

# **Employers' Rights and Responsibilities**

*Under the  
Missouri Employment Security Law*



**DIVISION OF  
EMPLOYMENT  
SECURITY**

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## Foreword

The Missouri Division of Employment Security (DES) is the state agency responsible for administering the unemployment insurance (UI) benefit and tax programs. The DES has responsibility to both workers and employers.

The State UI Laws must conform to certain standards in the Federal Unemployment Tax Law administered by the U.S. Department of Labor. By conforming to these laws, Missouri employers are allowed to take a credit on federal unemployment tax returns, if state unemployment taxes are paid timely. This credit is allowed regardless of an employer's state unemployment tax rate.

In Missouri, UI benefits are paid entirely by employers that are liable under the Missouri Employment Security Law. No deductions are made from the workers' wages.

This handbook should be retained as a reference guide to an employer's rights and responsibilities under the Missouri Employment Security Law. For further information relating to unemployment tax liability and/or UI benefits, write to: P.O. Box 59, Jefferson City, MO 65104-0059, call 573-751-1995 option 1, or visit the DES websites at:

[www.labor.mo.gov/DES/Employers](http://www.labor.mo.gov/DES/Employers)

[www.labor.mo.gov/DES](http://www.labor.mo.gov/DES)

## Definitions of Law Terms

**Deputy** – A representative of the Division of Employment Security designated to make investigations and administrative determinations on claims or matters of employer liability, or to perform related work.

**Director** – The administrative head of the Division of Employment Security.

**DES** – The Division of Employment Security, the state agency charged with the administration of the Missouri Employment Security Laws set out in Chapter 288 of the Missouri Revised Statutes.

**Employer** – Any employing unit that has had sufficient employment or paid sufficient wages to become liable to cover workers for unemployment insurance benefits and pay unemployment taxes.

**Employing Unit** – Any individual, organization, partnership, corporation, common paymaster or other legal entity, including the legal representatives thereof, which has or, subsequent to June 17, 1937, had in its employ one or more individuals performing services for it within Missouri.

**Employment** – Service performed for wages under any contract of hire.

**Governmental Entity** – The state, any political subdivision thereof, any instrumentality of any one or more of the foregoing that is wholly owned by this state and one or more other states or political subdivisions, and any instrumentality of this state or any political subdivision thereof and one or more other states or political subdivisions.

**Insured Work** – Employment in the service of a covered employer.

**Referee** – A representative of the Division of Employment Security who is designated to serve on an Appeals Tribunal, conduct hearings, and make impartial decisions on appeals from administrative determinations, petitions for reassessment, and claims for unemployment insurance benefits.

**Temporary Employee** – An employee assigned to work for the clients of a temporary help firm.

**Temporary Help Firm** – A firm that hires its own employees and assigns them to clients to support or supplement the clients' workforce in work situations such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects.

**Wages** – Cash payments or cash value of remuneration in any other form that is given to an individual for personal services.

## Introduction to Unemployment Insurance

Unemployment insurance has been an important factor in stopping cycles leading to economic recession and depression. The Unemployment Insurance Program began in Missouri in 1939.

The Federal Unemployment Tax Act (FUTA) was enacted in 1939, and it levied a uniform nationwide employment tax on employers. This law provided that if a state has a state unemployment law that satisfies certain federal requirements, an employer can claim a tax credit against the federal tax otherwise due for taxes paid to the state fund.

If the United States Department of Labor (USDOL) certifies that the state's unemployment compensation program meets federal requirements under FUTA and Title III of the Social Security Act (SSA), employers will receive the offset tax credit against the federal tax.

The current FUTA tax rate is 6 percent (visit [www.irs.gov](http://www.irs.gov)). Employers that pay their state unemployment tax timely and in full receive a 5.4 percent offset credit allowed on federal taxes, regardless of an employer's state unemployment rate. Therefore, the net FUTA tax rate for employers after the credit is 0.6 percent.

When a state is in a long-term borrowing situation, however, federal law prescribes a reduction to the federal unemployment tax credit of 5.4 percent in order to repay the loan. The first credit reduction of 0.3 percent points occurs when a state carries a loan balance through January 1st for two consecutive years. The credit reduction for the third consecutive year is 0.6 percent points and increases an additional 0.3 percent points each year until the loan is repaid.

## Missouri Law States Public Policy

The declaration of public policy of the state of Missouri incorporated into the Missouri Employment Security Law reads:

“As a guide to the interpretation and application of this law, the public policy of this state is declared to be as follows: Economic insecurity due to unemployment is a serious menace to the health, morals, and

welfare of the people of this state resulting in a public calamity. The Legislature, therefore, declares that in its considered judgment the public good and the general welfare of the citizens of this state require the enactment of this measure, under the police powers of the state, for compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own. This law shall be liberally construed to accomplish its purpose to promote employment security both by increasing opportunities for jobs through the maintenance of a system of public employment offices and by providing for the payment of compensation to individuals in respect to their unemployment.”

## Online Business Registration

The Missouri Department of Labor and Industrial Relations – Division of Employment Security has an online registration process for businesses. This registration process allows individuals and companies that conduct business or employ workers in Missouri to register for Unemployment Insurance.

Register at [uinteract.labor.mo.gov](http://uinteract.labor.mo.gov)

## Tax Liability

### *Who is a Liable Employer?*

The term liable employer refers to an employing unit that has become liable to cover workers for unemployment insurance benefits and to pay unemployment taxes on workers' wages.

The DES uses the Unemployment Tax Registration (MODES-2699) and the Online Business Registration to gather information for determining if an entity is liable for state unemployment tax. An entity that employs workers is required to complete and return this form.

If liable for state unemployment tax, the DES will mail an official written determination of liability and quarterly contribution and wage reports on which to report the wages of employees. The employer is liable for the whole calendar year in which it incurs liability. As an employer, an entity must file contribution and wage reports each calendar quarter. (*See Contribution and Wage Report.*)



The employer will continue to be liable during following years until liability is terminated. (*See Termination of Liability.*)

An employing unit needs to notify the Division in writing or online when it becomes liable to pay taxes as an employer. This notification needs to be submitted to the Division within 30 days from the date the employing unit becomes liable to pay taxes as an employer.

### ***How is Liability Established?***

To establish liability, an employing unit must meet one or more of the following criteria:

#### **1. General Business Employer**

- Have a total payroll of \$1,500 or more in a calendar quarter during either the current or preceding calendar year
- Employ a worker (not necessarily the same worker) for some portion of a day in each of 20 different weeks in either the current or preceding calendar year
- Be determined a successor to a liable Missouri employer (Applies to all types of employers.)
- Be liable under the Federal Unemployment Tax Act (FUTA) and employing a worker in Missouri. (Applies also to agricultural and domestic employment.) The reporting requirements of the FUTA are similar to those of Missouri unemployment tax, but are not identical. Federal unemployment tax is administered by the Internal Revenue Service (IRS). Contact the IRS for information on your liabilities for federal unemployment tax

#### **2. Domestic Employer**

- Pay \$1,000 or more in cash wages in a calendar quarter during the current or preceding calendar year to a domestic or household worker in a private home, college sorority or fraternity

#### **3. Agricultural Employer**

- In all states combined have 10 or more workers (not necessarily the same 10 workers) in 20 different weeks
- Pay \$20,000 or more in cash wages in a calendar quarter, during the current or preceding year

#### **4. Nonprofit Organization 501(c)(3)**

- Be a nonprofit organization described in Section 501(c)(3) of the Internal Revenue Code and employ four or more workers for some portion of a day in 20 different weeks during the current or preceding calendar year. The workers employed do not have to be the same four workers and they do not have to work at the same time of the day

#### **5. Governmental Employer (State or Local Governments or Federally Recognized Indian Tribes)**

- Employ a worker regardless of the amount of wages paid or number of weeks the worker is employed

### ***Voluntary Election***

If an employing unit does not have sufficient employment or wages to become liable under any of the above conditions, or if it wants to provide unemployment insurance coverage for its workers who would be exempt under some provision in the law, the employing unit may request approval from the DES to become a liable employer. The voluntary election of coverage would go into effect on the first day of the quarter in which the election is made and must continue in effect for at least two complete calendar years.

### ***Special Reporting Situations***

#### **Common Paymaster**

The Missouri Revised Statutes, Section 288.090.6, sets out certain conditions for a DES-approved common paymaster arrangement. Two or more related corporations or limited liability companies (classified as corporations) that meet all the criteria listed may be approved for a common paymaster arrangement. A request for a common paymaster arrangement must be received by the DES at least 30 days prior to the beginning of the quarter in which the common reporting is to be effective. Approval of this common paymaster arrangement allows the corporation or limited liability company designated as the common paymaster to report the wages of its employees and concurrently employed individuals of the related corporation(s) on one quarterly contribution and wage report.

## Leased Employees

A lessor employing unit is an entity that leases employees to another business entity, referred to as a client lessee. The lessor employing unit is liable for taxes, or payments in lieu of taxes, on wages paid to the leased employees. The client lessee is jointly and severally liable for any unpaid taxes, or payments in lieu of taxes, interest, and penalties to the Unemployment Trust Fund unless the lessor employing unit financially guarantees payment. To financially guarantee payment, the lessor employing unit posts a surety bond, deposits securities, pledges certificate of deposit, or provides an irrevocable letter of credit in the amount equivalent to the lessor employing unit's last yearly taxes to the trust fund or \$100,000, whichever is greater. If the lessor employing unit does not financially guarantee payment, a separate quarterly contribution and wage report must be filed for the lessor employing unit AND each of its client lessees.

## Joint Account

Any employer with one or more other employers may apply to the DES to participate in a joint common experience rating account. The application contains the regulations for the formation and maintenance of joint accounts.

All joint accounts will be maintained only on a calendar year basis. Joint accounts must be maintained for a minimum period of two calendar years unless terminated sooner by action of the DES.

## Employment

### Covered Employment

A general definition of covered employment means any services performed by an individual for remuneration under any contract of hire, unless otherwise specifically excluded under the law. Covered employment includes: (1) services of part-time, temporary, and casual workers, as well as regular workers; (2) officers or stockholders who perform services for a corporation and receive remuneration; (3) services of agent or commission drivers who personally distribute food and beverage products (other than milk) or who distribute laundry or dry cleaning for another person; (4) services of traveling or city salespersons engaged on a full-time basis soliciting orders on behalf of an employer of merchandise for resale or

supplies for use in a business operation; (5) services performed in a foreign country by a U.S. citizen for an employer located in Missouri.

### Excluded Employment

#### 1. General Business

Employment excluded from coverage under the law includes:

1. The **delivery and/or sale of newspapers** when one of the following applies:
  - a. Wages to persons under the age of 18 who deliver newspapers or shopping news are not reportable or taxable for state and federal unemployment taxes. This exemption applies to the typical house-to-house newspaper delivery or sale, and also extends to passing out handbills and other similar types of advertising material on the street. The exemption also covers remuneration for services incidental to the delivery of the newspapers, such as assembling the sections into complete papers. This exemption does not include the distribution of magazines or house-to-house distribution of merchandise samples for advertising purposes
  - b. Wages paid to an individual of any age for services performed as a direct seller in the trade or business of delivering or distribution of newspapers or shopping news are not reportable for state or federal unemployment taxes
  - c. Newspaper or magazine vendors of any age are excluded from state and federal unemployment taxes for services performed at the time of sale of the papers or magazines to the ultimate consumer. This is true even if the person is guaranteed a minimum amount of compensation and/or can sell back all unsold newspapers or magazines
2. Services performed as a **direct seller** who is engaged in the trade or business of the delivering or distribution of newspapers or shopping news, including any services directly related to such trade or business or services, or services of a direct seller who is engaged in the business or trade of selling or soliciting sales of consumer products in a home, or otherwise than in or affiliated with a permanent fixed

- retail establishment, if 80 percent of remuneration received is directly related to such sales rather than the number of hours worked and sales are performed under a written contract that provides the seller will not be treated as an employee for federal tax purposes
3. Services performed in the employ of a son, daughter, spouse, or by a child under the age of 21 in the employ of the child's father or mother. This includes legally adopted, step, and foster children and parents. If the business is a partnership, an exempt family relationship must exist between the worker and each partner in order for this exemption to apply. The exemption for **family employment** does not apply to the family of the officers or stockholders of a corporation
  4. Services as a **licensed insurance agent or an insurance solicitor** remunerated solely by commissions
  5. Services for which academic credits are given performed by an individual who is a **student** enrolled in a public or nonprofit school
  6. Services performed in the employ of a **foreign government**
  7. Effective August 28, 2010, services of a **licensed real estate salesperson or broker** provided that **substantially all** of the remuneration for services are directly related to sales performed **or other output** rather than the number of hours worked, and the services are performed under a written contract that provides the individual will not be treated as an employee for federal tax purposes
  8. Services performed by an individual in a **barber or beauty shop** who pays rent or other payments to the owner or operator for use of the facilities
  9. A **motor carrier** whose operations are confined to a commercial zone or who is regulated by the Missouri Department of Transportation or by the U.S. Department of Transportation or any of its sub-agencies shall not be considered the employer of a lessor or of a truck driver paid by a lessor. Also excluded are services performed by owners who drive their own trucks for a contract or common carrier (**owner/operator**)
  10. A worker covered by a federal unemployment insurance system (railroad workers and federal employees)
  11. Full-time student working less than 13 weeks for an organized summer camp
- 2. Churches and Religious Orders**
1. Services performed in the employ of a church, or convention or association of churches
  2. Services performed in the employ of an organization that is operated primarily for religious purposes, and is operated, supervised, controlled, or principally supported by a church, or convention or association of churches
  3. Services performed by a duly ordained, commissioned or licensed minister of a church in the exercise of the ministry
  4. Services performed by a member of a religious order in the exercise of duties required by such order
- 3. 501(c)(3) Organizations and Governmental Entities**
1. Services performed by individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, if performed in a facility conducted for carrying out a program for rehabilitation of such individuals
  2. Services performed by individuals who, because of injury, physical, or mental capacity cannot be readily absorbed in the competitive labor market, if performed in a facility whose purpose is to carry out a program of providing work for such individuals
  3. Services performed by an individual receiving work-relief or work-training if the program is assisted or financed in whole or in part by a federal agency, or by an agency of the state or any of its political subdivisions
  4. Services performed in the employ of a nonprofit school, college, or university by a student who is enrolled and regularly attends classes at such school, college, or university
  5. Services performed by a student's spouse in the employ of a nonprofit school, college, or university at which the student is enrolled and regularly attends classes provided the spouse is advised at the beginning of such services that:



- a. The employment is provided under a student-assistance program
- b. The employee is not covered by any program of unemployment insurance
- 6. Services performed by an inmate of a custodial or penal institution
- 7. In the employ of a governmental entity if such service is performed by an individual in the exercise of duties:
  - a. As an elected official
  - b. As a member of a legislative body or a member of the judiciary of a state or political subdivision
  - c. As a member of the state national guard or air national guard
  - d. As a temporary employee due to fire, storm, snow, earthquake, flood, or similar emergency
  - e. In a position designated by the laws of this state as a major nontenured policymaking or advisory position
  - f. In a position designated by the laws of this state as a policymaking or advisory position in which the duties ordinarily do not require more than eight hours per week
  - g. As an election judge appointed by the election authority receiving, during the calendar year, less than \$1,000

### **Required Notice to Non-Covered Workers**

If an employee of a church, religious order, or 501(c)(3) (nonprofit) organization is exempt from unemployment insurance coverage as defined under Employment Security law, Missouri Revised Statutes, Section 288.041, requires a written notice from the employer to the exempted worker. The notice must state that wages earned by the individual will not be used to determine insured worker status for unemployment insurance benefits. The notice must be provided to each exempt individual at the time of initial employment or upon a change in the employing unit's status regarding liability for unemployment insurance coverage.

### **Employee or Independent Contractor?**

The determination of whether an individual is an employee or independent contractor is important

for several reasons for Missouri unemployment tax purposes.

- Under Missouri law, wages paid to *employees* are subject to employment taxes paid by the employer.
- Only compensation paid to an *employee* is used to calculate unemployment benefits for that employee should he or she become unemployed through no fault of his or her own.

If an employer has individual(s) performing services in connection with its business operations that are not considered employees, the employer has the responsibility to contact the DES for a ruling on the workers' employment status.

Any agreement by an individual to waive rights to unemployment insurance coverage is void under the Missouri Employment Security Law, per Section 288.380.

It is not necessary that the business *actually* direct or control the manner in which the services are performed; it is sufficient if the business has the *right* to do so.

In an employer-employee relationship, it makes no difference how it is labeled. The substance of the relationship, not the label, governs the worker's status. To determine whether the control test is satisfied in a particular case, the facts and circumstances must be examined. Questions about the relationship between the worker and the business are asked to ascertain the degree of control.

The DES applies the twenty-factor test originally developed by the Internal Revenue Service (IRS) to determine whether particular workers are employees or independent contractors. The twenty-factors do not serve as a bright-line rule to be applied without flexibility, but rather are guides or aids to be used in determining the nature of the employment relationship. They will not necessarily be the only factors to consider in a particular case. No single factor is conclusive, and some factors may be more important than others depending on the industry involved and the context in which the services are performed. The focus of the DES inquiry is the degree to which the employer has the right to control the manner and means of a worker's performance. Written contracts also are utilized as they describe the relationship the parties intended to create.

A Missouri court, in *National Heritage Enterprises, Inc. v. Division of Employment Sec.*, 164 S.W.3d 160, 167-74 (Mo. App. W.D. 2005), has identified and described the twenty factors as follows:

1. **Instructions.** A worker who is required to comply with other persons' instructions about when, where, and how he or she is to work is ordinarily an employee. This behavioral control factor is present if the person or persons for whom the services are performed has the right to require compliance with the instructions. With respect to the instructions factor, the right to control is manifested in control over the when, where, and how work is completed.
2. **Training.** Training a worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by requiring the worker to attend meetings, or by using other methods, indicates that the person or persons for whom the services are performed want the services performed in a particular method or manner.
3. **Integration.** Integration of the worker's services into the business operations generally shows that the worker is subject to direction and control. When the success or continuation of a business depends to an appreciable degree upon the performance of certain services, the worker who performs those services must necessarily be subject to a certain amount of control by the owner of the business. For example, if a law firm hires an attorney, it is likely that it will present the attorney's work as its own and would have the right to control or direct that work. This would indicate an employer/employee relationship.
4. **Services Rendered Personally.** If the services must be rendered personally, presumably the person or persons for whom the services are performed are interested in the methods used to accomplish the work as well as the results.
5. **Hiring, Supervising, and Paying Assistants.** If the person or persons for whom the services are performed hire, supervise, and pay assistants, that factor generally shows control over the workers on the job. However, if one worker hires, supervises, and pays the other assistants pursuant to a contract under which the worker agrees to provide materials and labor under which the worker is responsible only for the attainment of a result, this factor indicates an independent contractor status.
6. **Continuing Relationship.** A continuing relationship between the worker and the person or persons for whom the services are performed indicates that an employer-employee relationship exists. A continuing relationship may exist where work is performed at frequently recurring although irregular intervals.
7. **Set Hours of Work.** The establishment of set hours of work by the person or persons for whom the services are performed is a factor indicating control.
8. **Full Time Required.** If the worker must devote substantially full time to the business of the person or persons for whom the services are performed, such person or persons have control over the amount of time the worker spends working and impliedly restrict the worker from doing other gainful work. An independent contractor, on the other hand, is free to work when and for whom he or she chooses.
9. **Doing Work on Employer's Premises.** If the work is performed on the premises of the person or persons for whom the services are performed, that factor suggests control over the worker, especially if the work could be done elsewhere. Work done off the premises of the person or persons receiving the services, such as at the office of the worker, indicates some freedom from control. However, this fact by itself does not mean that the worker is not an employee. The importance of this factor depends on the nature of the service involved and the extent to which an employer generally would require that employees perform such services on the employer's premises. Control over the work is indicated when the person or persons for whom the services are performed have the right to compel the worker to travel a designated route, to canvass a territory within a certain time, or to work at specific places as required.
10. **Order or Sequence Set.** If a worker must perform services in the order or sequence set by the person or persons for whom the services are performed, that factor shows that the worker is not free to follow the worker's own pattern of

work but must follow the established routines and schedules of the person for whom the services are performed.

11. **Oral or Written Reports.** A requirement that the worker submit regular or written reports to the person or persons for whom the services are performed indicates a degree of control.
12. **Payment by Hour, Week, Month.** Payment by the hour, week, or month generally points to an employer-employee relationship provided that this method of payment is not just a convenient way of giving a lump sum agreed upon as the cost of the job. Payment made by the job or on a straight commission generally indicates that the worker is an independent contractor. However, it is common in some professions, such as law, to pay independent contractors hourly.
13. **Payment of Business and/or Traveling Expenses.** If the person or persons for whom the services are performed ordinarily pay the worker's business and/or traveling expenses, the worker is ordinarily an employee. An employer, to be able to control expenses, generally retains the right to regulate and direct the worker's business activities. Employees may incur **some** unreimbursed expenses in connection with the services they perform for the business; however, independent contractors are more likely to have unreimbursed expenses than employees. Fixed, ongoing costs that are incurred regardless of whether work currently is being performed are especially important.
14. **Furnishing Tools and Materials.** The fact that the person or persons for whom the services are performed furnished significant tools, materials, and other equipment tends to show the existence of an employer-employee relationship.
15. **Significant Investment.** If the worker invests in facilities that are used by the worker in performing services and are not typically maintained by employees (such as maintenance of an office rented at fair market value from an unrelated party), that factor tends to indicate that the worker is an independent contractor. On the other hand, lack of investment in facilities indicates dependence on the person or persons for whom the services are performed for such facilities and, accordingly, the existence of an employer-employee relationship. Special scrutiny is required with respect to certain type of facilities, such as home offices.
16. **Realization of Profit or Loss.** A worker who can realize a profit or loss as a result of the worker's services (in addition to the profit or loss ordinarily realized by employees) is generally an independent contractor, but the worker who cannot is an employee. For example, if the worker is subject to a real risk of economic loss due to significant investments or a bona fide liability for expenses, such as salary payments to unrelated employees, that factor indicates that the worker is an independent contractor.
17. **Working for More Than One Firm at a Time.** If a worker performs more than de minimus services for a multiple of unrelated persons or firms at the same time, that factor generally indicates that the worker is an independent contractor. However, a worker who performs services for more than one person may be an employee of each of the persons, especially where such persons are part of the same service arrangement. The extent to which the worker makes services available to the relevant market shows the degree the business has the right to control the business aspects of the worker's job.
18. **Making Services Available to the General Public.** The fact that a worker makes his or her services available to the general public on a regular and consistent basis indicates an independent contractor relationship.
19. **Right to Discharge.** The right to discharge a worker is a factor indicating that the worker is an employee and the person possessing the right is an employer. An employer exercises control through the threat of dismissal, which causes the worker to obey the employer's instructions. An independent contractor, on the other hand, cannot be fired so long as the independent contractor produces a result that meets the contract specifications.
20. **Right to Terminate.** If the worker has the right to end his or her relationship with the person for whom the services are performed at any time he or she wishes without incurring liability, that factor indicates an employer-employee relationship.

When considering the employee/independent contractor issue, the DES does not recognize Section 530, Safe Harbor, of the Internal Revenue Code.

For more information, you may download the pamphlet, *Classifying Employees for Unemployment Insurance Tax Purposes* (MODES-INF-310) at [www.labor.mo.gov/sites/labor/files/pubs\\_forms/M-INF-310-AI.pdf](http://www.labor.mo.gov/sites/labor/files/pubs_forms/M-INF-310-AI.pdf).

## Experience Rate Account

### **Account Number**

The DES is required to establish and maintain a separate experience rate account for each employer. The account number contains 10 digits as follows, 00-00000-0-00.

### **Beginning Tax Rate**

Each employer that becomes liable to report workers' wages and pay unemployment taxes is assigned to an industry classification sector. Until eligible for an experience rate, regular employers (not including governmental entities and certain nonprofit organizations) are assigned an annual tax rate that is the average tax rate computed during the preceding year of all employers within the industry classification sector to which assigned, or 2.7 percent, whichever is the highest. Nonprofit organizations described under Section 501(c)(3) of the Internal Revenue Code and governmental entities are assigned an annual tax rate of 1 percent until eligible for an experience rate. **Based on the average cash balance of the Unemployment Trust Fund there may be an increase or decrease to the annual rates (see Contribution Rate Adjustment). Employers participating in the Shared Work Program would be assigned a rate of 9 percent (see Shared Work Program), plus any applicable increases or decreases to the rate. (See See Maximum Contribution Rate Surcharge and/or Contribution Rate Adjustment.)**

### **Experience Rate**

The law includes a merit or experience rating provision as an incentive for employers to maintain stable employment, review claims, and reduce unemployment.

The DES keeps a record of experience for each employer's account. The experience includes taxable

wages reported, taxes paid, and benefits charged. Taxes paid are credited to an employer's account and unemployment insurance benefits paid to eligible claimants are charged to the accounts of the claimant's employers during the base period of the claim. These factors that are recorded in the employer's account through the preceding July 31st are used to compute annual tax rates after the employer becomes eligible for an experience rate.

The amount of unemployment insurance benefits paid on a worker's claim is charged to the employer's account; the employer does not pay the actual amount of the claim unless it is a reimbursable employer. (*See Reimbursable Employer.*)

The employer's account is maintained for experience rating only. No employer or individual in employer's service has any claims or rights to amounts paid into the fund. All taxes are deposited into the Missouri Unemployment Compensation Fund and only can be used to pay unemployment insurance benefits to eligible individuals.

### **Eligibility and Computation**

An employer generally becomes eligible for an experience rate after two full calendar years of liability under the law. An experience rate is based on a ratio arrived at by dividing an employer's account balance by its average annual taxable payroll. Rates could range from 0 percent to 6 percent, **not including any increases or decreases applicable to the rate. (See Maximum Contribution Rate Surcharge and/or Contribution Rate Adjustment.)** Rates for employers participating in the Shared Work Program could range from 0 percent to 9 percent, not including any increases or decreases applicable to the rate. (*See Shared Work Program.*)

An employer's account balance is the difference between total unemployment insurance benefits charged and debited, and taxes paid and credited, plus any unassigned surplus, through the preceding July 31.

Depending on how long an employer was subject to the law and reported quarterly wages prior to the last July 1, the computation of an employer's average annual taxable payroll is based on one of the following:

1. One-third of the total taxable wages paid during the 36-month period prior to the last July 1



2. If no wages for employment were paid during any one calendar half year in the 36-month period prior to the last July 1, the average annual payroll is twice the amount of taxable wages paid during the calendar half year in this period wherein the taxable payroll was highest
3. The average annual payroll is the total taxable wages paid during the 12-month period prior to the last July 1
4. If no wages for employment were paid during any one calendar half year in the 12-month period prior to the last July 1, the average annual payroll is twice the amount of taxable wages paid during the calendar half year in the 24-month period prior to the last July 1 wherein the taxable payroll was highest

A determination of the annual tax rate for the following year is mailed to all employers each year during November. Such determinations are subject to appeal and a hearing by an Appeals Tribunal, provided a protest is made in writing, online or by fax within 30 days of the mailing date of the rate determination. *(See Appeal Rights.)*

### **Maximum Contribution Rate Surcharge**

If an employer has been at the maximum contribution rate for two consecutive years, a surcharge of one-quarter percent is added to the contribution rate. In the event that an employer remains at the maximum contribution rate for a third or subsequent year, an additional surcharge of one-quarter percent (0.25%) shall be added each year to the annual rate calculation up to 1 percent. If an employer continues to remain at the maximum contribution rate, an additional surcharge of one-half percent (0.5%) shall be added. In no case shall the surcharge exceed one and one-half percent in any given year.

### **Contribution Rate Adjustment (CRA)**

A Contribution Rate Adjustment is an increase or decrease to the contribution rate based on the average cash balance of the Unemployment Trust Fund. Depending on the balance, the contribution rate can be increased by 10 percent, 20 percent, or 30 percent or can be reduced by 7 percent or 12 percent.

### **Voluntary Payments**

Any employer that is eligible for a rate calculation may submit voluntary payments for the purpose of

reducing its contribution rates under the provisions of Section 288.125 of the Missouri Employment Security Law. This provision reads as follows: *Any employer may make voluntary payments in addition to the contributions required under this law, which shall be credited to his account, in accordance with regulations established by the division. Such payments shall be included in the employer's account as of the preceding calculation date if they are made on or before January 15. Such voluntary payments when accepted from an employer will not be refunded in whole or in part.* The voluntary payment may not be used in payment of subsequent contributions that may become due.

The DES mails a Voluntary Payment Work Sheet with each employer's annual rate notification to those employers that are eligible to submit a voluntary payment for the purpose of reducing their new tax rate. The worksheet has simple formulas to show whether it would be advantageous for an employer to make a voluntary payment. The deadline for making a voluntary payment is January 15 of the year which the payment will affect.

### **Reimbursable Employer**

All governmental entities and nonprofit organizations with a federal exemption under Section 501(c)(3) of the Internal Revenue Code have the option to elect to reimburse the Missouri Unemployment Compensation Fund for the amount of unemployment insurance benefits paid that were attributable to services in its employ.

Such an election must be made in writing either:

1. Within 30 days of the date the original notice of liability is mailed
2. At least 30 days prior to January 1 of a calendar year for which such election shall be effective. Any election to change to reimbursable after an employer was contributing cannot be terminated for two calendar years

Upon approval of an election to reimburse the fund, the employer will remain in that status until a request for termination of the election is filed at least 30 days prior to the calendar year of termination.

### **SUTA Dumping**

State Unemployment Tax Act (SUTA) dumping refers to attempts by employers to pay lower state



unemployment taxes than their experience allows. SUTA dumping practices include shifting payroll from an account with a higher contribution rate to an account with a lower contribution rate and various restructuring schemes to obtain beginning or lower tax rates. The Missouri Employment Security Law bans these practices by mandating transfer of experience in certain situations and prohibiting transfer of experience in others. The law requires the DES to impose substantial penalties on those who knowingly engage in SUTA dumping activities.

## **Wage Reporting and Tax Payments**

### ***Records***

Employers must keep records for at least three calendar years, as well as the current incomplete calendar year. The records must show the following information for each worker:

1. Worker's name and Social Security Number
2. Dates a worker was hired and separated
3. Dates on which a worker performed some services
4. The location where services were performed
5. The amount of remuneration paid each worker
6. The hours of each day in each pay period an individual worked in noncovered employment, and nature of the work performed
7. Wages, including commissions, bonuses, prizes, and gifts. Also, tips received by a worker from persons other than employer, if such tips are reported to the employer for Social Security purposes

### ***Wages***

Reportable wages are gross cash payments, which include bonuses, commissions, vacation pay, holiday pay, and termination pay. Tips are wages to the extent required to be reported under the Federal Unemployment Tax Act (FUTA).

Reportable wages include the reasonable cash value of any goods or services that the employee receives for work performed in lieu of money. The value of non-cash considerations is reportable for all types of employment except domestic or agricultural.

## **1. Medical/Hospitalization**

The law exempts from wages those payments made by an employer to or on behalf of a worker for medical or hospitalization expense or death, including payments made into a fund, annuity, or for insurance for these purposes, provided such payments are made under a plan that applies to all workers or a class of workers. Payments made to an employee for income replacement due to sickness or disability would be wages unless made under a workers' compensation law. Such payments made by a third party should be reported as wages by such third party if no accounting of payments are made to the employer.

The law further exempts from wages any payments on account of sickness, accident, disability, or medical or hospitalization expenses that are made by an employer to or on behalf of an individual after the expiration of six calendar months following the date the individual last worked, regardless if such payments were made under a plan or a workers' compensation law.

## **2. Cafeteria Plan**

Contributions paid by an employee and/or employer for qualified benefits to a cafeteria plan under Internal Revenue Code Section 125 are not reportable. Qualified benefits can be payments to an accident and health plan, group term life insurance premiums, and dependent care assistance benefits up to the limits set by the FUTA.

## **3. Meals**

Wages do not include meals if provided by the employer to the worker for the employer's convenience and on the employer's premise, unless they are required to be reported under the FUTA 26 U.S.C., Section 3306.

## **4. Retirement Plans**

Any type of employer may establish such trusts or annuity plans, as described in the Internal Revenue Code, for the purpose of providing a pension, stock bonus, or profit sharing plan for the benefit of employees.

Wages do not include payments made by an employer to or on behalf of an individual to a qualified retirement plan. Elective salary reduction contri-

Contributions made by an employee to a retirement plan are reportable and taxable.

### **Taxable Wage Base**

There is a limit on the amount of wages paid to an individual worker in a calendar year on which each employer must pay state unemployment tax. The yearly taxable wage limitations are as follows:

<b>Calendar Year</b>	<b>Taxable Wage Limitations</b>
2014	\$13,000
2015	\$13,000
2016	\$13,000
2017	\$13,000
2018	\$12,500

After 2009, the taxable wage base can be increased by \$1,000, or decreased by \$500 for any year, depending on the average balance of the Unemployment Compensation Trust Fund of the four preceding calendar quarters. In no event shall the state taxable wage base increase beyond \$13,000, or decrease to less than \$7,000.

### **Contribution and Wage Report**

Each liable employer is required to file a quarterly contribution and wage report. The most efficient way to file this report is online. (**See Online Reporting.**) Wages earned by the worker and reported by the employer are used to determine a worker's unemployment insurance benefit entitlement and amount of benefits if the worker becomes unemployed and meets the eligibility requirements for an unemployment insurance claim. For this reason, it is important for the employer to file timely quarterly contribution and wage reports even if the employer has a zero percent rate, paid no wages, or is a reimbursable employer.

The quarterly contribution and wage report must show the worker's name, Social Security Number, and the amount of wages paid to each wage earner during a calendar quarter. Wages are reported when paid by the employer to the worker. Work separation dates and the beginning and ending dates of probationary employment should be included in the wage detail section of the quarterly contribution and wage report. (**See Probationary Employment.**)

The report also is used to summarize total and taxable wages paid during the calendar quarter and to

compute the amount of contributions due on the taxable wage total. Complete instructions for preparing this report are furnished with the report.

Quarterly contribution and wage report forms are furnished by the DES and are mailed to all established employers near the end of each calendar quarter. These reports should be filed and taxes paid during the month following the end of each calendar quarter.

No part of the taxes due can be deducted from a worker's pay.

### **Online Reporting**

The DES encourages required quarterly contribution and wage reports be filed online using UInteract. This system automatically calculates total and taxable wages and the taxes due on quarterly contribution reports. Employers with an electronic format may submit their file on UInteract using the Method B option.

In addition to filing quarterly contribution and wage reports, an employer may review and amend reports previously filed; generate a report form to mail in; review outstanding amounts, and submit a payment or request a refund; request 940 certification for the Internal Revenue Service; submit change to contact information; register a new employer and report an employment or ownership change.

Electronic fund [Automated Clearing House (ACH) debit or credit] transfer and credit card are available to submit a payment online or a printable voucher can be sent via mail with payment.

Access Uinteract at [uinteract.labor.mo.gov](http://uinteract.labor.mo.gov). First-time users will need to register using their employer account number and FEIN. The employer will create a user ID and password along with security questions during the registration process. Other users (such as accountants and bookkeepers) can be authorized to file reports for an employer on UInteract. To file on behalf of an employer, the user will need to register as a Third Party Administrator (TPA). Once the TPA is registered and approved by the Division, a power of attorney will be required to associate an employer account to the TPA user ID.

Payroll services may electronically transmit a file with multiple employer account numbers in the National Association of State Workforce Agencies/ Interstate Conference of Employment Security

Agencies (NASWA/ICESA) standardized record format and pay by ACH debit or credit. Contact the DES at 573-751-3422 to register as a payroll service on UInteract.

### **Electronic File Transfer and Magnetic Media Reporting**

The DES promotes the reporting of quarterly wage data online or by magnetic media in a CD format. *(See Online Reporting.)*

Missouri accepts a number of electronic file formats that allow quarterly wage data to be submitted online or magnetic media. If submitting magnetically, test data is required and the media must meet specifications established by the DES. If submitting online, test data is not required. The online system will edit the file and display errors if there are problems. The user will be able to correct the problems and upload the file again.

All employers required to report the Wage and Tax Statement (Form W-2, Copy A) information electronically to the Social Security Administration also are required to report quarterly wage data electronically to the DES. Currently, this requirement applies to employers with 250 or more employees.

For information and specifications on electronic reporting, please visit the DES website [www.labor.mo.gov/sites/labor/files/pubs\\_forms/M-INF-368-AI.pdf](http://www.labor.mo.gov/sites/labor/files/pubs_forms/M-INF-368-AI.pdf), or call 573-751-3422.

### **Probationary Employment**

An individual hired on a trial basis to fill a regular job should be reported as a probationary worker if such worker's period of employment did not exceed 28 consecutive days. If filing a paper report, the letter P and the beginning and ending dates of employment should be entered on the quarterly contribution and wage report. Probationary employment also can be reported online or via magnetic media. The wages should be included in total and taxable wages. **No charges** will be made to a contributory employer's account for any unemployment insurance benefit payments that are attributable to such wages.

Workers hired for temporary, part-time, or casual employment should not be listed as probationary.

Reimbursable employers are liable for all unemployment insurance benefit payments. *(See Benefit Charges.)*

### **Interest Charges**

Interest accrues at a variable rate, as established by the Internal Revenue Service, on taxes that are not timely paid. The DES grants newly subject employers a 30-day extension from date of liability notice to file quarterly contribution and wage reports, and pay taxes. Reports are deemed filed on the date postmarked, or the date received in a DES office if personally or express delivered, or submitted online. *(See Papers Deemed Filed.)*

Any employer may be granted an extension of time not to exceed three months for filing a quarterly contribution and wage report, or paying of taxes, provided a request for an extension is made on or before the due date for filing such quarterly report.

### **Penalties**

Because it is very important for an employer to file all quarterly contribution and wage reports timely, a penalty will be imposed if an employer fails to file any required report by the last day of the month following the date the report became delinquent. The penalty will be 10 percent of the taxes due or \$100, whichever is greater, for each quarterly contribution and wage report not filed timely. This penalty will continue to be imposed each month or fraction of a month the report is not filed. The maximum penalty per quarter is 20 percent of the taxes due or \$200, whichever is greater. This penalty will be applied to all delinquent reports even if the employer's rate is zero percent or the employer is reimbursable and no tax or interest is due.

An employer that cannot pay all the taxes due at the end of the quarter should file the contribution and wage report and make arrangements for payment with the DES central office Collections Unit.

An employer that has an appeal pending should continue to file quarterly contribution and wage reports and include all wages (even those wages in dispute) to avoid penalties.

The law also provides for an additional 25 percent penalty if fraud or evasion is discovered.

QUARTER	SUBMISSION PERIOD	DELINQUENT*	1st PENALTY*	2nd PENALTY*
Three completed calendar months.	The deadline for timely submitting quarterly reports is the last day of the month following the quarter end. Paper quarterly reports can be filed anytime during that month or you can file on UInteract beginning the second business day after the quarter ends.	Quarterly report is delinquent on	One month delinquent. An additional 10 percent of tax due or \$100, whichever is greater, for each month delinquent. Maximum penalty per report is 20 percent or \$200.	Two months delinquent.
1st January, February, March	April 1 - April 30	May 1	June 1	July 1
2nd April, May, June	July 1 - July 31	August 1	September 1	October 1
3rd July, August, September	October 1 - October 31	November 1	December 1	January 1
4th October, November, December	January 1 - January 31	February 1	March 1	April 1

*\*When the date falls on a Saturday, Sunday, or holiday, the first working date following is considered timely.*

**Tax Intercept**

Any past due taxes, interest, and/or penalties are subject to interception of state income tax refund.

**Assessments**

Failure to file quarterly contribution and wage reports or pay state unemployment taxes when due may result in an assessment against the employer for taxes, interest, and penalties, actual or estimated. When final, this assessment may be filed in circuit court as a tax lien. Once filed, it has the effect of a judgment subject to execution and levy of any real or personal property of the employer.

**Audits**

All employing units in Missouri are subject to having their records examined by an authorized DES representative. Audits of employers' records are conducted periodically to ascertain proper reporting of workers and wages. Failure or refusal by an employer or employing unit to make records available may result in the issuance of a subpoena to compel production of books and records.

**Tax Adjustments**

The DES will make adjustments to an employer's account with respect to taxes erroneously paid within the last three years from date due provided the contri-

butions were not paid on wages used on a claim for unemployment insurance benefits. A refund check or a credit against future taxes will be issued on such contributions, without interest. A debit is issued for underpayment of taxes due for any periods. Interest accrues from due dates on such debits.

**State to Which Workers are to be Reported**

All states subscribe to these same tests to determine the correct state of coverage. The tests must be applied in the order listed.

**1. Localized Workers**

An individual who performs all of his/her work within Missouri is a localized Missouri worker. Localized Missouri work could include occasional temporary work outside of the state that is incidental to an individual's regular work in Missouri. Wages paid to localized workers must be reported to the state where the individual works, regardless of where the worker lives.

**2. Multi-State Workers**

An individual whose services are not localized in any one state is referred to as a multi-state worker. A person who customarily performs service both in Missouri and one or more other states would be



reported to Missouri if: (a) the worker's base of operations is in Missouri; (b) the person had no fixed base of operations in any state where services are performed, but the employer directed and controlled the person's services from Missouri; or, (c) the person lived in Missouri and performed some services in Missouri, and the state of coverage cannot be determined by either of the first two tests.

A base of operations is a fixed place where a person receives work instructions, makes reports, and normally departs to begin a tour of duty and returns when the tour is ended. It could be a worker's home or an employer's place of business where a worker reports with some regularity. It is not the place from where an employer directs, controls, and generally transmits instruction and information to a worker by mail or phone. Some multi-state workers have no fixed base of operations.

### **3. Interstate Reciprocal Coverage Arrangement**

When an employee's service is not localized in any one state and none of the tests for multi-state workers apply, an employer can usually elect to cover the entire service of the worker in:

- any state in which the person works
- any state in which the employer maintains a place of business
- the state in which a worker lives

The election must be filed with the state unemployment insurance agency to which the employer wants to report wages. Elections must be approved by all interested state agencies. Most states can enter into the Interstate Reciprocal Coverage Arrangement. Application forms are available for employers wishing to elect to cover services of multi-state workers with the Missouri DES.

### **4. Maritime Interstate Reciprocal Agreement**

The purpose of the Maritime Agreement is to establish that services of officers and members of a vessel's crew engaged in interstate operations are covered for unemployment insurance purposes, and to identify the state that will assume jurisdiction over such services.

The state of coverage is the state that is designated as the home port of the vessel on which the individual worked. That state is responsible for collection

of taxes and payment of unemployment insurance benefits.

### **5. Foreign Services**

Services performed outside the United States (U.S.) (except Canada) by a U.S. citizen for an American employer would be covered under the Missouri Employment Security Law if:

- a. The employer's principal place of business in the U.S. is located in Missouri
- b. The employer has no place of business in the U.S., but:
  1. The employer is an individual who is a resident of Missouri
  2. The employer is a corporation that is organized under the laws of Missouri
  3. The employer is a partnership or trust and the number of partners or trustees who are residents of Missouri is greater than the number who are residents of any other state
  4. The employer has elected coverage of the foreign workers in Missouri and none of the above criteria is met

## **Account Status Changes**

### ***Transfer of Experience Account to a Successor***

An employer should inform the DES immediately when a change in ownership of business occurs. This can be done online at [uinteract.labor.mo.gov](http://uinteract.labor.mo.gov) or by contacting the Division via fax, mail, or phone.

An employer's experience rating account is transferred to one or more successors that, at the same time, acquire and continue without interruption substantially all the business of such predecessor. In addition, if an employer transfers its trade or business, or a portion thereof, to another employer and at the time of the transfer there is substantially common ownership, management, or control of the two employers, then the unemployment experience attributable to the transferred trade or business shall be transferred to the employer to whom such business is so transferred. In the event that any successor was an employer prior to an acquisition, the DES shall make a recalculation of the contribution rate for any successor employer on the date of the acquisition if the date of the acquisition is on the first day of the calendar quarter. If the acqui-



sition date is other than the first day of the calendar quarter, the DES shall make the recalculation on the first day of the next calendar quarter and the successor employer shall use its rate (before recalculation) for the calendar quarter in which the acquisition was made.

A successor shall stand in the position of the predecessor employer in all respects, including the predecessor's separate account, actual contribution and benefit experience, annual payrolls, and liability for current or delinquent taxes, interest, and penalties.

If a change in ownership occurs and the DES determines there is no successorship, the new owner is responsible for taxes and unemployment insurance benefit charges on the wages earned by employees after the acquisition. Taxes and unemployment insurance benefit charges on any wages earned by employees prior to the date of acquisition are the responsibility of the previous owner.

An employer needs to notify the Division in writing or online when it acquires all or part of another business entity. This notification needs to be submitted to the Division within 30 days from the date of the acquisition.

### ***Exemption from Filing Quarterly Contribution and Wage Reports***

An employer that ceases to have employment without a successor to its business may be exempted from filing quarterly contribution and wage reports beginning with the first day of a calendar quarter following the last date it paid any wages provided it files an application for such exemption. The application must show the reason the employer discontinued having employment and that no employment is anticipated in the foreseeable future. An employer may request exemption from filing quarterly contribution and wage reports online at [uinteract.labor.mo.gov](http://uinteract.labor.mo.gov) or by contacting the Division via fax, mail, or phone.

An employer that is exempted from filing quarterly contribution and wage reports continues to be liable for reporting any wages it may later pay for employment subject to the Missouri Employment Security Law until or unless its liability is terminated. The employer should promptly notify the DES if it resumes employment.

## ***Termination of Liability***

An employer may file an application to terminate liability as of January 1 of any calendar year. The application must be filed by February 10 of such year, and must show that the employer and any predecessor combined had less employment and wages during the preceding calendar year than was necessary to become liable under the law. Criteria for terminating coverage during the preceding calendar year is as follows:

**General Business Employer** – Did not pay as much as \$1,500 in total wages during any calendar quarter and had less than 20 weeks in which it employed a worker

**Employer of Domestic Worker** – Did not pay as much as \$1,000 cash wages during any calendar quarter

**Agricultural Employer** – Did not pay as much as \$20,000 cash wages during any calendar quarter and had less than 20 different weeks in which 10 or more workers were employed in all states

**Nonprofit Organizations - 501(c)(3)** – Did not employ four or more workers in 20 weeks

**Governmental Entities** – Did not pay any wages.

The DES will mail an application at the end of a calendar year to any employer that requests termination of coverage during the calendar year.

In addition, any employer not having knowledge of liability for prior years may file an application to terminate coverage beginning any January 1 following the first year of liability if the employer files such application within 90 days from the date of receiving a notice of liability, and employment or wages during any preceding calendar year met the criteria set out above.

## ***Benefit Charges***

### ***Charges to Account of Contributory Employer***

Each employer's account is charged in ratio to the amount of wages paid by such employer to a claimant during the base period of a claim.

The maximum amount of regular unemployment insurance benefits chargeable on a claim within a benefit year is 20 times the weekly benefit amount

(WBA). Section 288.090 of the Missouri Revised Statutes allows for chargeable Extended Benefits (EB) to be one-half of regular unemployment insurance benefits.

### ***Reimbursable Debits***

Reimbursable employers are charged for unemployment insurance benefits in the same ratio as the amount of wages paid to a claimant by such employer during the base period of the claim. Reimbursable employers are billed directly for the entire amount of regular unemployment insurance benefits and one-half of EB paid attributable to the base period wages, except that reimbursable governmental entities must pay the entire amount of EB paid. Reimbursable debits are not charged or credited to an employer's experience rating account. This method of financing unemployment insurance benefits begins with respect to benefits paid for weeks of unemployment that occur after the effective date of an election to change to the reimbursing method.

### ***Account Charge Protection for Contributory Employer***

Unemployment insurance benefit payments would not be charged to a contributory employer's experience account if:

1. It is found that the claimant quit employment to accept more remunerative work, or failed without good cause to accept suitable work offered by the employer
2. The claimant was disqualified for being discharged due to misconduct connected with the work, or quit without good cause attributable to the work or the employer
3. The claimant was paid \$400 or less by the employer during the entire base period of the claim
4. The claimant was properly reported as a probationary worker whose period of employment for the employer was 28 consecutive days or less
5. The claimant continued to work for an employer part time on a regular reoccurring basis each week during the time such claimant received unemployment insurance benefits to the same extent that such claimant previously worked

for the employer, and the employer informs the DES of such part-time employment within 30 days from the date of notice of benefit charges

6. It is found that the claimant quit temporary work from the employer to return to work for a regular employer. Any unemployment insurance benefits paid to the claimant based on wages paid by such temporary employer are charged to the claimant's regular employer
7. The claimant quit work, which was determined not suitable, within 28 calendar days of the first day worked
8. The claimant was discharged because his/her name was placed on the Employee Disqualification List, Disqualification Registry or the Family Care Registry after the date of hire with the discharging employer
9. The claimant quit work to relocate with a military spouse due to the spouse's mandatory and permanent change of station order
10. The claimant retired pursuant to terms of a labor agreement or in accordance with an established employer policy

If it is found the claimant was incorrectly paid because the employer or employer agent failed to respond timely or adequately to a written request for information, and there has been a pattern established of failing to respond timely or adequately, the employer account will not be relieved of charges for the incorrect payments (Rule 8 CSR 10-4.210). A pattern is established based on the instances of failure in relation to the total volume of requests.

### ***There is no account charge protection for reimbursable employers.***

Employers are mailed a quarterly statement of unemployment insurance benefits charged to their respective accounts. Reimbursable employers are mailed a debit/credit memorandum with the Statement of Benefit Charges.

Statements of Benefit Charges are mailed to an employer's principal mailing address. Unemployment insurance benefit charges attributable to wages reported and processed under an additional reporting number, or an establishment reporting code letter, are listed on separate charge sheets attached to the quarterly Statement of Benefit Charges.

## **Determination and Appeal Rights**

### ***Administrative Determination***

A written determination is issued by a deputy concerning employer liability, worker's eligibility for unemployment insurance benefits, unemployment insurance benefit charges to an employer, notification to an employer of rate calculation, or assessment of unpaid taxes, penalties, and interest. The notice of such determination is mailed to the employer's last known address. The deputy may reconsider a determination, for good cause, within a year from the date of mailing such determination.

### ***Appeals***

The appeal process affords all interested parties a legal recourse to an administrative determination. An appeal may be filed by any interested party. An appeal must be filed in writing within 30 days from the date the determination was mailed. The appeal must be signed by the claimant, the claimant's authorized agent, any officer or employee of the employing unit, or by a licensed attorney representing either the claimant or employing unit. The appeal may be filed by mail, online or by fax to the DES office as provided in the determination.

### ***Hearings***

An impartial Referee is designated to conduct a hearing on disputed administrative determinations. A Referee will schedule a hearing to give interested parties a reasonable opportunity to present evidence. Generally, hearings are held by phone conference; however, an in-person hearing may be requested. In-person hearings are held in St. Louis, Kansas City, Springfield, or Jefferson City, whichever is most convenient for the parties. Notices of Hearing are mailed at least seven days in advance of the hearing date.

All interested parties will be mailed a copy of the Referee's decision. The decision shall become final, unless an application for review of the decision is filed with the Labor and Industrial Relations Commission, within 30 days from the date of mailing of the Referee's decision.

### ***Commission Review***

Application for Review of a Referee's decision is filed with the Missouri Labor and Industrial Relations Commission (LIRC). The LIRC may allow or deny

the Application for Review. If the application is allowed, the LIRC may affirm, reverse, modify, or set aside the appeals decision. If the appeals decision is set aside, the LIRC may take additional evidence or remand the matter back to the Appeals Tribunal with instructions. A notice of the LIRC's decision is mailed to all interested parties and becomes final 10 days from the date of mailing of the notice.

Any interested party may be represented by an attorney in any proceeding before the Appeals Tribunal or the LIRC.

### ***Judicial Review***

Application for judicial review of the LIRC decision involving an employer's liability must be made with the appropriate appellate court within 20 days after the LIRC's decision becomes final.

## **Papers Deemed Filed**

All appeals, reports, and other papers filed with the Missouri DES are deemed filed either as of the date endorsed by the U.S. Postal Service (USPS), or if not endorsed by the USPS, the date received at the DES or the date received by fax to the DES office. If the last date for filing of any papers falls on Saturday, Sunday, or legal holiday, the filing shall be deemed timely if accomplished on the next day, which is neither a Saturday, Sunday, nor legal holiday.

## **Shared Work Program**

The Shared Work Unemployment Insurance Program is designed to help employers and employees. It is an alternative for employers faced with a reduction in workforce. It allows an employer to divide the available work or hours of work among a specified group of affected employees in lieu of a layoff, and it allows the employees to receive a portion of their unemployment insurance benefits while working reduced hours.

### ***Process***

An interested employer may obtain a Shared Work Plan Application by contacting the Missouri Division of Employment Security, P.O. Box 3100, Jefferson City, MO 65102-3100, completing the application online using UInteract, or calling 573-751-9675 (573-751-WORK). To participate, an employer must reduce

the normal weekly hours of work for an employee in the affected unit by at least 20 percent (but not more than 40 percent) and the plan must apply to at least 10 percent of the employees in the affected unit who meet monetary requirements for regular unemployment insurance benefits. If the plan is approved by the DES, workers who qualify for unemployment benefits would receive both wages and Shared Work benefits. The Shared Work benefits would be that percentage of regular unemployment insurance benefits that matches the reduction described in the employer's plan.

*For example:*

A firm facing a 20 percent reduction in production usually lays off one-fifth of its workforce. Faced with this situation, a company could retain its total workforce on a four-day-a-week basis. This reduction from 40 hours to 32 hours cuts production by the required 20 percent without reducing the number of employees. All affected employees receive their weekly wages based on four days of work and, in addition, receive a portion of unemployment insurance benefits equal to 20 percent of the unemployment insurance weekly benefit amount (WBA) payable had the employee been unemployed a full week.

An employee normally works a 40-hour week. The employer has to reduce the work schedule by 20 percent. The employer submits a plan and it is approved under the Shared Work Program.

*For example:*

If the employee qualifies for regular unemployment insurance benefits with a WBA of \$320.

$20\% \times 40 \text{ hour work week} = 8 \text{ hours}$

Employee works and earns wages for 32 hours

$20\% \times \$320 \text{ WBA} = \$64$

In the above example, the employee would receive \$64 of unemployment insurance benefits in addition to the 32 hours of wages earned from the employer.

### **Conditions**

The DES may approve a Shared Work Plan if:

- There is an affected unit of not less than three employees
- The normal weekly hours of work and corresponding wages for a participating employee

are reduced in the plan by not less than 20 percent and no more than 40 percent

- The plan applies to at least 10 percent of the employees in the affected unit
- The employer certifies that the fringe benefits provided will remain the same as if their normal hours had not been reduced, or to the same extent as other employees not participating in the Shared Work Program
- The employer certifies that the implementation of a Shared Work Plan and the resulting reduction in work hours is in lieu of a layoff that would affect at least 10 percent of the employees in the affected unit and that would result in an equivalent reduction in work hours
- The employer has submitted all quarterly contribution and wage reports required to be filed for all past and current periods, and has paid all taxes due for all past and current periods
- The plan includes an estimate of the number of employees who would be laid off if the employer does not participate in the Shared Work Unemployment Compensation Program
- The plan describes the manner in which employees in the affected unit will be notified of the employer's participation in the program
- The employer certifies its participation in the Shared Work Plan and that its implementation is consistent with the employer's obligation under federal and state laws

*Conditions For Shared Work Benefits:*

- Individuals must be able to work, and be available for their normal hours of work with the participating employer
- Individuals must be eligible for regular unemployment insurance benefits in Missouri

### **Application Format**

*Applications must contain:*

- Name and Missouri account number of employer
- Description of how fringe benefits will be affected by the plan
- Concurrence of a bargaining representative if one exists
- Certification that:



1. The plan applies to at least 10 percent of employees
  2. The reduction is in lieu of layoffs
- An attached listing of affected employees showing:
    1. Full names
    2. Social Security Numbers

***Process once Application is Filed:***

The DES shall approve or deny a Shared Work Plan Application within 30 days after the day on which the plan is received.

If approved, the plan shall remain in effect for one year beginning the first day of the week in which it was approved, or at a later date as specified in the Shared Work Plan. The plan can be modified if the modification(s) conforms to the basic provisions of the plan and the modification(s) is approved by the DES. Any request for modification must be given as written notice to the DES at least seven days before the change becomes effective.

Once the plan is approved, the employer must complete a weekly or biweekly request for payment. That request can be sent to employers or completed online using UInteract for each week the plan is to be followed. A recent change to the Missouri Revised Statutes directly affects the processing of weekly requests for payment for unemployment insurance benefits. The law change as provided in Section 288.040.1(5), states a claimant shall be eligible for benefits for any week only if the deputy finds that a **claim for benefits is made within 14 days from the last day of the week being claimed.** The 14-day period may, for good cause, be extended to 28 days.

**It is extremely important for employers to submit all Shared Work Plans and requests for payment on time. Any delay may result in unemployment insurance benefits being denied due to late receipt of weekly requests for payment.**

***Will Participation Affect an Employer’s Unemployment Tax Rate?***

Unemployment insurance benefits paid under Shared Work Plans are charged back against employers’ accounts for use in computing general (experience) tax rates. They affect employers’ tax rates in the

same manner and to the same extent as other charge-backs of unemployment insurance benefits.

- An employer eligible for a tax rate based on individual experience has the potential of paying a maximum unemployment tax rate of 9 percent, plus applicable surcharge and any increase/decrease to the annual rate.
- A new employer generally becomes eligible for an experience rate after two full calendar years of liability under the law. Until then, employers choosing to enroll in the Shared Work Program that are not eligible for an experience rate will be assigned a rate of 9 percent, plus applicable surcharge and any increase/decrease to the annual rate.
- An employer that is not eligible for an experience rate after once becoming eligible because there are not 12 consecutive months immediately preceding the calculation date throughout which the account could have been charged with unemployment insurance benefits will be assigned the maximum unemployment tax rate of 9 percent, plus applicable surcharge and any increase/decrease to the annual rate.

The potential for a 9 percent maximum unemployment tax rate remains in effect for the year the employer enrolls in the Shared Work Program and for three years following.

**Posters**

Each employer is required to post and maintain a poster, Notice to Workers Concerning Unemployment Benefits (MODES-B-2). This notice should be placed in a location that is visible to all workers. A copy of the poster can be requested from the DES or downloaded from the website [www.labor.mo.gov/sites/labor/files/pubs\\_forms/MODES-B-2-AI.pdf](http://www.labor.mo.gov/sites/labor/files/pubs_forms/MODES-B-2-AI.pdf). If your workers do not have access to the poster, they should be notified that they are covered by unemployment insurance. An Information for Workers (MODES-INF-170-11) pamphlet is mailed to a worker upon filing a new claim for unemployment insurance benefits. This same information for a worker also is available at the website [moclaim.mo.gov](http://moclaim.mo.gov).



## **Benefit Claims**

### ***Filing of Benefit Claims***

A claim for unemployment insurance benefits may be filed when a worker is totally or partially unemployed. The worker is then referred to as a claimant by the DES. If an individual files a new claim, it is effective the Sunday of the week in which it is filed.

A claimant is deemed partially unemployed in any week of less than full-time work if the wages payable for such week do not exceed a sum equal to the weekly benefit amount (WBA), plus \$20 or 20 percent of the claimant's WBA, whichever is greater.

The Electronic Mass Claims Filing System is available to employers during a temporary mass layoff. Employee information provided by the employer allows the DES to quickly and efficiently file initial and renewed unemployment insurance claims on behalf of employees. This filing is available when at least 20 workers are totally unemployed. The temporary layoff cannot exceed eight consecutive weeks. For additional information, contact the Unemployment Insurance Programs Section at 573-751-3648 or access online at [www.labor.mo.gov](http://www.labor.mo.gov).

### ***Benefit Year***

The claimant's benefit year is the one-year period beginning with the claim's effective date.

### ***Base Period***

Benefits that may be payable to a claimant during a benefit year are based on wages paid in the base period, which is the first four of the last five completed calendar quarters immediately preceding the effective date of the claim. In order to qualify as an insured worker, claimants must have wages for insured work of at least \$2,250 (at least \$1,500 during one of the calendar quarters, and at least \$750 during the remaining quarters) during the base period of the claim and the total base period wages must be at least one and one-half times their highest quarter of wages.

Claimants not meeting the above provisions may qualify under an alternate method by having been paid wages for insured work in at least two quarters of their base period with total base period wages that equal one and one-half times the maximum taxable wage base. (*See Taxable Wage Base.*)

## ***Benefit Amount***

The WBA is calculated at four percent of the average of the two highest quarters of the base period wages, not to exceed \$320. If the average of the two highest quarters is \$8,000 or higher, the WBA will be \$320 per week.

All WBAs are rounded down to the next lower multiple of \$1.

The maximum benefit amount is the most that can be received in a benefit year. It is 20 times the WBA, or one-third of the claimant's base-period earnings, whichever is less. Wage credits each quarter are limited to 26 times the claimant's WBA.

### ***Extended Benefits***

When the rate of insured unemployment in Missouri equals or exceeds levels specified by law, an eligible claimant may be paid Extended Benefits (EB). The eligibility criteria, maximum amount of EB payable and the cost to the employer also are specified by law.

### ***Claim Notices***

When a new claim is filed and the claimant has sufficient wages to qualify for an unemployment insurance benefit claim, a notice of the claim is sent to the last employing unit for which the claimant worked and to each employer in the claimant's base period. A notice will not be sent to a base period contributory employer that paid wages of \$400 or less during the base period. Should a claimant renew his or her claim for unemployment insurance benefits at any time during this benefit year, a similar notice is sent to the last employing unit for which the claimant worked and to any base period employer that has filed a request to be notified the next time the claim is renewed.

If you are an employer participating in the State Information Data Exchange System (SIDES) or use a third-party administrator who participates in SIDES, your notices are sent electronically using SIDES. Additional information can be obtained at [www.labor.mo.gov/DES/SIDES](http://www.labor.mo.gov/DES/SIDES). For all other employers, Claims Notices will be mailed to your address of record unless you have elected to receive electronic notifications of correspondence from the Division. (*See Mailing Address.*)

## ***Employer's Protest Upon Receipt of Claim Notice***

If an employer has information that it believes would cause an individual to be held ineligible or disqualified from receiving unemployment insurance benefits, a protest should be filed immediately. You can file your protest online at <https://uisides.org> if the notice of claim filed included information on this process or by using Quick Access following the instructions on the Notice of Claim. Protests can also be filed by mail or fax. To be considered timely, the protest must be transmitted or post-marked before midnight Central Time on the date shown on the notice. Protests must be mailed to: Division of Employment Security, P.O. Box 3915, Jefferson City, MO 65102, or faxed to: 573-751-2009. If filed by mail, the U.S. postmark or private meter date is used to determine the date of filing. If there is both a postmark date and a private meter date, the postmark is used. If there is not a U.S. postmark or private meter date, the date the protest is received by the DES will be the controlling date.

## ***Benefit Eligibility Requirements***

In order to be eligible to receive unemployment insurance benefits, a claimant must be totally or partially unemployed, able to work, and available for full-time work. In order to be considered available for work, the claimant must be actively and earnestly seeking employment. A claimant may be ineligible if unemployed because of a suspension for misconduct connected with work, a stoppage of work due to a labor dispute or a leave of absence. All earnings for the week including any vacation, holiday, or Worker Adjustment and Retraining Notification (WARN) pay are reportable and deductible. Remuneration received from employer pension or Temporary Partial Workers' Compensation may also be reportable and deductible.

If the DES finds the claimant was discharged for misconduct connected with work, the disqualification only can be terminated if the claimant earns six times his/her WBA in insured work after the date of discharge. If a claimant is disqualified on a subsequent discharge, the claimant shall be required to earn wages in an amount equal to or in excess of six times the claimant's WBA for each disqualification.

A claimant may be disqualified until other employment is secured and at least 10 times the WBA in insured work is earned if the claimant voluntarily left employment without good cause attributable to the employer or to the work. This same disqualification may apply if the claimant refused to apply for or accept suitable employment offered through the DES, designated staff of a state or state-controlled public employment office, or former employer.

## ***Information Needed in Employer Protests***

When filing a protest in response to a mailed notice, the employer must return the notice with the protest unless the response is made using SIDES, SIDES E-Response or Quick Access. The employer should provide all available facts regarding the case including the date of the discharge or quit, or date the claimant refused work. Information on payments such as holiday, vacation, WARN, or pension also should be included in the protest. This will assure that all facts are considered by the deputy in making the determination. It also will permit the deputy to make a determination without taking up the employer's time to secure a second statement. The following summary outlines the type of facts needed by the DES deputy:

1. Quit without good cause attributable to work:
  - a. What the claimant said or did to indicate an intention to quit. If a claimant simply failed to show up for work, make a statement to that effect giving the date last worked
  - b. Complaints made by the claimant concerning the work, requests for transfer to other work, or for leave of absence
  - c. Any statements by the claimant about the reason for leaving and future plans
  - d. Failure to report for work when called back after a temporary layoff. Give date the claimant was to report for work
  - e. Failure to return to work after expiration of authorized leave, such as sick leave, vacation, etc. Give date worker failed to return
  - f. If retirement is pursuant to terms of union contract or established policy of the employer, give the terms of the retirement agreement
  - g. If employer is a temporary help firm, did the claimant contact the temporary help firm after the assignment ended and prior to filing for unemployment insurance benefits for

reassignment? Was the claimant informed of the obligation to contact the employer upon completion of the assignment and that failure to do so may result in denial of unemployment insurance benefits? If contact was made, give date of contact and result of contact

- h. Any attempts the employer made to accommodate the claimant's requests or to address any issues the claimant brought forth
  - i. Any requests the employer made for documentation and the responses received from the claimant
2. Refusal of work by a claimant:
- a. Evidence to show that the work offer was legitimate and communicated to the claimant. How notified - type of work - rate of pay - hours of work - location of job - date to report
  - b. Reason given for refusing the offer and the date the job was to begin
  - c. Facts that would help the deputy in deciding if the claimant was justified in refusing the work offer
  - d. If you have work available for this claimant, you may offer it at any time during the claimant's benefit year. Contact the Regional Claims Center (RCC) serving your area, or indicate on the claim notice and return to the address on the notice
  - e. The employer will be an interested party to a refusal of suitable work if a written protest is filed within 10 days of the claimant's refusal of work
3. Drug- and alcohol-related discharge:  
Section 288.045 of the Missouri Employment Security Law addresses discharges due to a positive drug and/or alcohol test and what is necessary to find misconduct under this section of the law.
4. Discharge for misconduct in connection with work:
- a. The date of the discharge and who discharged the claimant
  - b. All incidents of unsatisfactory conduct that played a part in the disciplinary actions, such

as carelessness or negligence, absenteeism, inefficiency, dishonesty, etc.

- c. Details of all warnings and reprimands, written or verbal
  - d. Details of the final incident that resulted in the discharge
  - e. The policy regarding the incident that led to discharge and how the claimant would have been aware of this policy. If possible, attach a copy of the policy with the protest
5. Layoff for lack of work:  
You should not protest a claim based on a separation for this reason
6. Ability to work and availability for work:
- a. One of the primary provisions in the law that distinguishes the Unemployment Insurance Program from a public assistance program is that for each week of unemployment for which benefits are paid, the deputy must find that the claimant is able to work, available for work, and actively and earnestly seeking work
  - b. The requirement of making an active and earnest search for work may be waived for those claimants who are unemployed through no fault of their own and have a definite recall date within eight weeks of the first day of their unemployment. Employers may request in writing to extend the work search waiver for recall dates beyond eight weeks but not to exceed 16 weeks. These requests will be granted at the discretion of the DES Director
  - c. Unless the work search requirement has been waived for reasons explained above, claimants are required to report to a Division of Workforce Development Missouri Career Center to participate in re-employment services and use [jobs.mo.gov](http://jobs.mo.gov) to search for work in addition to their other work search activities
7. Payments for holiday, vacation, WARN, or pension.  
Holiday or vacation pay:
- a. Number of hours of holiday or vacation pay and amount of pay
  - b. Period pay will cover, if designated

- c. Anticipated date holiday or vacation will be paid
- d. Normal pay dates

**WARN:**

- a. Period of time pay will cover
- b. Amount of pay
- c. Normal weekly or hourly rate of pay
- d. Normal number of hours worked each week

**Pension:**

- a. Amount of pension before deductions
- b. When pension will start
- c. Percentage of contribution to the pension fund by the employer
- d. Whether the wages used to establish this claim for unemployment insurance benefits (base period wages) were also used in the calculation of the pension

***Deputy's Determination in Answer to Employer's Protest***

When a claim is filed, a deputy's determination is made if the separation from the last employer is other than lack of work. A deputy will gather all facts regarding the separation from work and issue a determination regarding receiving benefits or benefit eligibility. Any base period employer who files a timely protest to a claim will be sent a copy of the deputy's determination. If a determination denies unemployment benefits to the claimant for any reason and the employer received a copy of the original determination, the employer will be notified of the date the claimant becomes eligible.

When the deputy's determination disqualifies a claimant as a result of separation from work or because of refusal to accept work with the employer, the account of a contributory employer will not be charged with any subsequent unemployment benefits paid the claimant based on wages paid prior to the date of the separation or job refusal.

Employers who do not provide timely or adequate information in response to a written notice and that failure results in a benefit overpayment will not be relieved of benefit charges for the overpaid weeks if the employer has established a pattern of not providing timely and/or adequate information.

There is no account charge protection for reimbursable employers. They will be liable for all unemployment benefit payments.

A deputy's determination involving only an eligibility issue does not relieve any employer's account of benefit charges for weeks outside the specific ineligible period.

***Appeal from Deputy's Determination***

If you do not understand any determination or notice you receive about a claim, contact a RCC representative for an explanation. If you disagree with a determination, you may file an appeal. You may appeal if you believe that the law was incorrectly applied or that all the facts were not considered when the determination was made. An appeal may be filed by any employee of a corporation, partnership, or other business entity authorized by law. An appeal also can be filed by a licensed attorney.

Appeal rights and time limits are explained on each determination. If an appeal is not filed within the time limit, you may lose your right to appeal. The time limits for filing can only be extended for good cause. Generally, only circumstances beyond your reasonable control will be considered good cause for late filing. You can file the appeal by mail, online or fax to the address listed on the determination.

After an appeal is filed, the Appeals Section will notify you of the date, time, and method of the hearing. All interested parties taking part in the hearing will be allowed to provide sworn testimony. A written decision will be mailed to all interested parties after the hearing. The decision may affirm, reverse, modify, or remand the deputy's determination.

If the employer is dissatisfied with the decision of the Referee, the case may be carried through subsequent appeal stages to the Missouri Labor and Industrial Relations Commission, and then to the courts for a final decision.

***Benefit Payments***

A claimant who is determined eligible for unemployment benefits must serve a waiting week before being paid benefits. Only one waiting week is required during the benefit year. After serving the waiting week, the claimant is paid unemployment benefits for subsequent weeks of total or partial unemployment if not disqualified and the deputy finds that all the



eligibility requirements of the law have been met. The waiting week will be paid once the balance on the claim is equal to or less than the payable amount for the week.

If a claimant has received unemployment benefits and later receives a back pay award for the same period, the claimant may be overpaid if the back pay is ordered by a governmental agency, court of competent jurisdiction, or as a result of arbitration proceedings.

If an overpayment is established under these circumstances, the employer is required to withhold from the back pay award the amount of unemployment benefits determined overpaid. This amount is then paid to the DES by the employer.

In order for the employer to determine the amount of unemployment benefits paid in these cases, the employer should contact the DES at 573-751-0059.

### **Penalties**

A penalty may be assessed when an employer commits fraud by misrepresenting, misstating, or failing to disclose information in order to deny unemployment benefits. For a first occurrence of fraud, the amount of penalty is 25 percent of the amount of unemployment benefits denied. The amount of penalty goes up to 100 percent of the amount of unemployment benefits denied for subsequent occurrences of fraud.

An employer also can be found guilty of a misdemeanor and subject to a fine or imprisonment in the county jail for making a false statement or knowingly failing to disclose a material fact to prevent or reduce the payment of unemployment insurance benefits.

### **How to Contact a Regional Claims Center**

Employers needing to speak to a claims representative should contact the RCC that serves their area as listed below. The RCCs are open and accept phone calls from 8 a.m. to 5 p.m., Central time, Monday through Friday. Employers should follow the prompts when the call is answered by the DES Interactive Voice Response (IVR) System. Wait time on the phone will be less if you know your employer 10-digit Missouri Unemployment Account Number, or 9-digit Federal Identification Number.

Jefferson City local: 573-751-9040

Kansas City local: 816-889-3101

Springfield local: 417-895-6851

St. Louis local: 314-340-4950

If outside the above calling areas:  
800-320-2519

## **Mailing Address**

**Tax:** Mailings such as quarterly contribution and wage reports, benefit charge statements, annual tax rate notifications, and tax liability determinations are sent to the employer's principal mailing address.

**Benefit Claims:** The Notice to Base Period Employer is sent to the employer's principal mailing address, *unless* a separate address is established for the mailing of unemployment claim notices (*see below*). The notice to last employing unit is mailed to whatever address is provided by the claimant. (***See Claim Notices.***) Determinations will be mailed to the address shown on the employer protest, unless the employer specifies the determination be sent to another address.

**Change:** To request a separate claims address, or change the principal mailing address, please write to:

Division of Employment Security

Attn: Liability Unit

P.O. Box 59

Jefferson City, MO 65104-0059

Fax: 573-751-3900

Email: [EmployerAddressChange@labor.mo.gov](mailto:EmployerAddressChange@labor.mo.gov)

Online: [uinteract.labor.mo.gov](http://uinteract.labor.mo.gov)

## **Equal Opportunity is the Law**

It is against the law for this recipient of Federal financial assistance to discriminate on the following bases: against any individual in the United States, on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, sex stereotyping, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or, against any beneficiary of, applicant to, or participant in programs financially assisted under Title

I of the Workforce Innovation and Opportunity Act, on the basis of the individual's citizenship status or participation in any WIOA Title I-financially assisted program or activity.

The recipient must not discriminate in any of the following areas: deciding who will be admitted, or have access, to any WIOA Title I-financially assisted program or activity; providing opportunities in, or treating any person with regard to, such a program or activity; or making employment decisions in the administration of, or in connection with, such a program or activity.

Recipients of federal financial assistance must take reasonable steps to ensure that communications with individuals with disabilities are as effective as communications with others. This means that, upon request and at no cost to the individual, recipients are required to provide appropriate auxiliary aids and services to qualified individuals with disabilities.

### ***What to do if you Believe you have Experienced Discrimination***

If you think that you have been subjected to discrimination under a WIOA Title I-financially assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with either:

Andrea Follett, Equal Opportunity Officer  
Division of Employment Security  
P.O. Box 59, Jefferson City, MO 65104-0059  
Phone: 573-751-1339 Fax: 573-751-4945  
Email: [EO@labor.mo.gov](mailto:EO@labor.mo.gov)

or

Director, Civil Rights Center (CRC)  
U.S. Department of Labor  
200 Constitution Avenue NW, Room N-4123  
Washington, DC 20210

or electronically as directed on the CRC website at  
[www.dol.gov/crc](http://www.dol.gov/crc)

If you file your complaint with the DES, you must wait until the DES issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing with the CRC (see address above). If the DES does not give you a written Notice of Final Action within 90 days of the day on which you filed your complaint, you may file a complaint with CRC before receiving that Notice. However,

you must file your CRC complaint within 30 days of the 90-day deadline (in other words, within 120 days after the day on which you filed your complaint with the DES). If the DES does give you a written Notice of Final Action on your complaint, but you are dissatisfied with the decision or resolution, you may file a complaint with CRC. You must file your CRC complaint within 30 days of the date on which you received the Notice of Final Action.

For more information, review the Missouri Department of Labor's equal opportunity policy at [www.labor.mo.gov/EO](http://www.labor.mo.gov/EO).

**IMPORTANT:** This process for complaints of discrimination should not be used if you are appealing an eligibility or monetary determination to unemployment benefits. See The Appeals Process on page 3 or visit [www.labor.mo.gov/DES/Appeals/how\\_to\\_file\\_appeal](http://www.labor.mo.gov/DES/Appeals/how_to_file_appeal).

For further information relating to tax liability or unemployment insurance benefits:

Missouri Division of Employment Security,  
P.O. Box 59, Jefferson City, MO 65104-0059

573-751-3215

[www.labor.mo.gov/DES/Employers](http://www.labor.mo.gov/DES/Employers)

[www.labor.mo.gov/DES](http://www.labor.mo.gov/DES)

*IMPORTANT: If needed, call 573-751-1995 for assistance in the translation and understanding of the information in this document.*

*¡IMPORTANTE!: Si es necesario, llame al 573-751-1995 para asistencia en la traducción y entendimiento de la información en este documento.*

*Missouri Division of Employment Security is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. TDD/TTY: 800-735-2966 Relay Missouri: 711*