

INFO LINK

Your link to information regarding North Dakota Unemployment Insurance

June 2003



Centralized Services
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***Employer's
Contribution and Wage
Reports for the quarter
ending
June 30, 2003, are due
and must be submitted
by
July 31, 2003***

Reminder ...

Remember to obtain the Social Security number of each employee, including seasonal employees. SSNs must be included for each employee on each quarterly report.

Unemployment Insurance Legislation Changes

The 2003 Legislature did not consider many bills dealing with Unemployment Insurance (UI). However, four bills (House Bills 1096-1099) were enacted.



House Bill No. 1099 took effect immediately with the Governor's signing of the bill on March 12. This bill repealed a law that allowed employers to reduce the work hours of a fixed group of employees, then allowed those employees to draw partial UI benefits to partially make up for the lost wages. Repeal was sought as funding (estimated at \$970,000) to implement the program was not available.

Other changes, which will be effective August 1st, are:

1. A change in the deadline for Job Service to send annual tax rate notices to employers from December 1st of each year to the end of the first full week in December, but in no case later than December 10th (House Bill No. 1096).
2. A provision allowing employers to set up qualifying supplemental unemployment insurance programs. Benefits paid under such programs would not be counted as wages to a UI claimant nor be taxed as wages paid by that employer (House Bill No. 1096).
3. A bill to eliminate confusion as to employer records that must be available for inspection (audit). The provision now includes electronic records, and provides for a civil penalty of up to \$500 for refusal to allow access (House Bill No. 1096).
4. A change to allow non-charging of benefits to a base period employer's account, with the exception of a reimbursing employer, when that employer is currently employing the claimant part-time, and the hiring agreement between that employer and employee has not changed since the claimant commenced work for that employer (House Bill No. 1096).
5. A change to a more flexible means of dealing with situations where the owner of a business has "ceded" the business and is making a claim for UI benefits based on his/her unemployment. This amendment sets forth means by which our claims takers are able to judge whether a former owner had "ceded" her/his business.

The former owner could do this in one or more of four ways:

- a. By filing articles of dissolution.
- b. By showing a certificate of dissolution.

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- c. By selling “substantially all the assets” of the business to an uninvolved third party.
 - d. By demonstrating that substantially all the business assets have been seized by creditors (House Bill No. 1096).
6. A change in the assigned tax rate to employers who are delinquent in quarterly reporting at the time the experience rates are assigned. Current law requires that all such employers (regardless of their history) should be assigned the negative balance employer maximum rate. Under the new provision, two groups of delinquent employers (1) experience-rated positive balance employers and, (2) new non-construction employers with a positive balance, will be assigned rates different than in previous years. They will receive the **negative employer minimum rate**. The remaining types of employers would, if delinquent at the time rates are calculated, still be assigned the negative employer maximum rate (House Bill No. 1097).
7. A change to provide that base period employers cannot challenge final benefit determinations based on separations from other employers. However, such base period employers are entitled to information about the claimant’s history sufficient to allow the employer to contest the charging of the employer’s account, or the billing of a reimbursing employer (House Bill No. 1098).

If you have questions about these law changes, please call or e-mail us at the numbers or addresses printed on this newsletter.

Question of the Quarter —

“As a corporate officer, am I able to receive Unemployment Insurance benefits?”



As with most cases concerning eligibility for benefits under the Unemployment Insurance program, there are several variables and these variables dictate each individual’s eligibility for benefits.

Very important in determining eligibility is the percentage of ownership the officer has in the corporation. If a corporate officer or the officer’s spouse, child, parent (if the officer is under age 18), or any combination of them owned or controlled (during the employment of the officer) less than 25 percent of a corporation, the officer can generally be eligible to receive Unemployment Insurance benefits. Of course all other eligibility requirements applicable to receiving Unemployment Insurance also apply to these individuals and may disqualify the individual from receiving benefits even though corporate ownership is less than 25 percent.

The 25 percent ownership will not be disqualifying if the business has been ceded. (See #5 in the above article explaining the ways in which a business is considered ceded.)

Corporate Officers have the option of being exempted from Unemployment Insurance coverage in January of each year or within 60 days of formation of the corporation. As with any financial or tax question, you should contact your tax advisor for guidance as to this option.

North Dakota Century Code guiding Job Service in decisions involving Corporate Officers can be referenced at NDCC 52-06-04§2b.

CUSTOMER SERVICE CONSULTANTS

Our staff are available to answer your questions at any of the following locations:

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