

# EMPLOYER HANDBOOK

## NEVADA UNEMPLOYMENT COMPENSATION PROGRAM



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**Nevada Department of Employment,  
Training and Rehabilitation**

STATE OF NEVADA  
DEPARTMENT OF EMPLOYMENT, TRAINING & REHABILITATION  
EMPLOYMENT SECURITY DIVISION  
CONTRIBUTIONS SECTION

Revised October 2017



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# EMPLOYER HANDBOOK

## NEVADA UNEMPLOYMENT COMPENSATION PROGRAM



Prepared By

EMPLOYMENT SECURITY DIVISION  
UNEMPLOYMENT INSURANCE  
SUPPORT SERVICES SECTION

The statements in this handbook are for general information  
and do not have the effect of law or regulation.

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## **EMPLOYMENT SECURITY DIVISION**

### **State Administrative Office**

500 E. Third Street  
Carson City, Nevada 89713

### **Contributions Section**

1320 S. Curry Street, Carson City, Nevada  
Mailing Address: 500 E. Third Street, Carson City, Nevada 89713-0030  
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TTY/TDD and Voice: Relay Nevada 711 or (800) 326-6868

**Web Site:** <http://ui.nv.gov/ess>

### **Field Audit Offices**

#### **Carson City**

1340 S. Curry Street, Carson City, Nevada  
Mailing Address: 500 E. Third Street, Carson City, Nevada 89713-0030  
Telephone: (775) 684-6390

#### **Las Vegas**

2800 E. St. Louis Avenue, Las Vegas, Nevada 89104  
Telephone: (702) 486-0250

An equal opportunity employer/program Auxiliary aids and services available  
upon request for individuals with disabilities

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# NEVADA UNEMPLOYMENT COMPENSATION PROGRAM



## Introduction

The 1937 Nevada State Legislature declared that “Economic insecurity due to unemployment is a serious menace to the health, welfare, and morals of the people of this state.” The Unemployment Compensation Law was enacted to require the compulsory setting aside of financial reserves to provide temporary partial replacement of income to unemployed workers.



## Financing

Unemployment Insurance Benefits paid to unemployed workers are financed by a payroll tax on employers; **there is no deduction from an employee’s wages.** Taxes collected for this purpose are set aside in a trust fund that can be used only to pay benefits to unemployed Nevada workers. State and federal laws prohibit the use of these resources for any other purpose. Administrative funding to operate the state program is provided by the Federal Unemployment Tax, through the United States Department of Labor.



## Unemployment Benefits

Unlike welfare, entitlement to unemployment benefits is not based on need. Eligibility and amount of weekly benefits are determined by an individual’s earnings in previous employment, but cannot exceed 50 percent of the average weekly wage of all Nevada workers. As a condition for receiving benefits, an individual must be able to work, willing to accept suitable work, and actively seeking work.

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### **Aid to the Business Community**

The Unemployment Compensation Program serves as a safety net to the business community and the entire economy of the state. Unemployment benefits provide purchasing power during economic downturns, thereby reducing the “snowball” effect of a recession. During periods of temporary closures and reductions in work force, the program also serves to keep skilled workers in the community available for employers who may need them. And, through the use of variable tax rates, employers are provided an incentive to stabilize employment.



### **Employment Service**

Nevada JobConnect, a consortium of public, private, and nonprofit employment, training, education, and rehabilitation providers, is responsible for the oversight and provision of workforce development services to both businesses and jobseekers. The Department of Employment, Training and Rehabilitation is a proud partner in the Nevada JobConnect system. For businesses, the services include recruiting, retention, training, and out-placement services, as well as labor market statistics. The services are free to all Nevada businesses. Nevada JobConnect offices are located statewide. See Appendix C for the telephone numbers or visit the department’s web site at [www.nvdetr.org](http://www.nvdetr.org).



### **Federal/State Partnership**

Nevada is part of a nationwide unemployment insurance system established in 1935 by the Federal Unemployment Tax Act. Although states are left largely to operate their own programs, the act provides for oversight responsibilities by the Secretary of Labor. The federal unemployment tax is imposed on employers to provide administrative funds for operation of state programs. However, to ensure that all states maintain an adequate unemployment insurance system, the act also provides that the tax will be reduced by up to 90 percent if the employer participates in a state program approved by the Secretary of Labor.

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Currently, the federal tax is 6.0 percent of each employee's wages, up to \$7,000. By participating in the Nevada Unemployment Compensation Program, the federal rate is reduced to 0.6 percent.



**Employers who fail to pay state unemployment taxes when due will not receive the full reduction to their Federal Unemployment Tax.**



### **Administration**

The Employment Security Division is managed by a full-time administrator appointed by the Director of the Department of Employment, Training and Rehabilitation. A nine-member Employment Security Council serves as an advisory committee to the administrator. The council members are appointed by the governor, with three representing employers, three representing labor, and three representing the general public. Regular meetings of the Employment Security Council may be held twice in each calendar year. Special meetings, not to exceed six in a calendar year, may be held at the call of the chairman.



### **Assistance for the Disabled**

The Employment Security Division provides assistance for disabled persons. If you are disabled or require assistance, please contact the particular office prior to any visit to request special accommodations.

Those who are deaf, hard of hearing, or speech impaired may contact the Employment Security Division at Relay Nevada 711 or (800) 326-6868.



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## WHO MUST PAY?

Generally, any employing unit that has paid wages for employment in Nevada of \$225 or more during any calendar quarter must register with the Employment Security Division, and pay taxes on those wages.

In general, an “**employing unit**” means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company, corporation, or a receiver or trustee in bankruptcy. “**Employment**” means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied.



### Are There Any Exclusions?

Under Nevada Unemployment Compensation Law, certain services are specifically excluded from the definition of “employment.” The following services are excluded:

#### **Agricultural Labor, only if:**

**NRS 612.090**

- A. The employer paid **less than** \$20,000 in **cash** wages during **each** calendar quarter of the current calendar year **and** the preceding calendar year to persons employed in agricultural labor; **or**
- B. Employed **fewer than** 10 persons in agricultural labor for some portion of the day for 20 days or more during the current calendar year **and** the preceding calendar year.

**NOTE: In computing the \$20,000 limit, the value of room and meals, or any other form of payment other than cash, is not to be considered.**



1. **If an agricultural employer reaches the \$20,000 or 10 employee limit at any time during any quarter of the current or preceding calendar year, he is subject for the entire year.**
2. **If an agricultural employer is subject to the Federal Unemployment Tax Act, he is automatically subject to state law.**

### **Churches**

**NRS 612.121**

Service performed for a church or an association of churches, or an organization which is operated primarily for religious purposes **and** which is operated, supervised, controlled or principally supported by a church or convention or association of churches.

### **Direct Sellers, only if:**

**NRS 612.144**

- A. The person directly sells or solicits the sale of products, (the term “product” means a tangible good or an intangible service, or both) in person or by telephone: (1) on the basis of a deposit, commission, purchase for resale or similar arrangement specified by the administrator by regulation, if products are to be resold to another person in his home or place other than a retail store; **or** (2) to another person from his home or place other than a retail store; **and**
- B. The person receives compensation or remuneration based on their sales or the service they perform for customers rather than for the number of hours worked; **and**
- C. The person performs the service pursuant to a written agreement with the person for whom the services are performed which provides that they are not an employee for the purposes of unemployment compensation.



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**Domestic Service****NRS 612.095**

Service performed in a private home or a college fraternity or sorority **unless** the amount paid in **cash** wages is \$1,000 or more during any calendar quarter. Whenever the \$1,000 limit is reached, **all** domestic service for that entire calendar year **and** the following calendar year is subject to the law. In computing the \$1,000 limit, the value of room and meals or any other form of payment other than cash is excluded.

**NOTE: Domestic service includes all service for a person in the operation and maintenance of a private household, local college club, or local chapter of a college fraternity or sorority as distinguished from service as an employee in the pursuit of an employer’s trade, occupation, profession, or vocation.**

**Family Services****NRS 612.105**

Service performed by an individual for their son, daughter, or spouse, and service by a child under the age of 18 for their father or mother. This exclusion applies to foster and step relationships, as well as natural and adoptive relationships.

**NOTE: Service performed for a corporation (including a subchapter “S” corporation) is not excluded under this provision. In the case of a partnership, the exclusion applies only if a required family relationship exists between the employee and each of the partners.**

**Federal Employment or Other States****NRS 612.110**

Service in the employ of the United States Government, or any other state, or their instrumentalities or political subdivisions.

**Hospital Patients****NRS 612.117**

Service performed for a hospital by a patient of the hospital.

**Ministers****NRS 612.121**

Service performed by a duly ordained, commissioned, or licensed minister in the exercise of their ministry or by a member of a religious order in the exercise of duties required by such order.

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**Newspaper Carriers**

**NRS 612.130**

Service performed by newspaper carriers if **under the age of 18 years**.

**Nonprofit Organizations, only if:**

**NRS 612.121**

- A. The organization is exempt under Section 501(c)(3) of the Internal Revenue Code; **and**
- B. The organization did **not** employ four or more persons for some portion of a day in each of 20 weeks during either the current or preceding calendar year.

**NOTE: The following services performed for nonprofit organizations which meet the above conditions are exempt:**

- Service performed for a nonprofit organization in a facility conducted for the purpose of carrying out a program of rehabilitation for persons whose earning capacity is impaired by age or physical or mental deficiency or injury, or providing remunerative work for persons who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market by a person receiving such rehabilitation or remunerative work.
- Service performed as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by a person receiving such work-relief or work-training.

**Real Estate Sales/Broker**

**NRS 612.133**

Service performed by a licensed real estate salesman or broker, if paid by commission only.

**State Government and Political Subdivisions**

**NRS 612.115**

The following services performed for the State of Nevada or any of its political subdivisions are exempt:

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- A. Service performed in a facility conducted for the purpose of carrying out a program of rehabilitation for persons whose earning capacity is impaired by age or physical or mental deficiency or injury, or providing remunerative work for persons who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market by a person receiving such rehabilitation or remunerative work.
  - B. Service performed as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by a person receiving such work-relief or work-training.
  - C. Service performed by an inmate of a custodial or penal institution.
  - D. Service performed on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency.
  - E. Service performed as a member of the Nevada National Guard or Nevada Air National Guard.
  - F. Service performed as an elected official, member of a legislative body, or the judiciary.
  - G. Service performed in a major non-tenured policy making or advisory position, or a policy making or advisory position which ordinarily does not require more than 8 hours per week.

## Students

## NRS 612.118 and NRS 612.119

- A. Service performed by a person who is enrolled in a full-time program at a nonprofit or public educational institution, which combines academic instruction with work experience, **if so certified by the institution.**
- B. Service performed for a school, college, or university by a student who is enrolled and regularly attending classes.

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- C. Service performed in the employ of a school, college, or university by the spouse of a student, if employed to provide financial assistance to the student.

### **Independent Contractors**

**NRS 612.085**

Nevada Unemployment Compensation Law does not define “independent contractor.” It uses what is commonly referred to as the “ABC” test. This test is **unique to the Unemployment Compensation Program**. Unless otherwise **specifically excluded**, payment for personal services is **deemed** subject to unemployment taxes unless the following conditions are met. **All three** conditions must be met in fact; a written contract alone is **not sufficient**. The burden of proof rests upon the employer to demonstrate the existence of these conditions:

- A. The person has been and will continue to be free from control or direction over the performance of the services, both under his contract of service and in fact; **and**
- B. The service is either outside the usual course of the business for which the service is performed or that the service is performed outside of all the places of business of the enterprise for which the service is performed; **and**
- C. The service is performed in the course of an independently established trade, occupation, profession or business in which the person is customarily engaged, of the same nature as that involved in the contract of service.

**If you cannot demonstrate the above conditions, the person is an employee.** A written contract, in itself, does **not** establish “independent contractor” status. If in doubt, contact the Contributions Section for a ruling.



**Many employers mistakenly believe they can avoid taxes by “converting” their employees to “independent contractors.” This can result in substantial delinquent taxes, penalties and interest.**

**NOTE: Any agreement by a person to waive their rights to benefits under Nevada Unemployment Compensation Law is void.** **NRS 612.700**



### **What is Misclassification?**

Worker misclassification occurs when an employer incorrectly classifies a worker as a non-employee. Consequently, employers do not remit the appropriate amount of Federal and state employment taxes, and workers may not receive unemployment insurance benefits or the appropriate protections afforded to them as employees under the Fair Labor Standards Act. Misclassifications can result from erroneous interpretation of the rules or from intentional disregard of the law.



### **Services Subject to the Federal Unemployment Tax Act**

In general, services excluded under state law are also excluded under federal law. However, regardless of exclusion under any state statute, if services are subject to the Federal Unemployment Tax Act, they are automatically subject to the Nevada Unemployment Compensation Law.



### **Employee Leasing Companies**

By statute under NRS 612B.691(1), any client company of an employee leasing company, also known as Professional Employer Organization (PEO), is deemed to be the employer of the employees it leases for the purposes of NRS Chapter 612 pertaining to unemployment compensation. As such, client companies are required to individually register for unemployment insurance. The client company will have the primary responsibility as the employer for submitting required quarterly UI tax and wage reports, making payments of UI tax contributions and responding to notices from the Employment Security Division.



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## Common Paymasters

A “common paymaster” is a business entity that is treated as a single employer of employees who are concurrently employed by a group of related businesses.

Although some states permit reporting by a common paymaster, **Nevada Unemployment Compensation Law does not recognize the common paymaster.** Wages must be reported, and contributions paid on wages up to the taxable limit, by each employing unit for which services are performed. Each legal entity is a separate employing unit.



## Payrolling

“Payrolling” is the practice of designating one business entity to report wages as the employer of individuals whose services are actually performed for a separate business. This practice is distinguished from the common paymaster in that the individuals generally perform services for only one of the businesses and are not concurrently employed. **Payrolling is not permitted under Nevada Unemployment Compensation.**



## Voluntary Election

Voluntary election of unemployment insurance coverage can be requested for **employing units exempt from coverage** and for **services excluded from coverage.** A written request should be mailed to the Employment Security Division. Voluntary coverage is subject to the approval of the administrator. If approved, the election of coverage will remain in effect for at least two calendar years.



## Termination of Employer Liability

Generally, if an employer has paid wages less than \$225 in each of four consecutive calendar quarters, his account with the Employment Security Division is closed unless subjectivity is due to the Federal Unemployment Tax Act. If an employer account has been terminated, the account may be reopened any time within the next two years from the last reported payroll. For tax rate purposes, the experience record will remain with the employer unless it has been transferred to another account. For further information, see section “*How Much Are My Taxes?*”



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## WHAT WAGES MUST BE REPORTED?



In general, all remuneration paid for personal services is considered “wages” and must be reported every quarter. Payments may be in the form of cash or any form other than cash, such as meals, lodging, or merchandise. Certain types of payments are often mistakenly considered exempt by employers.



### Payments That ARE Wages

#### **Bonuses**

Bonuses are wages.

#### **Cafeteria Plans**

Employee salary reductions under a “Cafeteria Plan” (IRC Section 125) are wages.

#### **Casual Labor**

Wages include payments to part-time employees, temporary employees, and short-time workers. It makes no difference whether payment is on an hourly basis, daily basis, or piecework basis.

#### **Commissions**

Commissions are wages. Advances against commissions are also wages and must be reported when paid.

#### **Corporate Officers**

Salaries and other payments made to corporate officers for their services to the corporation are wages. **This includes officers of subchapter “S” corporations**, as well as regular corporations.

**NOTE: Dividends paid to a corporate officer in lieu of a reasonable salary for services performed are also considered wages.**

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## Meals and Lodging

NAC 612.070

The value of meals and lodging provided to an employee are wages, regardless of whether or not such form of payment is “for the convenience of the employer.” If the value of meals and lodging cannot be determined, the following **minimums** will apply:

Full meals and lodging,	\$ 60.00
Meals per week.....	\$ 30.00
Meals per day.....	\$ 4.50
Meals per meal.....	\$ 1.50
Lodging per month.....	\$120.00
Lodging per week.....	\$ 30.00
Lodging per day.....	\$ 5.00

## Profit Sharing

Payments to employees in the form of profit sharing are wages.

## Severance Pay

Severance pay, dismissal pay, and wages in lieu of notice are wages and must be reported in the quarter in which the payment is actually made, regardless of what period they are intended to cover.

## Tips

Tips reported by employees for Internal Revenue Service purposes, pursuant to 26 U.S.C. § 6053(a) are wages.

**NOTE: If a written agreement has been negotiated with the Internal Revenue Service, the amount reported pursuant to that agreement is the amount that should be reported as wages.**

## Vacation Pay

Vacation pay is wages.

## 401k and Other Deferred Plans

Amounts deducted from the employee’s paycheck for 401k and other deferred income plans are wages.





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## Payments That ARE NOT Wages

### **Auto, Travel, and Other Business Expenses**

Auto, travel, and other business expenses are not wages if they are paid under an “accountable” plan. The employee must be able to substantiate the expenses.

### **Earned Income Credit**

Earned Income Credit payments are not wages.

### **Educational Assistance**

Employer paid tuition or other educational expense is not wages, if it is **job related**.

### **Life Insurance Premiums**

Life insurance premiums paid by the employer, regardless of the amount of insurance, are not wages if paid pursuant to a plan or system established for all employees or certain classes of employees (such as salaried employees or officers).

### **Loans to Employees**

Loans to employees are not wages if they are not part of the salary structure and require a definite repayment schedule.

### **Moving Expenses**

Moving expenses paid by the employer are not wages, if they are paid under an “accountable” plan. The employee must be able to substantiate the expenses.

### **Partners’ Draws**

Partners’ draws are not wages. They are considered a division of profits.

### **Per Diem or Subsistence**

Per Diem or subsistence is not wages if it is made to an employee in addition to his regular wages, and is paid to compensate the employee for expenses inherent in the performance of services while away from the regular base of operations of the employer and the employee.

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## Retirement and Pension Plan Payments

Payments by an employer to or on behalf of an employee or their dependents toward retirement are not wages, if paid pursuant to a plan or system established for all employees or classes of employees (such as salaried employees or officers).

## Sick or Accident Disability Payments

Payments by an employer to or on behalf of an employee or their dependents because of sickness or accident disability, or for medical or hospital expenses are not wages if paid pursuant to a plan or system established for all employees or certain classes of employees (such as salaried employees or officers).

**NOTE: If there is no established plan, and payment is at the discretion of the owner, it is wages. Payment to an employee for unused sick leave is wages.**

## Sole Proprietor's Draw or Profit

Draws, salary, or profit of a sole proprietor are not wages.

## Tool and Equipment Rental

Payment for tool and equipment rental is not wages if paid under an "accountable" plan. The employee must be able to substantiate the expenses.

## 401k Plans

The **employer's** matching portion of a 401k plan is not wages.



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## Appeal Rights

The employer has the right to appeal any determination made by the Division regarding subjectivity to the law, excluded services, or wages, as well as a notice of the filing of a claim. Upon request, the Division will issue a written determination which will include instructions for filing an appeal. If the employer believes the determination is incorrect, the employer must appeal in writing within 11 days of the date of the mailing or personal service of the notice.

Appeals are heard by an impartial Appeal Tribunal. Appeal hearings are informal administrative proceedings which do not require representation by legal counsel, but the employer may bring someone to represent or assist them. A written decision will be made by the Appeal Tribunal. If the employer does not agree with the decision, the employer must appeal the decision in writing within 11 days of the date of the mailing of the hearing decision. The next level of appeal is before the Board of Review.

The decision of the Board of Review becomes final 11 days after the date of notification unless appealed in writing. If the employer does not agree with the Board of Review decision, the employer must, within 11 days after the decision has become final, begin an action in the District Court of the county where the employment was performed. An appeal of the District Court's decision may be taken to the Supreme Court of Nevada.



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## HOW MUCH ARE MY TAXES?



Employers starting a new business in Nevada must pay unemployment insurance (UI) tax at a rate of 2.95 percent (0.0295) of wages paid to each employee up to the taxable wage limit. The employer retains this rate for a period of 14 to 17 calendar quarters (depending on the quarter in which the employer becomes subject to the law), after which the rate will be determined under the “**Experience Rating**” system (See *Experience Rating* section). There is an additional 0.05 percent (0.0005) tax for the Career Enhancement Program (See *Career Enhancement Program* section).



### **Taxable Wage Limit**

The taxable wage limit is calculated each year at 66 2/3 percent of the average annual wage paid to Nevada workers. Taxes are paid on an individual’s wages up to the taxable wage limit during a calendar year (See *Taxable Wage Base* online at <<http://ui.nv.gov/ess>> listed in the *UI Information for Employers* link under the *Help and resources* section). Although total wages paid to each employee must be reported to the Division each quarter, any wages paid to an individual which exceed that amount during the calendar year are not taxed. Registered employers are automatically notified of changes to the taxable wage limit each year, and the amount is preprinted on the **Employer’s Quarterly Report** (RPT3795).

### **Acquiring an Existing Business**

If you acquire an existing business, taxable wages paid by the previous owner are considered as having been paid by the buyer. For example, assume that the taxable wage limit is \$29,500. The seller has already reported and paid taxes on \$15,000 for employee X. If you acquire the business and during the calendar year pay that employee an additional \$15,000, only \$14,500 would be taxable.



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## Wages Paid in Other States

In computing the taxable wage base in Nevada, wages paid to an individual employee in another state in the same calendar year, upon which unemployment contributions have been paid in the other state, can be counted as part of the taxable wage base in Nevada for that same calendar year for that employee.

### Experience Rating

Once an employer becomes eligible for “experience rating,” they will receive one of 18 unemployment insurance (UI) tax rates, ranging from 0.25 percent to 5.40 percent of taxable wages. Each employer’s tax rate may vary from year to year, depending on previous experience with unemployment and the rate schedule in effect.

Nevada uses the “**Reserve Ratio**” formula to determine previous experience, which is the method used by a majority of the states. The Employment Security Division maintains a permanent “**Experience Record**” for each employer, consisting of accumulated taxes paid, accumulated benefits charged to the account, and average taxable payroll for the prior three years. (See section *Benefit Charges to Base Period Employers* for a discussion of “benefit charges.”) Each year, the employer’s reserve ratio is calculated from their experience record to determine the tax rate under the schedule in effect. Generally, the higher the reserve ratio, the lower the employer’s tax rate will be.

#### Reserve Ratio Formula

$$\frac{\text{CONTRIBUTIONS PAID - BENEFITS CHARGED}}{\text{AVERAGE TAXABLE PAYROLL, PRIOR 3 YEARS}} = \text{RESERVE RATIO}$$

#### Example

$$\frac{\$10,000 - \$6,000}{\$40,000} = .10, \text{ or } 10.0\% \text{ Reserve Ratio}$$

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## How Tax Rates Are Determined

The administrator, by regulation, establishes a reserve ratio schedule to apply to each of the tax rates for each calendar year. A meeting of the **Employment Security Council** is held annually during October for the purpose of advising the administrator on the selection of a schedule. The council consists of nine members appointed by the governor, three representing labor, three representing management, and three representing the general public. The meeting is open to the public, and notice is given pursuant to the Nevada Open Meeting Law. Following the council meeting, a public hearing is held to consider the selection of the schedule, pursuant to the Nevada Administrative Procedure Act. The Tax Rate Schedule is available online at < <http://ui.nv.gov/ess>> listed in the *UI Information for Employers* link under the *Help and resources* section.



## Termination of Experience Rating Account

An employer who closes their business may later reopen the account and retain the same experience record. **However**, whenever an employer has paid no wages for **8 consecutive calendar quarters**, their experience rating account **will be terminated**, and may not thereafter be used in any rate computation.



## Career Enhancement Program **NRS 612.606**

In addition to unemployment tax, each employer (except those whose rate is 5.40 percent) is required to pay a tax of 0.05 percent (0.0005) of taxable wages for the Career Enhancement Program (CEP). This is a separate state program established to provide training to unemployed persons and persons employed in this state to foster job creation, minimize unemployment cost for employers, and meet the needs of employers for skilled workers. **This tax cannot be credited against your Federal Unemployment Tax on federal form 940.**



## Tax Rate Notices

Each December, employers receive a **Notice of Employer's Contribution Rate** (RPT5556) advising of their tax rate for the following calendar year. The notice includes accumulated taxes paid, benefits charged, average taxable wages for the prior three years, and calculation of

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their “reserve ratio.”

Employers should examine their rate notices carefully. You have 15 days from the date of mailing to request a review. If you have any questions regarding your rate notice, contact the Contributions Section, Rate Unit. See Appendix C for the telephone number.



### **Notice of Benefit Charges**

Each quarter, employers receive a **Notice of Benefit Payments Charged** (LET6648), listing all benefits paid to former employees that have been charged to their experience record. Employers need to examine these notices carefully; you have 15 days to protest any charges you believe are in error. If you have any questions regarding benefits charged, contact the Unemployment Benefits Section, Rulings Unit (See Appendix C for the telephone number).



### **Self-Insurance or “Reimbursement” Option for Nonprofit Organizations, Government Entities, and Indian Tribes**

Nevada Revised Statute 612.553 provides state and local government, certain nonprofit employers (those who are exempt under Section 501(c)(3) of the Internal Revenue Code), and Indian Tribes an option to pay quarterly taxes, or they may elect to be self-insured under the “reimbursement” method. If the “reimbursement” method is chosen, the employer **must file quarterly wage reports, but does not pay** quarterly taxes for unemployment insurance (UI), nor for the Career Enhancement Program (CEP).

When choosing the “reimbursement” method, instead of paying quarterly taxes, an employer must reimburse the state on a quarterly basis for all unemployment benefits charged to their account. The Employment Security Division administers all claims for reimbursement employers in the same manner as for tax paying employers. If an employer elects the “reimbursement” method, they cannot change back to the taxing method for at least two calendar years, and must notify the Division no later than December 1, to be effective for the following calendar year. If the employer is interested in the “reimbursement” method, they should contact the Contributions Section, Registration Unit. (See Appendix C for the telephone number).



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## REGISTRATION

Each employing unit must register with the Employment Security Division within 30 days after becoming subject to Nevada Unemployment Compensation Law. This is true whether you are starting a new business or purchasing an existing one. Unless specifically excluded by statute, an employing unit becomes subject to the law once \$225 in wages has been paid in any calendar quarter.



### Starting a New Business

Registration of a new business can be done online at <http://ui.nv.gov/ess> with immediate assignment of an Employer Account Number upon completion of all necessary information. Online registration also addresses the information necessary for agricultural employers, domestic service, and nonprofit organizations, and therefore no supplemental form is necessary.

Registration can also be accomplished by completing a **Nevada Business Registration** form (APP-01.00). If not registering online, for agricultural employers, domestic service, and nonprofit organizations, a **Supplemental Registration Form** (RPT5416) must also be completed. Registration forms can be submitted to any field audit office or mailed to the Employment Security Division, Contributions Section, 500 E. Third Street, Carson City, Nevada 89713-0030. The forms are available online <http://ui.nv.gov/ess>.

### Employer Account Number

If registering online, an Employer Account Number will be immediately provided upon completion of all the necessary information.

In cases of registrations submitted on paper, the entire registration is reviewed by a Division examiner. The employer will be notified by U.S. mail regarding the status of the registration.

The Employer Account Number is specific to the employer's business and cross referenced to the employer's Federal Employer Identification Number (FEIN). The Employer Account Number will be on all notices the employer will receive from the Contributions Section. **Please include the Employer Account Number on all correspondence and payments and reference the account number when contacting the Contributions Section by telephone.**



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## Federal Employer Identification Number (FEIN)

The FEIN is a nine-digit number the IRS issues. The digits are arranged as follows: 00-0000000. It is used to identify the tax accounts of employers and certain others who have no employees.

If the employer does not have a FEIN, the employer can apply for one online. Go to the [IRS.gov](http://IRS.gov) and click on the *Apply for an Employer Identification Number (EIN)* online link.

The employer should have only one FEIN. If the employer has more than one and is not sure which one to use, call 1-800-829-4933 (TTY/TDD users can call 1-800-829-4059). Give the FEIN numbers and the name and address to which each was assigned, and the address of the employer's main place of business. The IRS will tell the employer which number to use.

If the employer took over another employer's business (see *Acquiring an Existing Business* section), do not use that employer's FEIN. Generally, businesses need a new FEIN when their ownership or structure has changed. For more information go to [IRS.gov](http://IRS.gov) and click on *Apply for an Employer ID Number (EIN)>Employer ID Numbers* online link.

## New Employer Kits

Employers will be sent a New Employer Kit containing important information regarding unemployment insurance (UI) upon successful registration of a new business, whether online or by submitting a registration form. The New Employer Kit contains a **Notice of Liability** (LET7590), a required poster **Notice to Employees** for the workplace, and a required notice **Information for the Unemployed Worker** to be given to any employee who becomes unemployed. Other useful information is also included.

The **Notice of Liability** (LET7590) is the legal determination, with appeal rights, that the employer is subject to unemployment compensation law as a Nevada employer. The notice should be kept for the employer's records. It contains the date the employer became liable as an employer, the Employer Account Number, the employer's UI rate and the Career Enhancement Program (CEP) rate.

The required poster and information sheet are available online at [<http://ui.nv.gov/ess>](http://ui.nv.gov/ess)

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## Tax Rate

As a new business, the employer's unemployment insurance tax rate will be percent (0.0295) of taxable wages for a period ranging from 14 to 17 calendar quarters. This rate will remain in effect until the employer becomes eligible for experience rating (See *Experience Rating* section). In addition, the employer must pay 0.05 percent (0.0005) of taxable wages for the Career Enhancement Program (CEP).



## Acquiring an Existing Business

When acquiring an existing business, the employer must register the “acquisition.” The employer may register online or by completing a **Nevada Business Registration (NBR)** form (APP-01.00). When registering using the NBR form, a **Supplemental Registration Form (RPT5416)** must also be completed if the acquisition is an agricultural employer, domestic service, or nonprofit organization.

Registration forms can be submitted to any field audit office or mailed to the Employment Security Division, Contributions Section, 500 East Third Street, Carson City, Nevada 89713-0030.

Online registration can be accomplished at <<http://ui.nv.gov/ess>>. Online registration of an acquisition addresses the information necessary for agricultural employers, domestic service, and nonprofit organizations; therefore, no supplemental form is necessary. The predecessor account number is required to complete the online registration.

See Appendix B for a list of forms with information explaining why and when to submit the forms to the Division. The forms are available at <<http://ui.nv.gov/ess>>.

## Tax Rate

Upon registering the acquisition, the Employment Security Division will determine whether the employer is subject to a mandatory transfer of experience record or if the employer is eligible for a voluntary transfer and will advise the employer accordingly. If a transfer is not mandatory, the Division will send the employer an **Application for Transfer of Experience Record (RPT5553)**. In the case of a voluntary transfer, the employer may either pay unemployment insurance (UI) taxes at the new employer rate of 2.95 percent (0.0295) of taxable wages for a period ranging from 14 to 17 calendar quarters (the same rate as a new business), **or** apply to transfer all or part of the experience record from the previous owner and pay at a tax rate based on the experience record of the previous

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owner. A voluntary transfer requires the **mutual written consent** of the buyer and seller.

**NOTE: If the employer intends to transfer the experience record of the previous owner, the employer must notify the Division in writing within 90 days of acquisition.**

### **Mandatory Transfer of Experience Record**

Whenever there is substantially common ownership, management, or control between two or more employers and one of the employers transfers all or part of its business (which may include work force) to the other, a mandatory transfer of experience record is required. In cases of a mandatory transfer, the employer will be sent a “*Notice of Mandatory Transfer of Experience Record.*” The notice is the legal determination, with appeal rights, of being subject to the unemployment compensation law as a Nevada employer and that a mandatory transfer of experience record was required. The notice should be kept for the employer’s records. It contains the date the employer became liable as an employer, the Employer Account Number, the employer’s unemployment insurance rate, and the Career Enhancement Program rate.

### **Voluntary Transfer of Experience Record**

A voluntary transfer of all or part of the experience record is possible when an acquisition occurs between unrelated businesses. To apply for a transfer, the **Application for Transfer of Experience Record** (RPT5553) sent to the employer by the Division must be completed, signed by both the new and previous owners, and returned to the Employment Security Division, Contributions Section. The transfer application must be received by the Division within **one year** of the issue date indicated on the application.

Until the Division completes the transfer of the experience record, the employer’s unemployment insurance (UI) rate will be 2.95 percent (0.0295) of taxable wages. If this results in an overpayment, the employer’s account will be credited or the employer may request a refund.

### **Prohibited Transfer of Experience Record**

Transfers of experience records are prohibited when the sole or primary purpose of the acquisition is to obtain a more favorable contribution rate. This practice is a manipulation of the experience rating system.

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## SUTA Dumping

SUTA is the acronym for the State Unemployment Tax Act. SUTA Dumping is any tax evasion scheme designed to manipulate the unemployment insurance experience rating system in an effort to avoid paying taxes.

Federal legislation in 2004 mandated that all states address this unemployment insurance (UI) rate issue in state legislation. Nevada laws are now in place to ensure the integrity of the experience rating system and protect the assets of Nevada's Unemployment Insurance Trust Fund.

Nevada Revised Statute 612.732, effective January 1, 2006, established civil and criminal penalties associated with SUTA Dumping, for employers, as well as those advising employers. The penalties for SUTA Dumping include in part:

- Assignment of the maximum UI contribution rate of 5.40 percent plus 2 percent for each year of manipulation, the current rate year, and the subsequent rate year.
- Civil penalty of \$5,000 or 10 percent of the total amount of any resulting under-reporting of contributions and any other penalties and interest.
- SUTA Dumping is a class C felony, punishable by a sentence of 1 to 5 years.

## Liability for Taxes of Previous Owner

If an existing business is purchased, the new owner **may be held liable** for any unpaid taxes, forfeits, and interest previously incurred by the seller. Such debts are subject to the same legal action available against the seller, including summary judgment, which constitutes a lien on all real and personal property, and attachment of assets.

The law provides that the buyer must withhold sufficient purchase money to cover the amount of taxes due from the seller until the Division certifies that they have been paid. Upon written request, a letter of clearance will be issued to the previous owner. Requests should be mailed to the Employment Security Division, Contributions Section, 500 E. Third Street, Carson City, Nevada 89713-0030 or can be requested online at <http://ui.nv.gov/ess>.

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## Change in Entity Type

In most cases, if the business changes entity types, a new registration is required. Examples of such changes are: sole proprietor to a corporation, (this is true whether it is a “regular” corporation or a subchapter “S” corporation), adding or dropping partners in a General or Limited Partnership, and any type of a corporation to a Limited Liability Company (LLC). Registration can be accomplished online at <<http://ui.nv.gov/ess>> or by submitting a **Nevada Business Registration (NBR)** form (APP-01.00) to the Employment Security Division, Contributions Section (See the *Registration* section for additional information).



## Selling the Business or Change in Ownership

If the business is sold or changes ownership, such as dropping or adding a partner, the employer must immediately notify the Division **in writing**. Also, within **ten days** of the sale or change in ownership/partners, the employer must file any outstanding quarterly reports and pay any contributions, forfeits, or interest due.



## Employer Agents

As a Nevada employer, a third party agent can be appointed to represent the business in all unemployment compensation matters.

### **Designating External User** (*formerly known as Power of Attorney*)

Nevada Unemployment Compensation Law prohibits disclosure of employer information to any other person or the general public. Therefore, in order to discuss the employer’s account with a designated agent (or for the agent to be able to access the employer’s online account) the employer must add the agent as an external user to the employer’s online account by following the step by step instructions online at <<http://ui.nv.gov/ess>> in the *Guide to Online Employer Self Service* under the *Maintaining ESS Users* section.

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## Designating Correspondence Agent

A Correspondence Agent receives Division correspondence on the behalf of the employer. Correspondence Agents can receive Tax, Benefits, and/or Appeals correspondence. The employer should select a Correspondence Agent only if the employer already has an established business relationship with the agent. The assignment of correspondence agents can be done by going to the employer's online account at <<http://ui.nv.gov/ess>> following the step by step instructions in the *Guide to Online Employer Self Service* under *Updating ESS Account Information* section.



## Disclosure of Information

Except for specified exceptions, information provided by any employing unit is confidential, and may not be disclosed or be open to public inspection in any manner that would reveal the employing unit's identity.

Improper disclosure by Division employees is subject to misdemeanor charges. Therefore, employees are very careful, when discussing employer information, to verify that they are speaking to the employer or an authorized third party agent. Employees are instructed not to give specific employer information either over the telephone or by fax, unless they are **certain** of the identity of the employer.

**NOTE: Unemployment compensation information may be requested and utilized for other governmental purposes, including, but not limited to, verification of an individual's eligibility for other governmental programs and may be subject to verification through computer matching programs with other agencies, pursuant to applicable federal and state law, including 20 C.F.R. § 603.11, NRS 612.265, and the Privacy Act of 1974, 5 U.S.C. § 552a.**





## RECORD KEEPING AND REPORTS

Each employer is required to keep true and accurate work records for each worker. The records must be kept for at least **four years**, and must show:

- The beginning and ending date of each payroll period.
- The total wages payable for the payroll period and the date paid.
- The worker's name, SOCIAL SECURITY NUMBER, and rate of pay.
- The date the worker was hired.
- The date the worker was separated from employment.
- The reason for separation from employment.
- The dates the employee worked.
- The state or states in which services were performed.

Separate entries must be made to record money wages, the cash value of other remuneration, and special payments such as bonuses, prizes, or gifts.



### Inspection of Records

Employer records must be open to inspection and may be copied by the administrator or their authorized representatives, or the Department of Taxation, at any reasonable time and as often as may be necessary.



### Required Poster and Notice

Each employer is required to post a **Notice to Employees** at each workplace and must provide a leaflet **Information for the Unemployed Worker** to each employee who separates from employment. A poster and leaflet are automatically mailed to each new employer upon registration.

See Appendix B for an explanation of forms. The forms are available online at <http://ui.nv.gov/ess>.



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## Quarterly Contribution and Wage Reports

Each employer must file an **Employer's Quarterly Report** (RPT3795) & **Wage Report** (NEW0098) and pay unemployment taxes each quarter.

There are several methods available for filing quarterly reports:

### Online Reporting via the Internet

Online tax and wage reporting at <<http://ui.nv.gov/ess>> consists of a series of interactive questions with helpful prompts along the way. The system even performs the calculations for the amount of taxes due. The options for online reporting of wage details are Secure File Transfer Protocol (SFTP) utilizing EFW2 specifications, data entry directly online (including an auto load of SSNs and employee names), or attaching a Microsoft Excel spreadsheet saved as a comma-delimited (.csv) file. Reporting online is efficient and secure.

### Send Quarterly Reports by Mail

You may also report quarterly tax and wage information on the **Employer's Quarterly Report** (RPT3795) & **Wage Report** (NEW0098). Mail completed quarterly reports to the Employment Security Division, Contributions Section, 500 E. Third Street, Carson City, Nevada 89713-0030.

Quarterly reporting forms are sent to each registered employer approximately one month before the end of the quarter. The form is preprinted with your Employer Account Number, tax rate, and the taxable wage base. If, for some reason, you do not receive a preprinted quarterly form by the last day of each calendar quarter, contact the Division to verify your correct address.

See Appendix B for explanation of forms. The forms are available online at <<http://ui.nv.gov/ess>>.

**NOTE: Wages must be reported in the quarter in which they are actually paid, rather than for the pay period in which they were earned.**

### When Reports and Payments Are Due

Generally, the completed quarterly report, together with any payment due, must be received by the Division, by the last day of the first month following the close of the calendar quarter covered by the report. If



the due date is a Saturday, Sunday, or legal holiday, then reports and taxes are due on the next day that is not a Saturday, Sunday, or legal holiday.

<u>Calendar Quarter</u>	<u>Due Date</u>
January, February, March	April 30
April, May, June	July 31
July, August, September	October 31
October, November, December	January 31

The postmark determines timeliness if mailed. Online reporting and electronic payments should be completed by 5:00 P.M. Pacific Time on the due date. It is your responsibility to file reports and pay when due, regardless if you receive and use a preprinted form or if you file online. The filing is considered delinquent if one or more days late. Avoid unnecessary charges by filing and paying timely.

### **Reporting Wages**

Total gross wages (including tips) paid to each employee during a calendar quarter must be reported. Although the total wages must be reported for each employee, taxes are required to be paid only up to the taxable wage limit for the year.

Unemployment benefit entitlement is based on the total wages earned by an employee. The wage information needed to determine the amount of unemployment benefits is obtained from wages reported each quarter.

Amounts in excess of the taxable wage limit (item 4 on the form RPT3795) paid during a calendar year, and occurring in a calendar quarter, are deducted from total wages (item 3 on the form RPT3795) to arrive at taxable wages for the quarter (item 5 on the form RPT3795). The taxable wage limit is calculated by the Division each year at 66 2/3 percent of the average annual wage in Nevada.

**NOTE: The amount of tips reported for Internal Revenue Service purposes must be listed separately under Total Tips Reported column on the Wage Report (NEW0098), and included in Total Gross Wage + Tips. While tips are used to determine the amount of a claimant's**

**benefits, they are excluded from the annual computation of the maximum weekly benefit amount and, therefore, must be reported separately.**

The following is an example of proper reporting of wages for one individual paid \$3,000 per month, based on the taxable wage (\$29,500):

<b>Example</b>					
	<b>First Quarter</b>	<b>Second Quarter</b>	<b>Third Quarter</b>	<b>Fourth Quarter</b>	<b>Annual Totals</b>
<b>Total Wages</b>	\$9,000	\$ 9,000	\$ 9,000	\$ 9,000	\$ 36,000
<b>Nontaxable</b>	-0-	-0-	-0-	\$ 6,500	\$ 6,500
<b>Taxable</b>	\$9,000	\$ 9,000	\$ 9,000	\$ 2,500	\$ 29,500

When reporting wages using the **Employer’s Quarterly Report** (RPT3795), the nontaxable portion (\$2,500 in the fourth quarter) would be entered in item 4 of the form and deducted from the total wages in item 3 to arrive at total taxable wages in item 5. See **Taxable Wage Base Table** for the current tax wage limit available online <<http://ui.nv.gov/ess>> listed in the “*See Quarterly Reporting Information*” link under the “*I want to*” section.

### **Calculation of Taxes**

The unemployment insurance (UI) tax rate for new employers is 2.95 percent (0.0295) of taxable wages. For experience rated employers, the rates may range from 0.25 percent to a maximum of 5.40 percent of taxable wages. In addition, all employers, except those with a 5.40 percent rate, must pay a tax for the Career Enhancement Program (CEP) of 0.05 percent (0.0005).

If filing online, taxes will be calculated for the employer based on the employer’s current tax rate. If filing on the **Employer’s Quarterly Report** (RPT3795), sent to the employer each quarter, their unemployment insurance tax rate is preprinted on the form (Box1–Your Rates).

Tax rates represent a percentage of the taxable wages. When calculating and reporting the amounts, care must be given to ensure the correct decimal equivalents are used.

Below are the decimal equivalents of each of the tax rates:

<b>UI Tax Rate</b>	<b>Decimal Equivalent</b>	<b>Tax Per \$1,000</b>
5.40%	.0540	\$ 54.00
5.05%	.0505	50.50
4.75%	.0475	47.50
4.45%	.0445	44.50
4.15%	.0415	41.50
3.85%	.0385	38.50
3.55%	.0355	35.50
3.25%	.0325	32.50
2.95%	.0295	29.50
2.65%	.0265	26.50
2.35%	.0235	23.50
2.05%	.0205	20.50
1.75%	.0175	17.50
1.45%	.0145	14.50
1.15%	.0115	11.50
0.85%	.0085	8.50
0.55%	.0055	5.50
0.25%	.0025	2.50
<b>CEP Tax Rate</b>		
0.05%	.0005	.50

## Penalty and Interest Calculations

### Late Filing of Reports

If the employer files the report after the due date, either online or on paper, the employer must pay the following penalties:

- Forfeit of \$5 if **one or more days late** filing the report even if the employer has no payroll for a quarter.
- Additional interest charge of 1/10 percent (0.001) of taxable wages (not taxes due), **after 10 days, for each month or part of a month** that the report is delinquent.

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### Example

A report due April 30th that is not filed until June 14th, with taxable wages of \$15,000 would be assessed \$5 plus an additional charge of \$30 ( $\$15,000 \times 0.001 \times 2$  months).

**NOTE: Avoid these costly penalties by filing all reports on time, even if the taxes can not be paid when due.**

### Late Payment of Taxes

If taxes are not paid when due, the employer must pay interest of 1 percent (0.01) of UI contributions (taxes) due **for each month or part of a month** that the payment is delinquent. There is no interest charged for delinquent CEP taxes.

### Example

A payment due April 30th that is not filed until June 14th, with UI contributions due in the amount of \$500 would be assessed \$10 ( $\$500 \times 0.01 \times 2$  months).

**NOTE: If the employer submits a payment not honored by their bank, a processing fee of \$25.00 will be charged.**

## Other Reporting Information

### Number of Workers

In addition to reporting tax and wage information, it is also required to include the total number of employees being reported. The total is used as a checkpoint for accuracy.

Also, it is required to include the number of full-time and part-time employees for each month of the quarter. The count should include those who worked during or received pay subject to the Nevada Unemployment Compensation Law for the payroll period, which includes the **12th of the month**. The number of employees per month will be used to compute the maximum weekly benefit amount and the annual taxable wage limit. **These amounts impact the overall cost to employers.** Please provide accurate information.

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## Change of Address and Other Business Changes

To better serve the employer, it is important they notify the Division **in writing** of any business changes, including address changes. If the employer has established an online account for unemployment insurance taxes, they can view the information for the employer account and make any necessary changes. The employer can update address information, change owner information, as well as close or reopen the employer account.

Changes can also be reported on the Employer's Report of Changes (RPT7203) when the employer submits the report for the quarter.

To contact the Division directly, see Appendix C for the telephone number for "Registration Unit," or write the Employment Security Division, Contributions Section, 500 E. Third Street, Carson City, Nevada 89713-0030.

## Reporting Employees Who Work in Other States

All states have a uniform provision regarding multi-state workers to prevent reporting to more than one state:

- If a worker performs **all** of their services in Nevada, or if only temporary or incidental services are performed in other states, the services are "localized" in Nevada, and all of the worker's wages must be reported to **Nevada**.
- If the worker performs some services in Nevada **and** some services in other states which are **more than** temporary or incidental, all wages should be reported to the state in which their "base of operations" is located.

**NOTE: "Base of operations" is the place or fixed center of more or less permanent nature from which the employee works; that is, from which they start their work and to which they customarily return. It may be the worker's office for business purposes (which may be maintained in the worker's home). If the worker has no "base of operations," wages should be reported to the state from which he receives direction and control.**

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- If **some** services are performed in Nevada, but the worker has **neither** a “base of operations” **nor** a specific location from which they receive direction and control, all wages should be reported to this state, if their **residence** is in Nevada.

### **Foreign Employment**

If the employer employs U.S. citizens who perform services in foreign countries (except Canada), their wages must be reported to Nevada **if:**

1. The employer’s principal place of business is in Nevada; **or**
2. If the employer has no principal place of business in the U.S.;  
**but**
  - a. The employer is a resident of this state; **or**
  - b. The employer is a Nevada corporation.

### **No Payroll**

If the employer did not pay wages during a calendar quarter, the employer will not owe any taxes. However, the employer is still required to submit a quarterly report. The employer may file online at <http://ui.nv.gov/ess> or complete the **Employer’s Quarterly Report** (RPT3795). On the form please indicate “No Payroll,” sign, date, and submit as usual. Four consecutive “no payroll” reports will result in an automatic suspension of the employer’s account.

**If the business closes, or if the employer anticipates having no employees in the future, please notify the Division immediately.** If the employer has established an online account for UI taxes, the employer may suspend/close the account online. Otherwise, the employer must provide **written notification** to the Division. If the employer does not advise the Division, the account will remain in active status and the employer could be subject to unnecessary levies of assessment for failure to file reports.

### **Payment Options**

There are three payment options for paying quarterly unemployment insurance taxes. The employer may send a check (if less than \$10,000 per quarter), or pay by Electronic Funds Transfer (EFT) through the Automated Clearing House (ACH) network by utilizing either ACH Credit or ACH Debit methods.

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### **ACH Credit**

To arrange for payment by ACH Credit it is necessary for the employer to contact their financial institution to determine what services they offer and the associated cost. The employer is responsible for all costs charged by the financial institution. An ACH Credit Program Guide, including a preauthorization form **ACH Credit Agreement and Authorization Request** (RPT7012) is available online at <http://ui.nv.gov/ess>.

### **ACH Debit**

Payment by ACH Debit can be made online through a secure Internet application. There is no cost to the employer. To pay by ACH Debit the employer must first complete, with the Division, an **ACH Debit Authorization Request** (RPT7011).

A special feature of the ACH Debit method is the ability to “warehouse” a payment, which means an employer (or an authorized third party agent) can enter the payment information when convenient and then set a “settlement” date up to 30 days in the future. Up until the settlement date (before 11:59 P.M. Pacific Time), inquiries can be made, as well as changes, and even cancellations. The funds will not be transferred until the designated date.

### **Checks Sent in the Mail**

Payments of quarterly contributions of \$10,000 or more must be paid electronically by either ACH Credit or ACH Debit (see details above). That includes aggregate quarterly contributions that reach the \$10,000 threshold, filed by persons reporting for one or more employers.

If the payment is less than \$10,000, whether reporting online or submitting a paper quarterly report, the employer may send a check in the mail.

- If filing the quarterly report online, the employer can “Print a Payment Voucher” to mail in with the payment.
- If submitting a paper quarterly report, enclose the check with the quarterly report. Mail to Employment Security Division, Contributions Section, 500 E. Third Street, Carson City, Nevada 89713-0030.

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## Corrections to Quarterly Reports

If an error is discovered on information previously reported (whether reported online or on paper) the employer must submit the correction on a **Statement to Correct** (RPT7833). The most common error is an incorrect social security number. Do not submit an “amended” quarterly report. A **Statement to Correct** form is required.

See Appendix B for explanation of forms. The forms are available online at <<http://ui.nv.gov/ess>>.

## Refunds and Adjustments

### NRS 612.655

Applications for adjustment must be made not later than three years after the date on which such payments became due. An adjustment or refund will not be made in any case with respect to contributions on wages that have been included in the determination of an eligible claim for benefits, unless and until it is shown to the satisfaction of the administrator that such determination was due entirely to the fault or mistake of the Employment Security Division.

Corrections that result in an overpayment will be credited to the employer’s account to be applied against future taxes. If the employer account is no longer active and/or the employer would like a refund, a request for refund **must** be in writing or can be requested online at <<http://ui.nv.gov/ess>>. The law requires that all refunds will be made without interest.

Tax refund checks will be issued to the same business entity which is responsible for payment of unemployment insurance tax. The “Pay to the Order” will list the corporate name or doing business as listed on the account.



## Credit Against Federal Unemployment Tax

Currently, the Federal Unemployment Tax is 6.0 percent (0.060) of taxable wages up to \$7,000 per individual. If the employer pays all state unemployment taxes when due, that tax is reduced to 0.6 percent (0.006). In order to receive full credit against the Federal Unemployment Tax (federal form 940), the employer **must pay all state unemployment taxes when due.**

The amount to report on federal form 940 is the sum of all state unemployment insurance tax paid timely for the four calendar quarters of



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the year. **Do not include CEP tax**; this is a separate state tax and cannot be credited against the employer's Federal Unemployment Tax.



### **New Hire Reporting**

Federal welfare legislation requires all employers to report certain information on newly hired or rehired employees to a designated state agency. In Nevada, the new hire information must be reported to the Employment Security Division once the new hire or rehire occurs. New hire information is transmitted to state and national Child Support Enforcement Offices to assist in locating parents who are not paying legally required child support

In addition to this information being used to assist in locating parents for child support purposes, the Employment Security Division accesses the information to identify cases of unemployment insurance fraud. A potential benefit to employers is the reduction and prevention of fraudulent unemployment payments. Timely receipt of New Hire data allows the Division to cross-match this data against its active unemployment insurance claimant files to either stop or recover erroneous payments. States have saved millions of dollars of erroneous unemployment insurance payments because of these cross-matches.

Required information that must be reported includes:

- Employee's Full Name, Address, and Social Security Number
- Start Date (the date an employee first performs services for pay)
- Employer's Federal Employer Identification Number
- Employer's Name
- Employer's Address (City, State and Zip Code)

As part of an ongoing effort to assist employers in protecting themselves from possible fraud, Nevada's New Hire Program uses a cross match procedure with Unemployment Insurance to detect possible fraudulent practices. To assist in this cross match we ask that you also provide the following optional items:

- Date of Birth
- State in Which Hired



Written information, in any format, is acceptable as long as it contains the required information. The information can be faxed or mailed to the Employment Security Division. New hire reporting can be uploaded through a secure FTP site; specifications can be located at <http://ui.nv.gov/ess>.



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## DELINQUENT REPORTS AND TAXES

Employers who fail to report quarterly tax and wage information or pay taxes when due are subject to forfeit and interest payments. If the employer is unable to pay taxes when due, they need to contact the Division immediately to make alternative arrangements.



**Payment agreements** may be negotiated if the employer responds to notices and makes a good faith effort to clear the liability. The Division makes every reasonable effort to work with employers before taking legal action.



### Failure to File Reports

**Penalties for failure to file reports when due can be substantial. Even if the employer cannot pay the tax on time, the factual reports need to be filed when due to avoid additional costs outlined below:**

- Forfeit of \$5 for each report, one or more days late; **and**
- Additional interest charge of 1/10 percent (0.001) of taxable wages (not taxes due), after 10 days, for each month or part of a month that the report is delinquent.

### Waiver of Forfeit and Interest

The administrator may, at their discretion, waive the collection of forfeit and interest **if it appears that the failure to file reports within the time prescribed was due to circumstances over which the employing unit, its officers or authorized third party agent had no control.** Requests for waivers can be requested online at <<http://ui.nv.gov/ess>> or submitted **in writing** to the Employment Security Division, Contributions Section, 500 E. Third Street, Carson City, Nevada 89713-0030.



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## Delinquent Taxes

### Interest Rate

The interest rate on unpaid taxes is 1 percent (0.01) per month, or portion of a month (12 percent annually). Pursuant to NRS 612.620, interest on delinquent taxes **cannot be waived under any circumstances.**

### Effect on Federal Unemployment Tax

Currently, the Federal Unemployment Tax (reported on form 940) is 6.0 percent of taxable wages up to \$7,000 per individual. **However**, if an employer pays all state unemployment taxes **when due**, that tax is reduced by 5.40 percent, resulting in a net federal tax of .6 percent. **Failure** to pay state taxes when due will result in a higher federal tax rate.



### Levies of Assessment

If the employer fails to report quarterly tax and wage information when due, or if any report is deemed to be incorrect or insufficient, the administrator may make an estimate, based on any information in their possession, of the amount of wages paid and taxes payable, together with any forfeit and interest which may have accrued. Such “Levy of Assessment” shall become final **15 days** after the mailing of “Notice of Levy of Assessment.”

**NOTE: To avoid levies of assessment, the employer must file all reports when due, even if the employer did not have payroll for the quarter, and notify the Division promptly when the business is discontinued.**



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## Legal Action

If an employer fails to make satisfactory arrangements to pay delinquent taxes, the Division may take certain legal actions against the assets of the employer to recover the liability.

### **Liens** **NRS 612.680**

Contributions, penalties, and interest due and unpaid from any employer constitute a lien upon all of the assets of the employer, the lien to be prior to and paid in preference to all other liens or claims except prior recorded liens and prior taxes.

### **Civil Action** **NRS 612.625**

If any employer defaults in the payment of contributions, reimbursements in lieu of contributions, interest, or forfeit, the Division may collect the amount due by civil action brought in the name of the State of Nevada in district court.

### **Summary Judgment** **NRS 612.630**

In addition to or independent of the remedy by civil action, the law also allows the Division to obtain summary judgment against debtor employers.

### **Garnishment of Employer's Assets** **NRS 612.685 and NRS 612.686**

Failure to cooperate with the Division to make satisfactory arrangements to retire a debt can result in garnishment of monies held by others which are due to the business (such as bank accounts and receivables). Such garnishment will **freeze all funds held by that institution, even if the funds on deposit exceed the amount due**, until the debt is satisfied and the funds are released by the Division.

### **Required notice to State Contractors' Board** **NRS 612.642**

The Administrator shall notify the State Contractors' Board of any licensed contractor against whom a judgment is obtained for failure to pay contributions.



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## Building Contractors—Liability for Subcontractors

Prime (general) building contractors subject to NRS Chapter 624 may be held liable for unpaid unemployment taxes, penalties, and interest due from their subcontractors, with respect to wages paid for employment on such contract. Such debts are subject to summary judgment against the prime contractor, which shall constitute a lien on all real and personal property.

NRS 612.687 provides that every contractor, before the completion of the contract shall:

- A. Withhold sufficient money on the contract; or
- B. Require a surety bond from the subcontractor to guarantee payment.

The law further provides that if the contractor does neither “A” nor “B,” the contractor is directly liable for all contributions, penalties, and interest due from the subcontractor.

### Releases

After the due date of each quarterly report, the Division, upon written request, using the **Certification of Subcontractor’s Unemployment Insurance Payments** (RPT5098) will issue “conditional” releases certifying that the subcontractor has filed all necessary reports and paid all **known** contributions, penalties, and interest through a certain date. Due to its confidential nature, no information will be issued on the telephone and no specific amounts will be released.

The decision of when to release withheld money is at the discretion of the prime (general) contractor. He may do so when a “conditional” release is received, or at any time he believes he has sufficient evidence that the contributions, penalties, and interest have been paid by the subcontractor.

See Appendix B for an explanation of forms. The forms are available online at <<http://ui.nv.gov/ess>>.



**Extent of Liability**

A “conditional” release does not terminate the responsibility of the prime (general) contractor. The prime (general) contractor may be held liable for additional amounts which may become due as a result of unreported wages by the subcontractor for a period of two years if the prime (general) contractor is located within Nevada, and three years if the prime (general) contractor is located outside Nevada.



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## EMPLOYER SELF SERVICE (ESS)

Nevada's new Unemployment Insurance Employer Self Service (ESS) website is the most convenient way for Employer's (or their designated third party agent) to complete the following tasks:

- Register a new employer account
- File the Employer's Quarterly Report and Wage Report (manual data entry, upload file using EFW2 specification, Comma Separated Value (CSV) or Tab delimited files)
- Submit electronic payments – ACH Debit
- Maintain key account information
- View correspondence
- Establish Power of Attorney
- Provide online employer response for issues generated by an unemployment insurance claim.
- View Appeals information

ESS is a secure, encrypted, password protected site for Employers (or their designated third party agent) for both UI Tax and UI Claims/Benefits matters. Employers are able to meet timely reporting requirements and make electronic payments by the using the secure site.

Simple step by step instructions in the "*Guide to Online Employer Self Service*" are available at the ESS website: <<http://ui.nv.gov/ess>> listed under the "*Help and resources*" section.



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## UNEMPLOYMENT BENEFITS

Unemployment benefits are paid to qualified workers who are unemployed through no fault of their own, and who can demonstrate an attachment to the labor force from previous earnings in employment. Benefits are intended to be a temporary, partial replacement of income to help meet basic living expenses until the worker can find suitable employment.



### “Unemployed” Defined

A person is “unemployed”:

- In any week during which he performs no services and with respect to which no remuneration is payable to him; **or**
- In any week of less than full-time work if the remuneration payable to him with respect to such week is less than his weekly benefit amount.

No person is “unemployed” during any week in which he:

- Is self-employed; **or**
- Receives benefits for a temporary total disability or a temporary partial disability pursuant to workers’ compensation or occupational disease laws of Nevada; **or**
- Receives money for rehabilitative services pursuant to workers’ compensation or occupational disease laws of Nevada; **or**
- Is on a mutually agreed leave of absence from work with a right to return to his employment.



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## **Requirements for Unemployment Benefits Eligibility**

### **Unemployed**

In order for an individual to be eligible for unemployment insurance benefits, the person must be unemployed. A person who is on a company-approved leave of absence, who is self-employed, who works solely on commission but generates no income, or who is receiving benefits for a job-related injury is **not** considered unemployed.

### **Prior Wage Earnings**

When applying for unemployment insurance benefits, individuals must first meet monetary eligibility criteria. A person must have earned sufficient wages from prior employment during a four quarter base period. The standard base period is the first four of the last five completed calendar quarters prior to the beginning of the date of the unemployment insurance claim.

### **Able to Work**

A person must be physically and mentally able to perform work at the time an unemployment claim is filed.

### **Actively Seeking Work**

A person must be seeking work in their customary occupation(s) at the time they initiate a claim for benefits. Available means the person must be ready and willing to accept any suitable job offering without undue restriction.

### **Registered for Work**

A person must be registered for work with their local State Job Service office.

### **Separation Eligibility**

Unemployment insurance is for the benefit of persons unemployed through NO FAULT OF THEIR OWN. Every person has the right to leave any job for any reason. But if it's determined the person quit without good cause or was discharged for misconduct in connection with the work from their last employer or under certain conditions their next to last employer (if less than 16 weeks of employment with the last employer), the person must be denied benefits.

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## File a Claim

A person can file an unemployment insurance claim by using the Internet Claimant Self Service website <<http://ui.nv.gov/css>> or by calling a telephone call center. See Appendix C for telephone numbers listed under “Unemployment Benefits.”



## Benefit Disqualifications

A claimant may be disqualified from receiving benefits for any one of a number of reasons set forth in state law. Following are some of the more common reasons for disqualification:

### Voluntary Quit

**NRS 612.380**

A person who was determined to be the moving party leaves their most recent job, or under certain conditions their next to last job (if less than 10 weeks of employment with the last employer), **voluntarily without good cause**, will be ineligible for benefits until they have earned wages equal to or exceeding their weekly benefit amount in each of **ten weeks** from subsequent new employment subject to Unemployment Compensation Law.

### Voluntary Quit to Seek Other Employment

**NRS 612.380**

A person who leaves their most recent job, or under certain conditions their next to last job, to seek other employment will be ineligible for benefits until they secured other employment or they have earned wages equal to or exceeding their weekly benefit amount in each of **ten weeks** from subsequent new employment subject to Unemployment Compensation Law.

### Misconduct in Connection with the Work

**NRS 612.385**

A person who is terminated from their most recent job, or under certain conditions their next to last job, for misconduct in connection with their work, will be ineligible for benefits until they have earned wages equal to or exceeding their weekly benefit amount for **up to 15 weeks** (depending on the seriousness of the offense) from subsequent new employment subject to Unemployment Compensation Law.

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**Crimes in Connection with the Work****NRS 612.383**

An individual who has been discharged for commission of assault, arson in any degree, sabotage, grand larceny, embezzlement, or wanton destruction of property in connection with their work, cannot use wages earned from the affected employer and period of employment to establish an unemployment benefits claim. The proof to establish culpability must be: 1) A written admission of guilt or a verbal admission of guilt given under oath; or, 2) An admission of guilt in a hearing of record; or, 3) A conviction in a court of competent jurisdiction subject to Unemployment Compensation Law.

**Refusal of Suitable Work****NRS 612.390**

A person who fails to accept a job deemed suitable, or fails to report to apply for work or attend an interview as directed by a representative of the Nevada JobConnect office, will be ineligible for benefits until they have earned wages equal to or exceeding their weekly benefit amount for **up to 15 weeks** from subsequent new employment subject to Unemployment Compensation Law.

**Availability****NRS 612.375**

The person who fails to be available for work in their customary occupation(s) while filing for benefits will be ineligible to receive benefits as long as the disqualifying conditions last.

**Labor Dispute Participation****NRS 612.395**

A person, who is out of work because of a labor dispute in active progress at the establishment they were last employed, will be ineligible for benefits for the duration of the dispute, **unless they can show they have not participated in, financed, or directly interested in the dispute.**

**Deductible Income****NRS 612.420/612.425/612.430**

A person is disqualified for benefits for any week with respect to which they receive vacation pay, severance pay, or wages in lieu of notice.

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**Misrepresentation - False Statements****NRS 612.445**

A person shall not make a false statement or representation, knowing it to be false, or knowingly fail to disclose a material fact in order to obtain or increase any benefit or other payment, including, without limitation, by failing to properly report earnings or by filing a claim for benefits using the social security number, name or other personal identifying information of another person. A person who commits unemployment insurance fraud will be disqualified for up to 52 weeks and the Division will impose a penalty not less than 15% nor more than 50% of the total amount of benefits improperly received by the person. Unemployment insurance fraud is a felony in Nevada.

**Period Between Academic Years or Terms****NRS 612.432/612.434**

Wages from educational institutions are not usable in an unemployment claim for any week of unemployment which begins during a period between two academic years or terms, vacation, or recess for a holiday, when there is a reasonable assurance that the individual will be provided employment from an educational institution in the next academic year or term.

**Sports or Athletic Events****NRS 612.436**

Wages on the basis of services in sports or athletic events, or training or preparing for sports or athletic events, are not usable for the purpose of unemployment benefits which commence during the interval between two successive sport seasons, and there is a reasonable assurance that the individual will perform such services in the later season.

**Alien Status****NRS 612.448**

Benefits may not be paid to non-citizens unless wages on which the claim is based were earned while the individual was lawfully authorized to work during satisfactory immigration status.

**Amount of Benefits**

The amount of benefits an individual will be paid depends on how much they earned in their “**Base Period.**” The minimum amount of benefits is \$16 per week, and the maximum amount changes each year (effective July 1), and is equal to 50 percent of the average weekly wage (excluding tips) paid to Nevada workers.

Generally, state unemployment benefits are paid for a **maximum of 26 weeks**. During times of recession, this may be extended under a separate federal/ state extended benefits program. There are also other emergency federal programs in force, as determined by Congress.

**Base Period**

The base period is the first four of the last five completed calendar quarters **prior to** filing a valid claim for benefits. There are four calendar quarters:

- First Quarter**      January, February, March
- Second Quarter**    April, May, June
- Third Quarter**     July, August, September
- Fourth Quarter**    October, November, December

**Illustration of Base Period**

<u><b>Date Claim Filed</b></u>	<u><b>Base Period</b></u>
<b>January, February, or March 2017 (First Quarter)</b>	Third Quarter, 2016 Second Quarter, 2016 First Quarter, 2016 Fourth Quarter, 2015
<b>April, May, or June 2017 (Second Quarter)</b>	Fourth Quarter, 2016 Third Quarter, 2016 Second Quarter, 2016 First Quarter, 2016
<b>July, August, or September 2017 (Third Quarter)</b>	First Quarter, 2017 Fourth Quarter, 2016 Third Quarter, 2016 Second Quarter, 2016
<b>October, November, or December 2017 (Fourth Quarter)</b>	Second Quarter, 2017 First Quarter, 2017 Fourth Quarter, 2016 Third Quarter, 2016

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## “Elected” Base Period

NRS 612.344

Under certain circumstances, a person who has not earned enough wages during their regular base period, because they was receiving total or partial disability benefits, may choose an “elected” base period.

The elected base period consists of the first four of the last five completed calendar quarters **immediately preceding the first day of the calendar week in which his disability began.**

**NOTE: Benefits paid on a claim using the elected base period will not be charged to the employer’s experience record.**



### **Benefit Charges to Base Period Employers**

Unemployment benefits paid to claimants are charged to the experience record of employers who paid wages to that person during his base period. There are two possible methods of charging the benefits, depending on the amount of wages paid by employers:

- A. If one of the base period employers paid 75 percent or more of the wages, **all** of that person’s benefits are charged to the experience record of that employer. **However**, if the employer can show that the claimant left the job voluntarily without good cause or was discharged for misconduct **or** was the spouse of an active member of the Armed Forces of the United States and left their employment because their spouse was transferred to a different location, the benefits will not be charged to the employer's experience record.
  
- B. If there is no employer who paid 75 percent or more of the wages, the benefits are charged to all base period employers in proportion to the amount of wages paid. **In this case, none of the base period employers have the opportunity to obtain a non-charge ruling to their experience records, even if the worker voluntarily quit without good cause or was discharged for misconduct, **unless** the claimant is found to have quit employment with the last or next to last employing unit solely to accept other employment.**

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- C. If an employer fails to provide all relevant facts or fails to respond timely as required by NRS 612.475, which may affect the claimant's rights to benefits, the employer's record for experience rating is not entitled to be relieved of the amount of any benefits paid to the claimant as a result of such failure that were charged against the employer's record pursuant to NRS 612.550 or 612.553.

**NOTE: Voluntary quits and discharges for misconduct impact two separate functions:**

- **If it is from the last employer or in some cases the next to last employer, it determines whether the claimant is disqualified from benefits. Unless the Employer fails to provide all relevant facts or fails to respond timely as required by NRS 612.475.**
- **If it is from a base period employer who has paid 75 percent or more of the wages, it determines if the benefits will be charged to the employer's experience record.**

**Crimes in Connection With Work**

**NRS 612.383**

All base period employers involved in the claim have the opportunity to demonstrate that the worker was discharged for committing crimes in connection with work. The crime must be admitted in writing or under oath, or in a hearing of record by the claimant, or it resulted in a conviction in a court of competent jurisdiction. If so demonstrated, wages from the employer cannot be used to establish an unemployment benefits claim and would **not be charged** to the employer's experience record.





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## EMPLOYERS AND THE BENEFIT CLAIMS PROCESS

Employers play a strategic role in the claims filing process. The integrity of the program relies upon the active participation of employers. The Division's mission is to pay unemployment benefits only to those individuals who are **entitled by law and in amounts prescribed by law**.

The law provides incentives for employer participation in the form of lower taxes under the "experience rating" system. If an employer does not respond timely to notices with all relevant factual information regarding the employee separation, **it could affect the employer's experience record, which determines the employer's future tax rates**. If the Division does not receive all the relevant facts in a timely matter, it could also result in payment of benefits that should not have been paid. The employer's account will **not** be relieved of the amount of any benefits erroneously paid to the claimant. This reduces the Unemployment Compensation Trust Fund, which results in higher cost and overall tax increases to **all Nevada employers**.



### When a Claim Is Filed

When a person files a claim for unemployment benefits, the Division must determine that the person meets all criteria of eligibility before benefits are paid. The following steps are taken:

- A. If the person is unemployed, quarterly wages reported to the Division from previous employment during the individual's base period are checked to determine if the individual earned sufficient wages to be monetarily eligible for an unemployment claim.

**Employer Involvement:** If the claimant believes all of the wages have not been reported properly by base period employers, the claimant may file a "Wage Protest." The matter will then be turned over to a compliance/audit investigator to determine if wages have been properly reported. The employer's cooperation is requested to provide honest and accurate information to the investigator. The investigator will

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determine the facts so only those benefits to which the claimant is entitled by law is payable.

- B. When a person files a claim, each employer in the person's base period -- as well as the most recent employer -- is sent a "Notice of Claim Filed." If the person worked less than 16 weeks for his last employer, the next to last employer will also receive a notice. It is possible that a base period employer is both the last employer and the next to last employer. It is the employer's responsibility to respond to the "Notice of Claim Filed" promptly. The notice will clearly indicate if an employer's account is subject to charges based on the claim.

The reason for separation from a period of employment will be stated and plays a significant role as to whether or not the claimant is eligible for benefits. For example, if the employee was discharged for violating a company policy or voluntarily quit, the employer should review the circumstances and reply in writing to the "Notice of Claim Filed."

**Employer Involvement:** The employer is required to submit, in writing, all relevant facts which could affect the person's rights to benefits within 11 calendar days after the date of mailing. If there is a question of eligibility, the employer may, but not required to, respond to a request for additional information. If the employer does not respond to requests for additional information or submit written information within the 11 calendar days, the Division must act on available information, and the employer gives up the right to protest. If the available information is not accurate or complete, avoidable charges to the employer's account may result.

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**Online Employer Self Service:** When the UI system detects an employer issue that needs to be adjudicated for a claim, it creates dynamic fact finding to be collected from the employer. Fact finding will only be collected if the issue type has pre-defined fact finding associated with it, the issue has not yet been resolved, and the claim has not yet expired. A link notifying the employer of the need to complete fact finding for an issue will be displayed on their ESS “Employer Summary” screen.

- C. The Division will issue a written determination to the last employer and/or the next to last employer, whichever is involved, **provided the employer has responded to the “Notice of Claim Filed” within 11 calendar days and has submitted all relevant facts that could affect the claimant’s rights to benefits.** If the employer has not responded as required by law, the employer will lose the right to appeal.

**Employer Involvement:** If the employer believes the Division’s determination is improper, the employer has the right to appeal. Appeals may be filed by submitting a letter addressed to the office that issued the determination, stating the reason for appealing and the name and social security number of the claimant. To be considered timely, the appeal must be filed within **11 calendar days** after the date of mailing shown on the determination. The **claimant** has the same appeal rights and responsibilities if they believe the determination is improper.

- D. Appeals are heard by an impartial Appeal Tribunal. Decisions of the Appeal Tribunal may be appealed to the Board of Review. The decisions of the Board of Review may be appealed to the District Court.

**Employer Involvement:** If possible, the employer should attend appeal hearings. These are informal administrative proceedings and do not require

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representation by legal counsel, although the employer may bring whomever they want to represent or assist them. If the employer cannot attend, the employer should submit detailed facts in writing to the Appeals Office.



### **Partial/Total Claims**

A person whose pay and hours of work have been reduced by their regular employer because of lack of work in any week may be eligible for partial unemployment benefits. The claimant is eligible if their earnings during the week of reduced work are less than the unemployment insurance weekly benefit amount they would have received if totally unemployed.



### **Penalties for False Statements**

#### **Section 612.715 of the Nevada Revised Statutes provides:**

Whoever makes a false statement or representation knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this chapter, either for himself or for any other person, is guilty of a misdemeanor.

#### **Section 612.717 of the Nevada Revised Statutes provides:**

If the administrator finds that any employer or any employee, officer or agent of any employer has willfully made a false statement or representation or has willfully failed to report a material fact concerning the termination of a claimant's employment, he shall make a determination thereon, charging the employer's reserve account not less than two nor more than 16 times the weekly benefit amount of the claimant. The administrator shall give notice to the employer of a determination under this section. Appeals may be taken from the determination in the same manner as appeals from determinations on benefit claims.

#### **Section 612.720 of the Nevada Revised Statutes provides:**

Conspiracy to obtain or increase benefit; series of false statements to obtain or increase benefit. Except as otherwise provided in subsection 5 of NRS 612.445, whenever two or more persons conspire to obtain or increase any benefit or other payment under this chapter by a false

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statement or representation knowing it to be false, or by knowingly failing to disclose a material fact, or whenever any person makes a series of false statements or representations knowing them to be false, to obtain or increase benefit payments under this chapter over a period of more than 1 week, every such person is guilty of a gross misdemeanor.

**Section 612.730 of the Nevada Revised Statutes provides:**

1. Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any natural person entitled thereto, or who willfully fails or refuses to make any such contributions or other payment or to furnish any reports required by this chapter, or to produce or permit the inspection or copying of records as required by this chapter, is guilty of a misdemeanor.
  
2. Any employing unit, or any officer or agent of an employing unit or any other person who knowingly:
  - (a) Attempts to use a plan or scheme to avoid becoming or remaining subject to the provisions of this chapter or to reduce any contribution or other payment required pursuant to the provisions of this chapter; or
  
  - (b) Advises an employing unit to use a plan or scheme to avoid becoming or remaining subject to the provisions of this chapter or to reduce any contribution or other payment required pursuant to the provisions of this chapter, is guilty of a category C felony and shall be punished as provided in NRS 193.130.



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## EMPLOYMENT SERVICES

Nevada JobConnect is charged with oversight and provision of workforce development services to both businesses and jobseekers. For businesses, the services include recruiting, retention, training and retraining, and out-placement services, as well as information on labor law and labor market statistics. The services are free to all Nevada businesses. Nevada JobConnect offices are located statewide. See Appendix C for telephone numbers or visit the department's web site at <http://www.nvdetr.org> for more information.



### Posting Job Orders

Job orders posted with the Employment Security Division are distributed statewide through a computerized system to all Nevada JobConnect offices. The orders are also placed into Nevada's Job Bank on the Internet. Additionally, the job orders are posted to the nationwide America's Job Exchange. Both Nevada's Job Bank and America's Job Exchange are linked to the department's web site at <http://detr.state.nv.us/ESD%20Pages/Post%20job%20orders.htm>. The JobConnect offices can provide screening/referral control of all candidates, or businesses can choose to have candidates contact them directly through America's Job Exchange.



### Veteran Services

Customized employment and training opportunities are provided to eligible veterans. Services such as job development, job placement, occupational training, and on-the-job training are available at Nevada JobConnect offices statewide. Many offices have Veterans' Employment Representatives and Disabled Veterans' Outreach Program Specialists.



### On-The-Job Training

Programs for on-the-job training are available to businesses who hire unemployed workers who cannot return to their normal occupations due to economic and technological changes. Businesses are partially reimbursed for the cost associated with retraining these workers for new occupations.



### **Layoffs and Business Closures**

The Rapid Response Team offers quick intervention to workers and businesses affected by layoffs or business closures to help make the transition easier for both parties. Businesses and their workers receive information about job placement, job training or retraining, counseling, unemployment insurance, on-the- job training, job fairs and other services available through the Employment Security Division and local community organizations. Businesses can request the intervention team whenever a reduction in workforce is imminent.



### **Short-Term Labor**

Laborers for short-term jobs of a few hours or a few days are readily available through the Casual Labor Offices in Reno and Las Vegas.



### **Work Opportunity Tax Credit**

The Work Opportunity Tax Credit (WOTC) program provides a tax credit to private, for-profit businesses who hire and retain new employees from specific target groups.

The target groups include: welfare and food stamp recipients, Temporary Assistance to Needy Families (TANF) recipients, Supplemental Security Income (SSI) recipients, Vocational Rehabilitation referrals, veterans, ex-felons, long-term unemployed and Ticket to Work ticket holders.

Each group has specific criteria that the applicant must meet before certification can be issued to the business. Businesses must apply for the tax credit within 28 days of the new employee’s start date and requires only minimal paperwork on the business’s part.

Please contact the Nevada JobConnect office in your area for more information. See Appendix C for telephone numbers or visit the department’s web site at <<http://www.nvdetr.org>>.



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### **Labor Market Information**

The Department’s Research and Analysis Bureau provides a broad spectrum of current labor market information. Data offerings include monthly employment and unemployment statistics, a wage survey that is updated twice each year, industry and occupational employment projections, and demographic/ affirmative action data.

Labor market information can be accessed via the Nevada Work Force Informer web site at <<http://www.nevadaworkforce.com>>. The web site contains links to the Nevada Career Information System and other state and federal statistical sites.

The Research and Analysis Bureau also publishes the monthly *Nevada Economy in Brief*, which provides a current snapshot of the Nevada economy. Bureau economists are available to help you navigate the web site or to answer your questions. See Appendix C for the telephone number for “Labor Market Information.”



### **Business Service Representatives**

Business Service Representatives are the employer’s liaison to all employment services described above. See Appendix C for a complete listing of telephone numbers for “Nevada JobConnect Offices” locations.





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## APPENDIX A

### FREQUENTLY ASKED QUESTIONS

#### 1. How the employer's tax rate determined?

New employers pay unemployment insurance (UI) taxes at a rate of 2.95 percent of taxable wages until they are eligible for “experience rating.” There is an additional tax of 0.05 percent for the Career Enhancement Program (CEP). Once the employer is eligible for experience rating, the rate is determined by two factors:

- The employer's “reserve ratio,” which is a measure of their previous experience with unemployment (see section “*How Tax Rates Are Determined*”); **and**
- The reserve ratio schedule in effect.

The administrator establishes, by regulation, the schedule to be in effect for each calendar year. Changes to the schedule are made according to the trust fund balance, economic conditions, and forecasts. The law provides for an annual test of the trust fund for a guideline. The balance should be sufficient to pay benefits for one full year, disregarding any additional income (Department of Labor recommends sufficient funds to pay benefits for 1 1/2 years).

The regulation is filed pursuant to the Administrative Procedure Act and the Nevada Open Meeting Law, upon the recommendation of the Employment Security Council. A meeting is held with the council during October of each year, followed by a public hearing; both are open to the public.

#### 2. How can the employer control their costs?

There are a number of things the employer can do to help control their costs, all of which impact their “reserve ratio” or the unemployment insurance trust fund. Generally, the higher the employer's reserve ratio, the lower their taxes will be:

- Pay the taxes on time. This is a factor used in the employer's “reserve ratio” calculation. (Timely payment also ensures full credit against your Federal Unemployment Tax.)

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- Respond to Division notices, including the “Notice of Claim Filed.” Whether benefits are paid, and how much, are often determined by employer responses. Without receiving all relevant facts in a timely manner, the Division must act on the best information available. Benefits paid in error will likely impact the employer’s future tax rates.
  - If the employer feels a determination from the Division is in error, file a timely appeal and attend all hearings.
  - Review the benefit charges and tax rate notices carefully for errors.
  - Keep accurate, written personnel records of employees’ performance and conduct. Be particularly specific when responding to the “Notice of Claim Filed” regarding the reason for separation.
  - Offer job openings to unemployed workers, if possible. This reduces overall cost and possibly the employer’s individual tax rate. Take advantage of our free services at Nevada JobConnect offices located statewide.
  - Avoid layoffs whenever feasible. Workers could possibly be used temporarily in a part-time position or in some other capacity. Contact other employers in the industry for possible job openings.
  - Notify the Division if an unemployed claimant refuses suitable work, or any other instance the employer thinks an individual is abusing the system.
  - Report all newly hired or rehired employees to the Division to prevent improper payment of unemployment benefits. Improper payment of benefits is a serious problem that can result in higher UI taxes to **all** employers.

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### **3. If an employee quits or is fired, can he draw benefits?**

If the Division determines that the employee either quit **without good cause** or was fired for **misconduct** in connection with his work from his **last employer** (or in some cases his next to last employer), he will be disqualified (see Benefits Disqualifications section). Accurate employer records and participation in the benefits process are **vital** to the division's ability to make the correct determination.

### **4. The employer is a base period employer. One of the employer's workers quit without good cause, yet the employer's experience record is still charged with part of his benefits. Why should the employer be charged, when the employer had no control over his leaving?**

The law provides for disqualification for voluntary quits and misconduct in connection with the work, **if it was the reason for separation from his last employer**. If the worker quit or was discharged from a base period employer who was **not** the last employer, he may still receive benefits. In general, benefits are charged proportionately to base period employers regardless of reason for separation. However, if one of the employers paid **75 percent or more** of the wages, that employer will be charged for **all** of those benefits (other base period employers are not charged at all) unless the employer can prove that the worker quit without good cause or was discharged for misconduct in connection with the work, or unless the claimant is found to have quit employment with the last or next to last employing unit to accept other employment or relocate to follow a military spouse who was transferred to a different location.

### **5. The employer is an officer and sole shareholder of a subchapter "S" corporation. Why should the employer have to pay taxes on themselves? They will never be able to draw benefits.**

A corporation is a separate legal entity and thus a separate "employing unit" under Nevada Unemployment Compensation Law. Therefore, any individual performing services for wages is an employee of the corporation. Subchapter "S" status pertains to federal income tax laws and has no bearing on state law. Unemployment compensation is an insurance program; while the likelihood of drawing benefits may be less than in other situations, it is still possible, if all other requirements are met.

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**6. Are “Cafeteria” and 401k plans reportable wages?**

Yes. Amounts deducted from employees’ gross salaries to pay for these items are “wages.” If, however, the employer makes a matching contribution to an employee’s 401k plan, the amount contributed by the employer is **not** wages.

**7. If the employer has already paid taxes on an employee in another state, then transfer him to Nevada, can those wages be considered when calculating nontaxable wages?**

Yes, as long as he continues to work for the same employer.

**8. Why do employers pay the entire cost of unemployment benefits? Why doesn’t the employee contribute?**

In a few states, employees do contribute a small share. However, during the formulation of the federal/state system, the consensus of opinion among the states was that this would lead to assertions that the employee has a vested right to the money. But, the intent was to make benefit entitlement contingent only upon certain conditions regarding employment and unemployment. If the employer bears the entire cost, he will more likely participate in the benefit entitlement process in order to control his costs and limit payment to the truly unemployed.

**9. The employer has written agreements with the workers that they are “independent contractors.” Doesn’t that exempt them from unemployment tax?**

A written contract does not necessarily establish “independent contractor” status. In fact, any agreement by an individual which waives his rights to benefits is void (NRS 612.700). And while the written contract provisions may be considered in any determination, the conditions described in NRS 612.085 must also be met **in fact**. See *Who Must Pay - Independent Contractors* section.

**10. The employer’s workers meet the requirements of independent contractors for IRS purposes. Doesn’t that exempt them from state unemployment taxes?**

Not necessarily. See *Who Must Pay - Independent Contractors* section for a full explanation.

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## **11. Why does the employer have to report tips separately on the quarterly tax reports?**

Tips are included in a claimant's earnings when determining if the claimant is entitled to benefits and in what amounts. However, the maximum weekly benefit amount changes each year and is equal to 50 percent of the average weekly wage paid to Nevada workers. The law requires that tips be **excluded** from the calculation of the maximum weekly benefit amount. Reporting tips separately is important for employers, since it reduces the overall cost and tax rates.

## **12. What posters and notices are required by Nevada law regarding unemployment insurance?**

Each employer is required to post a **Notice to Employees** at each workplace and must provide a leaflet, **Information for the Unemployed Worker**, to each employee who separates from employment.

See Appendix B for an explanation of forms. The forms are available online at <<http://ui.nv.gov/ess>>.

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## APPENDIX B

### TAX FORMS

All forms are available online at <<http://ui.nv.gov/ess>> listed in the “Download forms for employers” link under the “I want to” section, unless otherwise indicated.

- APP-01.00      **Nevada Business Registration**  
Form must be completed and filed with the division within 30 days after employing unit becomes subject to the Nevada Unemployment Compensation Law. APP-01.00 is available online at <<http://ui.nv.gov/ess>> under the “I want to” section.
- RPT5416      **Supplemental Registration Form (Agriculture, Domestic, and Nonprofit)**  
Form must be completed by nonprofit, domestic, and agricultural employers. These types of employers have specific liability requirements and must provide additional registration information. RPT5416 is available online at <<http://ui.nv.gov/ess>> under the “I want to” section.
- RPT3795      **Employer’s Quarterly Report**  
Form is mandatory to report Gross Wages, Non Taxable Wages and Taxable Wages for a specific quarter. Taxes for contributory employers are calculated based on report summary information. The employer must complete the original form mailed by ESD or file online at <http://ui.nv.gov/ess>.
- NEW0098      **Wage Report**  
Form is mandatory to report wage detail for individual employees for a specific quarter. The employer must complete the original form mailed by ESD or file online at <http://ui.nv.gov/ess>. Grand Total Gross Wages + Tips line item on NEW0098 must balance to the Employer’s Quarterly Report line item 3.

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RPT7833

**Statement to Correct**

Form must be completed by employers to adjust previously reported information submitted on the Employer's Quarterly Report and/or Wage Report and mailed to ESD/Contributions Section. RPT7833 is available online at <<http://ui.nv.gov/ess>> under the "I want to" section.

4139

**Information for the Unemployed Worker (INFO ENG and INFO SP)**

A form required by statute, which is to be distributed by employers to employees who are laid off or otherwise leave employment and are available online at <<http://ui.nv.gov/ess>> under the "I want to" section.

4324

**Notice to Employees (Required Poster) (NOTICE ENG and NOTICE SP)**

The poster is required to be displayed at each work place. Posters are mailed to all newly registered employers and are available online at <<http://ui.nv.gov/ess>> under the "I want to" section.

RPT5556\*

**Notice of Employer's Contribution Rates**

This annual notice referred to as a Rate Statement, advises an employer of their UI Tax rate for the following calendar year. The new employer rate is 2.95 for a period ranging from 14 to 17 quarters until the employer is eligible for an experience rating. Once the employer becomes eligible for an "Experience rating" they will receive one of 18 unemployment insurance (UI) tax rates, ranging from .25 percent to 5.40 percent of taxable wages. The employers UI tax rate may vary from year to year depending on previous experience with unemployment and the rate schedule in effect. In addition, you must also pay .05 percent for the CEP (Career Enhancement Program).

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RPT5098

**Certification of Subcontractor’s UI Payments**

The Certification of Subcontractor’s UI Payments, must be submitted by a prime (or general) building contractor to ESD Contributions in order to receive a conditional release certifying that one of their subcontractors has filed all necessary reports and paid all known UI contributions, CEP, penalties, forfeit fees, and interest through a certain date. The form must be submitted after the due date for each quarterly report for the duration of the subcontractor’s contract. RPT5098 is available online at <<http://ui.nv.gov/ess>> under the “*I want to*” section.

RPT5553\*

**Application for Transfer of Experience Record**

If the employer has acquired an existing Nevada business and there is no common ownership, management, or control, the employer may apply for a voluntary transfer of the experience record from the previous owner and pay at a tax rate based on the experience record of the previous owner. The division must be notified within 90 days in writing from the date of acquisition and a form will be mailed at that time. The Application for Transfer of Experience Record must be received within 1 year from the date of issuance.

RPT7203

**Employers Report of Changes**

To report any changes to your Unemployment Insurance account number, such as address changes, inactivation date, new locations or new owner information. This form must be signed and dated. RPT7203 is available online at <<http://ui.nv.gov/ess>> under the “*I want to*” section.

RPT7012

**ACH Credit Agreement and Authorization**

Before making a UI tax payment by ACH Credit for the first time, RPT7012 must be completed and faxed to (775) 684-6351 for approval. The form must be returned two weeks before the anticipated first payment due date. RPT7012 is available online at



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<<http://ui.nv.gov/ess>> under the “*I want to*” section.

RPT7011

**ACH Debit Authorization**

Before making a UI tax payment by ACH Debit for the first time, RPT7011 must be completed and faxed to (775) 684-6351 for approval. A voided check or bank specification sheet must be included with the ACH Debit Authorization form. The form must be returned two weeks before the anticipated first payment due date. RPT7011 is available online at <<http://ui.nv.gov/ess>> under the “*I want to*” section.

\* Not available on web site. Form must be requested from the Contributions Section.





