, DWD will not be able to contact the organization to seek additional information about the complaint if the organization chooses to remain anonymous.

Please provide as much detailed information as possible concerning the allegations:

- Include the name and address of the individual or business suspected of committing fraud
- Give the individual’s SSN or last 4 of SSN if available
- Give the name of the business where the individual has been employed during the last year
- Describe the complaint in detail and provide dates if possible

Penalties and interest are applicable to an individual who commits fraud. DWD assists in the prosecution of individuals who commit UI fraud.

**Report Work Refusals**

If an individual refuses a suitable job offer or refuses or fails a drug screening as a condition of employment, they are not eligible for unemployment benefits and will be liable to repay any benefits received after the refusal.

**How to Report:**

- Go to [www.in.gov/dwd/2465.htm](http://www.in.gov/dwd/2465.htm)
- Complete the Employer Protest Form (640P) and check the “Work Refusal” box
- Fax form to (317)633-7206

**What is a Valid Job Offer?**

- Must be a genuine offer of employment (defined as suitable employment in IC 22-4-15-2)
- Genuine offer must include a job position and a timeline for acceptance
- If the offer is issued in writing, it creates substantiated evidence

**DWD will make final determination on whether the offer was for suitable employment as defined in IC 22-4-15-2.**

**Employer Audits**

A top priority for DWD is to protect the integrity of the UI Trust Fund, and one way this is done is through employer audits. Audits ensure that claimants are being paid accurately and that employers are paying their appropriate share. DWD Unemployment Insurance Auditors are located throughout the state and conduct random and targeted audits of employers in order to ensure that all are complying with SUTA regulations and that DWD is consistent in our enforcement.
Employment Records
Per Indiana Code, employers are required to keep accurate payroll and employment records. This link will assist the organization in preparing employment records for an Unemployment Insurance Audit.

Employer audit records and reports to DWD are confidential and are not published or open to the public. If the organization’s account is selected for an audit, the organization will be notified in writing and will be able to personally talk to the individual handling the audit. Please inform the assigned auditor of any special considerations.

An employer’s records must be open at all times for inspection and must be retained for at least five years.

SUTA Dumping and Rate Assurance
“SUTA Dumping” is a form of tax avoidance or tax rate manipulation through which employers “dump” higher unemployment taxes by attempting to obtain a lower rate. SUTA dumping involves the manipulation of an employer's unemployment tax rate and/or payroll reporting to owe less in unemployment taxes. DWD is committed to investigating, detecting, and preventing this practice and maintains a Rate Assurance Unit for this purpose. It is important to abide by the following to avoid running afoul of the SUTA dumping law:

Mandatory Transfers
UI experience account balances must be transferred whenever there is:

- Substantially common ownership, management or control between the parties
- One entity transfers all or part of its trade or business (including its workforce) to another entity
- See Section II regarding business reorganizations that do not constitute a transfer of trade or business because the newly established entity does not meet the requirement to be a separate employing unit.

Prohibited Transfers
A new employer acquiring the trade or business of an existing employer for the sole purpose of qualifying for a lower premium rate is not entitled to the previous owner’s UI experience account. This practice results in higher rates for other employers and is not allowed. A new employer premium rate will be assigned. (See Section IV). Existing businesses are also prohibited from acquiring a different trade or business for the purpose of transferring their workforce to another account with a lower UI experience rating.

Penalties for SUTA Dumping
Any employer that knowingly violates or attempts to violate the law regarding SUTA Dumping will be subject to the highest premium rate for the year in which they violated the act and for the following three years. If the employer is already at the highest tax rate or if the amount of the increase is less than 2%, a penalty of 2% additional contributions will be imposed.

Any person that advises an employer on how to carry out SUTA Dumping is subject to a civil penalty of up to $5,000. This penalty is assessed to non-employers such as accountants, attorneys, tax advisors, and third party reporting agents that knowingly or recklessly assist or advise an employer in violating the requirements of the Act.

Why SUTA Dumping is Harmful
Under the experience rating system, employers pay UI premiums at a rate that is based on the benefit claims filed against their business and the amount of wages paid.

Employers with more employees receiving UI benefits should pay higher premium rates. Employers with fewer employees claiming UI benefits should pay less.

Employers who engage in SUTA Dumping practices (or other tax schemes) to avoid paying their fair share unfairly shift the burden to other employers.

SUTA Dumping is harmful because it:

- Compromises the integrity of the UI system
- Results in an uneven playing field
- Increases rates for all employers
- Results in the UI Trust Fund losing money

**Rate Assurance Investigation**

If an employing unit, or group of employing units, is believed to have:

- Violated the requirement to report the transfer of business operations between related, IC 22-4-11.5-7, or unrelated, IC 22-4-10-6, organizations;
- Established multiple accounts in error, or
- Manipulated their merit rate through the transfer of their workforce or assets.

A rate assurance investigation may be initiated.

A Rate Assurance investigation helps to ensure that employing units are appropriately setting up their employer accounts and complying with SUTA regulations. If the organization’s account is selected for a Rate Assurance investigation, the organization will be notified in writing and will be able to personally talk to the individual handling the investigation. This link will assist the organization in preparing for a Rate Assurance investigation and answer many questions the organization might have.

**Commonly Owned, Managed, or Controlled Entities**

With the enactment of the statutes and regulations generally referred to as the SUTA Dumping Prevention Act, an increased emphasis has been placed on the rights, duties, responsibilities, and reporting requirements of commonly owned, managed, or controlled entities.

This section reviews the regulations, provides some practical guidelines on determining when an employer qualifies for multiple employing unit status, and discusses what happens during a Rate Assurance investigation.

There are three regulations that employers should consider when they operate multiple businesses as if they were, or could reasonably be considered to be, a single enterprise.

Please be aware that Rate Assurance investigations are a result of the requirement to prohibit and correct instances where SUTA dumping has occurred. If the violation was a “knowing” violation by the employer, then penalties will apply, but “intent” to commit SUTA dumping is not required for DWD to make a determination that the employer is required to report and be rated as a single employing unit.
The Federal mandate to DWD is to level the playing field so that similarly situated employers are given the same treatment, i.e. rates, under the Act.

DWD will make necessary corrections related to eligibility for separate employer accounts without regard to the rate implication of such a decision. Because of our commitment to applying the law equally to all employers, a credit to the employing unit for duplicate payment of wage base or a lower blended rate is as normal an outcome as a determination of additional contribution, surcharge, interest, and penalty described in 646 IAC 5-2-14.

646 IAC 5-2-12 Eligibility for separate employer account
Sec. 12. (a) For purposes of IC 22-4-10-4, any employing unit that is wholly or partially owned by another employing unit will not be eligible for a separate experience account if:
(1) the employing units are so closely related that it would be appropriate to disregard the corporate structure under Indiana law; or
(2) one (1) of the employing units has failed to assume all of the requisite employment responsibilities necessary to provide its employees with employment.
(b) Employing units not eligible for separate accounts are responsible for ensuring that their wages are reported under a single account.

646 IAC 5-2-13 Responsibilities of related entities
Sec. 13. (a) Where employing units are related because one (1) employing unit has created or acquired a separate employing unit with no existing experience account, the employing units are responsible for determining whether they are eligible for separate accounts before requesting a new account.
(b) Where employing units with properly acquired experience accounts become related and ineligible for separate accounts through acquisition or merger, the entities are responsible for reporting the acquisition or merger to the department. The department shall combine the experience balance of the two (2) accounts once it receives the report.

646 IAC 5-2-14 Rate recalculation and penalties
Sec. 14. If employing units that are not eligible for separate accounts obtain and use separate accounts, the department shall, once the error has been discovered, retroactively recalculate the employing units experience rate as if the employing units had reported using a single account. The recalculation must be made not later than four (4) completed calendar years subsequent to the date that the contributions, penalties, or interest would have become due, except that this limitation shall not apply to any contributions, penalty, or interest that should have been paid with respect to any incorrect report filed with the department which report was known or should have been known to be incorrect by the employing unit. In addition, the employing units may be subject to the following penalties:
(1) Penalties and interest as set forth in IC 22-4-29-1.
(2) An increased merit rate under IC 22-4-11-2.
(3) Criminal penalties set forth in IC 22-4-34-2.

Eligibly for Separate Accounts

In general, if an employer files SF2837 or registers their business via ESS, the employer is making an assertion that they qualify for separate employing unit status. There are certain actions that will trigger DWD to request additional information on eligibility for new or separate accounts. Those actions include, but are not limited to:

1. Sending in any communication explicitly stating that the employer is operating several different FEIN numbers in Indiana and that a single responsible party is shared for all accounts.
2. A statement during the registration process that indicates no assets have been transferred but that separate employing unit status is requested for payroll purposes only.

3. Sending in multiple requests for new accounts where the responsible parties are all the same and the accounts are named something like: My new business 1; My new business 2; My new business 3. This will particularly raise questions if all of the businesses are registered to the same physical location or no physical location is provided and all of the addresses are PO Boxes. (Providing a physical Indiana address in addition to a mailing address is a requirement in registering an account.)

4. Filing amended quarterly reports requesting that wages be moved between employers because the reports were co-mingled and now need to be separated.

5. SUTA Dumping Detection (SDDS) reports showing employee movement between entities.

Once separate employing unit status eligibility has been raised as an issue on the accounts, DWD will follow one of two paths depending on the reporting received from the employer to date.

If no employee movement has been detected between the accounts, DWD may contact the employer to educate them on the regulations and to ask for additional information with regard to the nature and extent of the employer relationship. Once a common owner, manager, or controller has been notified in this manner, additional notices will not be sent each time that a potential violation is detected. DWD may, however, use the existence of the notice to show that the entities have acted knowingly, recklessly, or with intent in any subsequent registrations.

If employee movement has been detected between the accounts, DWD may initiate a Rate Assurance investigation to determine if mandatory or prohibited transfer activity has occurred. The rate assurance unit may also determine that the entities should be collapsed to a single employing unit with multiple locations.

Normally, if employing units are routinely moving employees between commonly owned, managed, or controlled employing units, the employing units do not qualify for separate accounts.

Wage record movement is not, however, the only factor considered, and common ownership, management, or control is not sufficient to make a determination that the entities are a single employing unit.

A common misperception is that the analysis of DWD does not extend beyond a determination of a parent / subsidiary relationship. While this relationship is a factor, it is not the single factor used in a determination.

Whenever possible, DWD makes a determination based on key documents and responses provided by the employing unit about their operations.

In an investigation, we might interview employees, review grant applications, request copies of tax returns, review benefit programs, request information on human resources administration, interview tax preparers (internal or external), research public records, ask for fulfillment contracts, request asset purchase / asset sale documents, and (or) conduct a compliance audit for one or more of the employing units in question.

In a request for information, DWD will provide education on the factors to be evaluated and may ask the employer to make an assertion in writing that they are aware of the requirements as explained and qualify for separate accounts. Please be aware that the employer’s failure or refusal to sign the educational documents does not mean that the employer did not receive the documents. DWD can consider the employer’s behavior after our educational efforts to be knowing, reckless, or intentional for purposes of assessing civil penalties.
Unless further action is indicated at a later time, this determination will usually not be re-examined. The same factors that can lead DWD to the original education and outreach described can also lead to a re-examination of the account’s status as a successor employer or a single employing unit.

If the account’s status does require re-examination, the employer’s assertions, or lack of response, will be considered to be willfully made in the event that an investigation results in a determination that the employer knew or should have known that they were not entitled to separate employing unit accounts.

2. How to tell if the organization’s operations are so closely related as to disregard the corporate structure or if the organization has not assumed all of the responsibilities necessary to provide employment.

The following is a short list of general considerations used in making a determination. This list is not intended to be all inclusive and some factors are weighed more heavily than others. A final determination should be based on the preponderance of the facts.

a. Does each employing unit have a revenue stream independent of related entities from which wages are paid?

b. Is each employing unit separately incorporated?

c. If operated as an LLC, is the LLC disregarded, per the IRS, to any of the other employing units?

d. Do the entities file a consolidated tax return?

e. Do the entities publish a consolidated P&L?

f. If the entities are required to be audited for any business purpose other than taxes, whether publicly or privately held, are the entities audited together?

g. Does each employing unit have the ability to contract, to purchase, and/or to sell assets without approval of a centralized authority external to their business operation?

h. Can any authority external to the employing unit make an independent decision to buy, sell, trade, contract, or discontinue operation related to the employing unit?

i. Without regard to the employing unit’s authority to contract, as a general practice of the related entities are contracts made through a central authority with assignment to the employing unit?

j. Does the business jointly file for grants as a single enterprise?

k. Is hiring centralized at any point including a shared website for accepting applications and posting available positions?

l. Do the employing units have independently established human resource policies, procedures, manuals, personnel or is this function centralized as part of a shared services arrangement?

m. Does the employing unit have its own benefits plan, or do employees of the overarching organization share a single benefits plan?

n. What services, if any, are shared by multiple employing units on a reimbursement or pass through basis?

o. What revenues, if any, are shared by multiple employing units on a proration or pass through basis?

p. If employees wear uniforms, is the name on the uniform that of the overarching organization or of the specific employing unit?
q. Are all the employing units operated out of the same physical location?

r. Do the employing units have unique phone service or do they share a phone system?

   i. If the employing units share a phone service, what business name is used in the greeting?

   ii. If the employing units share a phone service, does the same person or group of people return calls for all of the employing units with regard to hiring, contracts, tax filing, customer complaints, and other general concerns?

s. Without regard to the FEIN or business name on the face of the paystub, W2, or 1099, is payroll centrally processed for the entire organization?

   i. If so, is payroll expense paid from a central account and apportioned to the employing units?

   ii. If so, what compensation is made to the central processing division by each of the employing units, if any?

t. Does each employing unit have its own bank account?

   i. If so, are funds from the individual bank account swept in and out to or from a central bank account?

The purpose of this regulation is not to prevent or prohibit entities from operating their businesses in the manner they believe most beneficial. Instead, the purpose is to close loopholes that are known to facilitate rate manipulation. Each business unit can report under a separate location code, but the organization shares a single premium rate.
XI. FREQUENTLY ASKED QUESTIONS

What is Unemployment Insurance?
Unemployment Insurance (UI) is a federal-state program developed by the US Congress as a social program paid for by employers to give money to qualifying unemployed persons. Employers pay money into a trust fund that then distributes the money to those receiving benefits. Employees do not pay for or “pay into” this program. UI is regulated under the Federal Unemployment Tax Act (FUTA). The portions of the program delegated to the state under FUTA are regulated under the State Unemployment Tax Act (SUTA). Employees are eligible for unemployment benefits only if they are unemployed through no fault of their own and are able to work, available to work, and actively seeking full time employment.

Who pays Unemployment Insurance?
Employers pay UI premiums or reimburse the UI Trust Fund for benefits paid once they meet the employer qualifications under Indiana Code § 22-4-7 (see Section II). UI premiums and reimbursements are paid to DWD. The payments are held in trust to pay UI benefits. Employers are not allowed to deduct UI premiums and reimbursements from employee wages.

Who is an Employer?
For purposes of Unemployment, an employer is an entity that compensates an individual for performing services in the usual course of the work of their organization, trade or business. Some exceptions to this definition do apply. Employers are defined in Indiana Code § 22-4-7. Please see Section II- for more specific information on this topic.
What is a Reimbursable Employer? What do they pay?
A reimbursable employer is a type of employer that elects to directly reimburse the UI Trust Fund for benefits paid to employees of their organization.

Not-for-profit (501(c)(3)) organizations and government employers are eligible to directly reimburse the UI Trust Fund for benefits paid. The eligible organization has specific documents and forms that must be provided to be approved as a reimbursable employer (see Section II).

Once an employer qualifies as a reimbursable employer, the status is kept for a period not less than two years.

The election to be reimbursable is maintained unless the employer revokes the election by filing a DWD form 1065 changing their election to contributory.

Like employers that pay premiums, reimbursable employers must also file quarterly wage reports. Reimbursable employers must directly pay the UI Trust Fund the exact amount of benefits paid to their former employees within thirty days of any invoice issued by DWD.

Who is an Employee?
For the purpose of Unemployment Insurance, an employee is generally an individual who performs a service for an entity in the usual course of their organization, trade, or business and is compensated in some way for the services that they perform. Not all entities are subject to the Unemployment Act. Please see Section II for a discussion of covered, partially excluded, and exempt entities.

One should conclude that an individual is an employee, as opposed to an independent contractor, if the entity for which the individual is providing the service has the right to control the way in which the service is carried out, or if the work performed is in the normal course of entity’s business, or if the individual performing services is not independently established in the same trade or business as that performed for the entity.

It is the right to control that is important. The control does not ever need to be exercised to be a determining factor. “Employee” as defined for UI purposes is different than it is defined for IRS purposes, workers compensation, etc.

What are Wages?
Wages are defined as cash or non-cash compensation received for services performed.

Wages include salaries, bonuses, commissions, vacation pay, retroactive pay increases, and any other payments made by an employer unless specifically excluded by the Act.

An example of compensation that is excluded by the Act is the value of Cafeteria (Section 125) Benefit plans.

Who must register with the Indiana Department of Workforce Development (DWD)?
New employers subject to the Act (see Section II) and any entity that acquires an existing business (change of operational control) must register or re-register with DWD.
The acquiring employer is usually not allowed to use the disposer’s account number. If the acquiring employer already has an account number, they will continue to use that number to report.

It is considered a change of operational control any time a business changes from one type of legal organization to another. This means that changing from a sole proprietor to a corporation or a partnership needs to be reported and the new organization needs to establish a different account number.

Changing stock ownership or the responsible party in a corporation is not considered a change of ownership or type of legal organization.

Whenever any change occurs please ask DWD if a new account is needed.

**How do I register?**

Once an employer is subject to UI law, the employer must file an application on State Form 2837 (SUTA Account Number Application and Disclosure Form) with DWD or register online via the Uplink Employer Self Service (ESS) application at [https://uplink.in.gov/ESS/ESSLogon.htm](https://uplink.in.gov/ESS/ESSLogon.htm).

The employer will be given an individual employer account number on registration.

The employer is responsible for timely registration and reporting and must file a quarterly report even if the employer does not know their SUTA number. Employers should contact DWD before the due date of the quarter if they are in this situation for advice on how to avoid being assessed penalty or interest.

**What will the organization’s rate be? What must the organization pay?**

The new employer rate for most employers is 2.5%.

The new construction employer rate is the either 4% or the average of all employers with a NAICS beginning 23 whichever is smaller, so it can change each year.

The new employer rate for a government is 1.6%.

The new employer rate for a successor entity is the rate of the predecessor entity.

If the organization has at least 36 continuous months of liability and wages as of June 30th, it will receive a calculated **merit rate** for next calendar year.

The calculated **merit rate** is the variable rate on which the premiums are based. The merit rate reflects how many former, current, or laid-off employees have received unemployment benefits, the number of people statewide that have received unemployment benefits, and the organization’s total taxable wages for the prior 36 months.

The organization pays the premium rate on the first $9,500 of wages per employee, per year. Anything over $9,500 is considered excess wages. Excess wages are excluded from UI premiums.

If the organization is delinquent, the rate is increased by 2% even if the organization is a new employer in Indiana. The organization is delinquent if it has any outstanding reports, payments, or predecessor liabilities when the annual Merit Rate Delinquency Notice expires.

**Do the organization’s workers qualify for UI coverage EVEN if the organization does not qualify as an employer under the Act?**

No. If the organization is excluded from the Act, such as a church, then the workers do not have UI coverage and cannot receive UI benefits.

If the organization does not qualify as a covered employer, but wants UI coverage for workers, it may apply for voluntary coverage. If voluntary coverage is approved, the organization must keep coverage for the workers at least two years. The annual deadline for voluntary election is March 31st per policy.
What records must the organization keep?

For UI purposes, the organization must keep records of:

- The beginning and ending date of each pay period and the date on which compensation is received by the worker;
- Total and UI subject compensation distributed each pay period;
- The number of workers being compensated for covered employment during the pay period containing the 12th day of each month;
- Information on the worker’s status as a part-time, full-time, or seasonal employee;
- The location and entity (zip code and FEIN) for which services were actually performed;
- Each employee’s name, social security number and compensation when earned and when received;
- The SOC code (job title based) which is usually shown as XX-XXXX (if the code contains a decimal followed by two additional digits, the additional information is not required / reported);
- The date each employee was hired or re-hired after a 60 or more day break in services;
- The date each employee left employment and the reason the employment relationship ended;
- All dates and persons involved in workforce reduction (temporary or permanent) including the layoff date, recall date, result of a recall (i.e. work refusal), nature of the reduction (planned / reoccurring or unplanned), and the amount of any compensation distributed during the shutdown period (holiday, vacation, severance, sub-pay, etc.);
- All distributions to workers performing services not classified as wages by the employer.

The business is a corporation, and the only employee is a corporate officer. Is the organization required to report the wages that the corporate officers earns from the corporation?

The corporation is a legal entity that employs the corporate office. Wages earned from the corporation must be reported to file an application for UI benefits in the future. The amount of UI benefits available will depend on the amount of wages received from the corporation and the conditions of the break from employment with the corporation.

In what type of situation can the organization treat workers as independent contractors?

The status of a worker is determined by the nature of the relationship between the business and the worker. A worker is not considered an employee and should be considered an independent contractor only if all of these apply to the individual:

- The worker is the master of their own time and effort to the extent that the organization does not even have the right to direct or control their work; AND
- The worker is performing a service or services which are outside the usual course of your business – this means that the organization has not acted as though the work is essential to business operations; AND
- The worker performs the same services for other people that they perform for the organization and that the organization does not try to prevent the worker from performing the same services for the
Many of the terms used in Indiana's Unemployment Insurance program have special meanings that may differ somewhat from those generally used. Below are some simplified definitions of common UI terms. These are not legal interpretations and are provided only as a guide.

**Balance (experience account)** – The net amount of funds attributed to the employer and all predecessors of the employer (if any). DWD adds in all of the contributions received and subtracts out all of the benefits paid, refunds issued, and mutualized benefit charges distributed to determine the employer’s current account balance. This amount can be positive or negative and represents the employer’s historical usage of the unemployment system. This is not a balance due and does not represent a financial liability to the employer.

**Base Period** – The four consecutive calendar quarters used in determining an individual’s eligibility for UI benefits. This period is the first four quarters of the last five complete calendar quarters directly before the week an individual files a UI claim.

**Benefit Year** – The 52 week period UI benefits can be claimed. The benefit year begins the week an individual files a UI claim.

**Calendar Quarter** – Three month period ending March 31st, June 30th, September 30th or December 31st.

**Computation Date** – June 30th of the year immediately prior to the year for which a merit rate is effective.
Contributions – Mandatory unemployment insurance premiums. They are paid quarterly by contributory employers.

Covered Employer – Employer subject to the Unemployment Insurance program. (See SUTA, FUTA, DWD guidelines.)

DWD – Indiana Department of Workforce Development.

Employer – An entity that pays covered wages to individuals. Employers are subject to the Unemployment Insurance program. (See Section II)

Employing unit – An individual or organization that has one or more workers receiving compensation for services in Indiana. This includes all types of entities such as: individuals; partnerships; associations; joint ventures; estates; joint trust companies; receivers; insurance companies; limited liability companies, and corporations. An employing unit may contain multiple entities (FEINs) if the entities are operated as a single enterprise.

Experience account – An employer’s individual account maintained by DWD that is credited for UI premium payments and voluntary payments. This account is charged for UI benefit payments to former employees and mutualized benefit charges.

FUTA – Federal Unemployment Tax Act. The law that regulates the federal portion of the Unemployment Insurance program.

Initial Claim – The first application (claim) for UI benefits made by an individual. This process determines if the individual is eligible for benefits.

Merit Rate – The rate employers qualify for, based on experience, when they no longer are considered new employers and are not subject to the delinquent rate. Merit rates are computed based on the past 36 months wages and the organization’s account status as of each June 30th.

Mutualized Benefit Charges (MBC) – Each year, all benefit charges that are relieved from employer accounts are totaled and charged proportionally to all premium-paying employers. DWD determines the company’s portion of the MBC by dividing the taxable wages by all taxable wages paid in the state. Any excess surcharge is used to reduce the amount of charges distributed.

Reimbursable employer – Employers who directly reimburse the UI Trust Fund for all UI benefits paid which are charged against the employer’s reported wages.

Special Charges / Surcharge – Additional amount assessed against an employer’s contribution due that is used to pay interest on advances if the Trust Fund is insolvent and the State has to borrow funds with which to pay UI Benefits.

Standard Occupational Code (SOC) – a six digit number used to describe the work performed by a worker usually shown as XX-XXXX (if the code contains a decimal followed by two additional digits, the additional information is not required / reported).

SUTA – State Unemployment Tax Act. The law that regulates the state portion of the Unemployment Insurance program.

UI – Unemployment Insurance.

Voluntary payment – An additional payment made by employers to obtain a lower premium rate.

Wages – Compensation paid by an employer to an individual for services rendered.
XIII. SPECIAL TYPES OF EMPLOYMENT AND PAYMENT

The following chart will help to determine whether special types of employment and wages are subject compensation or exempt compensation. Some wages are covered only under certain conditions. These are noted as conditional.

<table>
<thead>
<tr>
<th>Type of Employment / Wages</th>
<th>Subject, Exempt, Conditional</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Advances</strong> against future earnings</td>
<td>Subject</td>
</tr>
<tr>
<td><strong>Agricultural Labor</strong></td>
<td>Conditional. Once an employer has 10 workers in 20 calendar weeks in the same calendar year or 20,000 in wages in a single calendar quarter, the wages become Subject wages and the employer becomes liable for unemployment</td>
</tr>
<tr>
<td><strong>Aliens, Resident:</strong></td>
<td></td>
</tr>
<tr>
<td>Services performed in the U.S.</td>
<td>Subject</td>
</tr>
<tr>
<td>Services performed outside of the U.S.</td>
<td>Conditional. Wages are subject if:</td>
</tr>
<tr>
<td></td>
<td>Services are performed in connection with an American vessel or aircraft and performed under contract; or</td>
</tr>
<tr>
<td></td>
<td>The alien is employed on such a vessel or aircraft when it touches a U.S. port</td>
</tr>
<tr>
<td><strong>Annuities:</strong> Payments made by the employer into a fund for retirement or death benefits under a plan offered to all employees or a certain class or classes of employees</td>
<td>Exempt</td>
</tr>
<tr>
<td><strong>Back Pay:</strong> Wages paid as a result of a dispute related to employment</td>
<td>Subject when distributed</td>
</tr>
<tr>
<td><strong>Bonuses</strong></td>
<td>Subject</td>
</tr>
<tr>
<td>Affiliation</td>
<td>Description</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Cafeteria Plan: Deductions under Internal Revenue Code section 125</td>
<td>Conditional. Payments are exempt unless the employee chooses cash (pre-tax). If the employee chooses another benefit, the treatment is the same as if the benefit was provided outside of the plan.</td>
</tr>
<tr>
<td>Commissions</td>
<td>Conditional. Subject unless the worker is compensated solely by way of commission (absolutely no other cash or non-cash compensation).</td>
</tr>
<tr>
<td>Corporate Officer Payments:</td>
<td>Corporate officers performing a service for the corporation (including sub-chapter S-corporations)</td>
</tr>
<tr>
<td>Cosmetologists or Barbers:</td>
<td>Who are licensed, contract with a shop, are free from control and direction of the shop owner, own or lease equipment, receive payment from clientele, and acknowledge in writing that they are not covered by UI.</td>
</tr>
<tr>
<td>Deceased Worker:</td>
<td>1) Wages paid to beneficiary or estate in year of worker’s death</td>
</tr>
<tr>
<td></td>
<td>2) Wages paid to beneficiary or estate after calendar year of worker’s death</td>
</tr>
<tr>
<td>Deferred Compensation:</td>
<td></td>
</tr>
<tr>
<td>Dependent Care Assistance Programs:</td>
<td>(Limited to $5,000 annually, $2,500 if married filing separately)</td>
</tr>
<tr>
<td>Disabled Workers:</td>
<td>Wages paid after year in which worker becomes entitled to disability insurance benefits under the Social Security Act</td>
</tr>
<tr>
<td>Director Fees:</td>
<td>Fees paid to directors of a corporation for attending meetings of the board of the directors</td>
</tr>
<tr>
<td>Employee Benefit Expense Reimbursement:</td>
<td></td>
</tr>
<tr>
<td>----------------------------------------</td>
<td></td>
</tr>
<tr>
<td>1) Amounts not exceeding specified</td>
<td></td>
</tr>
<tr>
<td>government rate for per diem or standard</td>
<td></td>
</tr>
<tr>
<td>mileage</td>
<td></td>
</tr>
<tr>
<td>Exempt</td>
<td></td>
</tr>
<tr>
<td>2) Amounts in excess of specified</td>
<td></td>
</tr>
<tr>
<td>government rate for per diem or standard</td>
<td></td>
</tr>
<tr>
<td>mileage</td>
<td></td>
</tr>
<tr>
<td>Subject</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Family Employees:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Minor child employed by parent.</td>
</tr>
<tr>
<td>Exempt</td>
</tr>
<tr>
<td>2) Spouse employed by sole proprietor.</td>
</tr>
<tr>
<td>Exempt</td>
</tr>
<tr>
<td>3) Parent employed by sole proprietor.</td>
</tr>
<tr>
<td>Exempt</td>
</tr>
<tr>
<td>4) Child 21 or older employed by parent.</td>
</tr>
<tr>
<td>Subject</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Foreign Government or International</th>
</tr>
</thead>
<tbody>
<tr>
<td>Organization</td>
</tr>
<tr>
<td>Exempt</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Foreign Service by U.S Citizens</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) As U.S government employees</td>
</tr>
<tr>
<td>Exempt</td>
</tr>
<tr>
<td>2) For American employers</td>
</tr>
<tr>
<td>Subject</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Holiday Pay</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Home Workers (industrial, cottage industry)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Common law employees</td>
</tr>
<tr>
<td>Subject</td>
</tr>
<tr>
<td>Statutory employees</td>
</tr>
<tr>
<td>Subject</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Hospital Employees: Interns</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exempt</td>
</tr>
</tbody>
</table>

| Household Employees: Domestic service in private homes, college clubs, fraternities, and sororities |
|                                                                                                    |
| Conditional. Subject if total cash wages are $1,000 or more (for all household employees) in any quarter in the current or preceding calendar year. |
| **Insurance for Employees:** |  
|---|---|
| 1) Accident and health insurance premiums under a plan or system for employees and their dependents generally or for a class or classes of employees and their dependents | Exempt |
| 2) Group term life insurance costs | Exempt |

| **Insurance Agents or Solicitors:** Full-time life insurance salesperson or other salesperson of life, casualty, or other varieties of insurance | Conditional. Subject if employee is **not** paid solely by commissions. |

| **Leave-Sharing Plans:** Amounts paid to an employee under a leave-sharing plan | Subject |

| **Limited Liability Companies (LLCs):** Payments made to member workers of member-managed LLC where the workers do not also manage, and all LLCs electing to be taxed as corporations | Subject |

| **Newspaper Carriers and Vendors:** Newspaper carriers under age 18 and newspaper and magazine vendors buying at fixed prices and retaining receipts from sales to customers | Exempt |

| **Officers or Shareholders of an S-Corporation** | Subject |

| **Non-Profit Organizations (NPO)** |  
|---|---|
| 501(c)(3) | Conditional. Subject unless specifically excluded once the organization has 4 or more workers in 20 weeks in the same calendar year. |
| All Other NPO | Subject |

| **Officers or Shareholders of a Corporation:** Distributions and other payments made 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 | Subject |

<p>| <strong>Partner or Sole Proprietor:</strong> Distribution of profits to general or limited partners of a partnership or to a sole proprietor | Exempt |</p>
<table>
<thead>
<tr>
<th><strong>Railroads: Payments subject to the Railroad Retirement Act</strong></th>
<th>Exempt</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Religious / Church:</strong> Organization operated primarily for religious purposes and managed, supervised, controlled, or primarily supported by a Church, Association of Churches or Convention of Churches and all Churches, Associations of Churches, and Conventions of Churches</td>
<td>Exempt</td>
</tr>
<tr>
<td><strong>Retirement and Pension Plans:</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Employer contributions</strong> to a qualified plan</td>
<td>Exempt</td>
</tr>
<tr>
<td><strong>Elective employee contributions</strong> and deferrals to a plan containing a qualified cash or deferred compensation arrangement (e.g., 401(k))* *Please see Publication 15-A of the Social Security Administration for more information on employer contributions</td>
<td>Subject</td>
</tr>
<tr>
<td><strong>Salespersons:</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Common law employees</strong></td>
<td>Subject</td>
</tr>
<tr>
<td><strong>Statutory employees</strong></td>
<td>Subject, except as noted for commissions</td>
</tr>
<tr>
<td><strong>Severance, Termination, or Dismissal Pay</strong></td>
<td>Subject</td>
</tr>
<tr>
<td><strong>Sick Pay</strong></td>
<td>Subject for the first 6 months following the last month in which the employee performed services</td>
</tr>
<tr>
<td><strong>State/Local Governments and Political Subdivisions (Employees of):</strong></td>
<td>Conditional. Subject unless specifically excluded</td>
</tr>
<tr>
<td>Payments, (including salary and wages) to most elected and appointed officials</td>
<td>Exempt</td>
</tr>
<tr>
<td><strong>Student, Scholars:</strong> Student enrolled and regularly attending classes, performing services for a private school, college, or university; auxiliary non-profit organization operated for and controlled by school, college, or university; or public school, college, or university</td>
<td>Exempt</td>
</tr>
<tr>
<td><strong>Tips or Gratuities reported in writing to employer</strong></td>
<td>Subject</td>
</tr>
</tbody>
</table>
The purpose of this guide is to assist employers with correctly determining and reporting quarterly employment and wages to the Indiana Department of Workforce Development (DWD).

Employers are required to report wages for all workers that are engaged in covered employment. Unless a worker or a type of payment to a worker is specifically excluded, employers must report all remuneration (value) received in exchange for services, including the value of non-cash compensation.

Examples of excluded payments included deferred income, Cafeteria 125 (pre-tax) distributions, and payment for service on behalf of a church. To learn more about what to report (subject wages) and what not to report (excluded or exempt wages) please refer to section XIII for additional information.
Reporting: Using the ESS / UPLINK Web Application

Employers can enter their workers directly on the Wage Reporting screen in the ESS / UPLINK web application if they have fifty (50) or less workers to report. Employers may also use a file for less than 50 workers. Employers are required to use a file to report more than 50 workers.

Employers may create a quarterly report file using either Comma Separated Values (.CSV) or American Standard Code for Information Interchange (ASCII).

.CSV file can be created in spreadsheet applications like Excel.

ASCII files are not recommended for users that do not have specialized computer experience. The basic format for an UPLINK file in ASCII was developed by the Interstate Conference of Employment Security Agencies (ICESA). The original ICESA format has been modified to accommodate Indiana’s reporting requirements.

Click here to open the file formats

If the employer is using accounting software, they may want to call their service provider and ask how to export a file. The employer should also ask the provider if the exported file is formatted as a .CSV file or an ICESA file.

Please call DWD at 800-891-6499 for help creating a comma separated values (.CSV) file. DWD cannot assist with creating a modified ICESA file.

Common Terms / Definitions

State Unemployment Tax Account Number (SUTA) – The number that identifies the employer to DWD. The number is assigned by DWD when the organization is determined by DWD to be operating with covered employment. The number is up to six digits long with leading zeros. If the account number is 1317, the six digits are 001317. Using trailing zeros, for example 131700, could cause the report to post to another employer’s account. If using an ICESA file, the SUTA number in the E and S rows must be the same.

State Unemployment Insurance (SUI) – Term used by some payroll companies in describing covered wages. The employer may receive a report from the payroll company that describes a wage calculation as “Indiana SUI Subject Wages.” The number designated as Indiana SUI Subject Wages is the number the employer will need to use to successfully pass the security challenge when creating ESS / UPLINK user credentials.

Federal Employer Identification Number (FEIN) – The number that the employer will use to identify the entity that they will use when reporting the worker’s wages on their W2 or 1099. Indiana is a single enterprise state.

This means that a group of employers that share common ownership, management, or control must report as a single employing unit for Indiana unemployment purposes. The individual entities within the group are required to report separately to the IRS, but they are required to report as a consolidated employer in Indiana. Thus, an organization can have several different FEINs for the same SUTA.

Social Security Number (SSN) or Individual Tax Identification Number (ITIN) – The number that the employer will use to identify the worker when reporting the worker’s wages on the W2 or 1099.
When reporting wages to Indiana, each worker should be reported only one time per FEIN / Zip / employment type combination. The worker can be reported more than one time per SUTA, but only one time per FEIN / Zip / employment type combination.

**NOTE:** Please be aware that employers are required to use E-Verify and secure the SSN of a worker before allowing them to perform services for remuneration to assure that the person is who they claim to be and that they have authorization to work in the U.S.

**Quarter** – A number between 1 and 4 representing the calendar quarter being reported. See the table below for additional information.

**Year** – The four digit (YYYY) calendar year associated to the calendar quarter being reported. In some computer programs, this may be shown on the screen as CCYY for century / century / year / year. Both examples represent calendar year. Even though the due date for the 4th quarter is in the next calendar year, the reporting year is the year when the employer paid the wages.

**Due Date** – The last day of the calendar month immediately following the last day of the calendar quarter. It is the employer’s responsibility to give themselves enough time to report and pay timely. It is a good idea to report early even if the employer is waiting until the due date to make a payment. DWD will assess penalties (10%) and interest (1%) if the employer does not pay by the designated due date. See the table below for information on quarters and due dates.

<table>
<thead>
<tr>
<th>QUARTER</th>
<th>QUARTER START</th>
<th>QUARTER STOP</th>
<th>DUE DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>January 1st</td>
<td>March 31st</td>
<td>April 30th</td>
</tr>
<tr>
<td>2</td>
<td>April 1st</td>
<td>June 30th</td>
<td>July 31st</td>
</tr>
<tr>
<td>3</td>
<td>July 1st</td>
<td>September 30th</td>
<td>October 31st</td>
</tr>
<tr>
<td>4</td>
<td>October 1st</td>
<td>December 31st</td>
<td>January 31st</td>
</tr>
</tbody>
</table>

**Standard Occupational Classification (SOC Code or SOC)** – The SOC Code system is a federal statistical standard used to classify workers into occupational categories for the purpose of collecting, calculating, or disseminating data. Employers can use the job title to find the SOC Code on-line using this website: [https://www.bls.gov/soc/2018/major_groups.htm](https://www.bls.gov/soc/2018/major_groups.htm). Report only the first six digits (XX-XXXX) any additional information after the first six digits is not required / reported.

When reporting wages to Indiana via .CSV or ICESA, enter the first six digits of the SOC Code with no dashes for each worker. When using ESS to manually enter wages, the dash will be automatically inserted as part of the display formatting. Dashes should not be manually entered or included in the file.

**Start Date** – This is when the worker began their current employment with the employer. If the worker has a gap in employment of sixty (60) days or more, the start date is the date on which the worker returned.

**NOTE:** Employers must report all new hires including returning workers to the Indiana New Hire and National New Hire registries.

**Zip Code of Primary Work Location** – In general, this is the zip code where the worker spends the
majority of their time. If the worker routinely travels as a part of their job, it is either where the worker starts from, if they have a base of operations, or where the worker is directed from – like a central office, as long as it is in Indiana. If none of these apply, it can be the zip code where the worker resides if the worker sometimes works in the same state where they live. If none of those locations is in Indiana, the employer may need to report the person to a state or jurisdiction other than Indiana. Call DWD at 800-891-6499 and ask for help with localization.

**Full Time / Part Time / Seasonal** – If the employer has a seasonal code approved by DWD for the person being reported, then use that 2 digit code (01 – 99). See the employer handbook for information on applying for seasonal status if the business operates less than 26 weeks each calendar year or has functionally distinct operations less than 26 weeks total each calendar year. Seasonal codes are for a specific range of dates provided by the employer on the seasonal application. If the employee is not seasonal, use Full Time (FT) or Part Time (PT) as defined by your industry standards (if any). There is no DWD definition of Full or Part time – this is an employer defined designation.

**NOTE:** Only DWD can assign seasonal status; employers cannot self-designate without approval. The quarterly report file will have an error if a seasonal code that has not been approved by DWD is used, or if a seasonal code that does not match the quarter being reported is used.

**Location** – A location is a **unique combination** of SUTA, FEIN, Primary Zip code, and Full Time / Part Time / Seasonal.

**EXAMPLES:**

SUTA 000001+ FEIN 999999999 + Zip Code 46204 + Full Time / Part Time / Seasonal FT = Location 1
SUTA 000001+ FEIN 999999999 + Zip Code 46204 + Full Time / Part Time / Seasonal PT = Location 2
SUTA 000001+ FEIN 999999999 + Zip Code 46278 + Full Time / Part Time / Seasonal FT = Location 3
SUTA 000001+ FEIN 999999988 + Zip Code 46204 + Full Time / Part Time / Seasonal FT = Location 4
SUTA 000001+ FEIN 999999999 + Zip Code 46204 + Full Time / Part Time / Seasonal 01 = Location 5

**Employed on the twelfth (12th) day of the month** – If the worker is performing services or is being compensated during a pay period containing the 12th day, then the worker is employed on the twelfth (12th) day of the month. This includes both full-time and part-time workers who worked or received wages subject to unemployment during the pay period. The count should be unduplicated, so if the worker is being reported under the same SUTA but for multiple locations, be sure to indicate “Yes” only one time per worker.

**Other Important Considerations**

**Status Changes and Transfers** – If the employer closes, reorganizes, transfers, sells, or otherwise disposes of their Indiana business operations, they must report the status change to DWD within thirty (30) days of the change. The report can be completed in the UPLINK / ESS web application or by filing SF46800 (SUTA Account Termination or Transfer Request) which can be downloaded from [https://www.in.gov/dwd/2406.htm](https://www.in.gov/dwd/2406.htm).

If the employer changes their legal mailing address or name, they must report the status change to DWD via
the UPLINK / ESS web application or by filing SF2837 (SUTA Account Number Registration and Disclosure Statement) which can be downloaded from https://www.in.gov/dwd/2406.htm.

If the responsible party changes, the employer should update this information in the UPLINK / ESS web application. In some cases, the responsible party information is used to assess financial liability (a tax lien or tax warrant) as a personal liability to the named individual; thus, it is important to keep this information updated.

**NOTE:** The responsible party is the individual or entity which controls, manages, or directs the employer and the dispositions of its funds or assets.

If two or more businesses in Indiana have substantial common ownership, management, or control and one business transfers any assets -- including workforce -- to the other business, a mandatory transfer has occurred under IC 22-4-11.5-7. The mandatory transfer must be reported to DWD via the UPLINK / ESS web application or by filing SF2837 for the business that received the assets and SF46800 for the business that transferred the assets.

If a new business or an existing business gains, by any means, the operational assets and / or workforce of another business, the new or existing business must report the transfer to DWD via the UPLINK / ESS web application or by filing SF2837.

**Independent Contractors** – To be considered an independent contractor in Indiana for Unemployment, the relationship between the individual performing services (worker) and the entity for which services are performed (business) must meet all three of the following tests. Failing any one part of the test means that the worker must be reported as an employee of the business for unemployment purposes.

The worker must be essentially free from the direction and control of the business including the business’ right to direct or control the worker. And;

The worker must be performing services which are not in the usual course of the business’ operations. And;

The worker must be independently established in the same trade or business as the services performed for the business and must be able to offer the same services to the general public.

**Additional Penalties** – If the employer does not make a required report, DWD will assess the employer with a $25 penalty for each missing report.

If the employer does not provide all the information required on the report, DWD will assess the employer with a $25 penalty for each inadequate report.

**ESS / UPLINK Wage Reporting Error Messages**

If the manually entered record or file record is missing information or is incorrectly formatted, Uplink will generate an error report. Three levels of errors may display on the error report:

- **Critical Errors** prevent the employer from submitting a report. For file upload, if any of these errors occur, the report will not show any of the other error types.

- **Adequacy Errors** result in DWD assessing a penalty if the employer does not correct them. The employer will still be able to submit the report. DWD will make additional attempts to contact the employer and obtain the missing information before assessing any penalty.
**Warnings** are incomplete or missing fields that do not result in a penalty to the employer if not corrected. The employer may still submit a report with warnings.

Downloadable reports containing errors and warnings for both file upload and manual entry will provide information on any errors or warnings.

The table below provides additional information on the error types and severity of the errors. Please be aware the errors marked (F) in the table below may be subject to penalty assessment in the future. If there is information that the employer is not able to provide, example being SOC code, complete the field with zeros (for numeric fields) or spaces (alpha fields).

Unable to Submit = a field that is required and will prevent submission if not fixed
Adequacy = a field that is required and will prompt penalties but will not hinder submission.
Warning = a field that is required but will not prompt penalties or hinder submission

<table>
<thead>
<tr>
<th>Error Description</th>
<th>Error Type</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Invalid or missing SUTA</td>
<td>Unable to Submit</td>
<td>N/A</td>
</tr>
<tr>
<td>Wrong Quarter / Year (does not match ESS screen)</td>
<td>Unable to Submit</td>
<td>N/A</td>
</tr>
<tr>
<td>Missing Data(^1) – Critical Error</td>
<td>Unable to Submit</td>
<td>N/A</td>
</tr>
<tr>
<td>Wrong Character type(^2) – Critical Error</td>
<td>Unable to Submit</td>
<td>N/A</td>
</tr>
<tr>
<td>Duplicate Record(^4)</td>
<td>Unable to Submit</td>
<td>N/A</td>
</tr>
<tr>
<td>Invalid Social Security Number(^5)</td>
<td>Adequacy</td>
<td>Yes</td>
</tr>
<tr>
<td>Invalid FEIN</td>
<td>Warning</td>
<td>F</td>
</tr>
<tr>
<td>Non-Indiana Zip Code</td>
<td>Warning</td>
<td>F</td>
</tr>
<tr>
<td>Invalid SOC</td>
<td>Warning</td>
<td>F</td>
</tr>
<tr>
<td>Any 12(^{th}) day of the month question(^6)</td>
<td>Warning</td>
<td>F</td>
</tr>
<tr>
<td>Invalid PT/FT(^3)</td>
<td>Warning</td>
<td>N/A</td>
</tr>
<tr>
<td>Invalid Seasonal Code</td>
<td>Warning</td>
<td>No</td>
</tr>
<tr>
<td>First or Last name is short (1 Letter)</td>
<td>Warning</td>
<td>No</td>
</tr>
<tr>
<td>Invalid Middle Initial (Space)</td>
<td>Warning</td>
<td>No</td>
</tr>
</tbody>
</table>

1. If the worker does not have a middle initial, use a space. A warning will display, but DWD understands that not everyone has a middle name.
2. A character type is a letter, number, or symbol. Each field requires a specific kind of response. Only enter numbers in a currency field. Apostrophes and dashes in names can be used as needed because DWD understands that these symbols are a part of many names.
3. PT / FT is invalid if any letters that are not “PT” or “FT” are entered. A two digit seasonal code in this field is accepted if the employer has an approved season. If the employer does not have an approved season for the number entered, a warning will display.
4. A duplicate record means that two workers have the same SUTA + SSN + FEIN + Zip + FT/PT/Seasonal combination.
5. An Individual Tax Identification Number (ITIN) is valid for reporting.
6. This is a yes (Y) or no (N) response. An error will occur if the field has a space in it instead of an answer. On the screen, the response defaults to No.
XXV. DISSOLUTION, LIQUIDATION, WITHDRAWAL OF A BUSINESS

Organizations are required to file documentation with DWD in the event that they are ceasing to operate, distributing assets, or otherwise removing themselves from Indiana operations whether voluntarily or involuntarily. This requirement applies to all organizations whether non-profit, for profit, corporate or noncorporate entities.

The form of notification required by DWD is SF46800, SUTA Account Termination or Transfer Request, which can be located here or by calling (800) 891-6499 option 2. SF46800 should be filed within thirty (30) days of the final decision to cease business operations.

If the organization fails to notify DWD as required, all responsible parties will become personally responsible for any liabilities owed to DWD under the Act. A responsible party is (1) for a corporate entity, the corporation’s officers and directors; or (2) for a non-corporate entity, the entity’s chief executive.

Failure to timely file the notice of dissolution can result in the assessment of penalties in addition to any other assessments made against the organization and / or the organization’s responsible parties. The penalty is thirty percent (30%) of the contribution outstanding at the time of the dissolution assessed to the responsible parties if reasonable efforts are not made to set aside assets to pay DWD at the time of dissolution.

If the organization is in good standing with DWD at the time of the cessation of business operations, and if a responsible party timely files SF46800 along with a request in writing for a clearance letter, DWD will issue such clearance releasing the responsible parties from personal liability for any outstanding liability to DWD. Only those responsible parties disclosed to DWD as a attachment to the SF46800 can be protected by DWD’s issuance of a clearance letter.

XXVI. 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. See Section XIV for a chart of contributory due dates.

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.

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 seek a refund after the protest has been decided by the liability administrative law judge to avoid being assessed with interest.

Contributory employers receive a notice of assessment only when contribution is established for a quarter. 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. Employers have fifteen (15) days from the notification date of the assessment or notice and demand, whichever is earlier, 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.

If the employer has not protested the assessment or entered into a repayment agreement, DWD has the authority under the law to take aggressive collection action.

DWD can file a tax lien with the clerk of the county court against the person and property of the business including the responsible parties as described in section XV.

DWD can request that the sheriff serve a tax warrant on a business which can 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 your 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 you or your business.