

## UNEMPLOYMENT INSURANCE TAXES

---

Unemployment insurance taxes, paid by the employers, are funds used to pay unemployment benefits. The amount of tax paid by Minnesota employers is based on their unemployment history.

Unemployment benefits provide a temporary partial wage replacement to those Minnesota workers who become unemployed through no fault of their own. These payments are an economic stabilizer/stimulator in times of economic downturn, and help to maintain an available skilled workforce for Minnesota employers.

Federal unemployment tax (generally referred to as FUTA tax) is a separate tax used to fund the administration of the program at both the federal and state levels. FUTA taxes are collected by the Internal Revenue Service on behalf of the U.S. Department of Labor, Employment Standards Administration. State unemployment insurance taxes and the Minnesota Unemployment Insurance Law are administered by the Minnesota Unemployment Insurance Program, a division of the Department of Employment and Economic Development. Information on the federal and state programs may be obtained from the U.S. Department of Labor (federal program) and the Minnesota Unemployment Insurance Program (state program) at the addresses and telephone numbers provided in the Resource Directory section of the Small Business Assistance Office publication, *A Guide To Starting A Business In Minnesota*. Both the federal and the state unemployment insurance taxes are employer-funded. Therefore, no deductions for it may be made from employees' wages.

### FEDERAL UNEMPLOYMENT TAXES

#### Filing Requirements

The FUTA tax return is prepared once per year and is generally due one month after the year ends.

A FUTA tax return must be filed by any employer who meets any one of the following tests:

- The employer pays \$1,500 or more in wages in any one calendar quarter for the reporting year, or;
- The employer had one or more employees for some part of a day in any of 20 different weeks during the reporting year. For this test, all regular, temporary, and part-time employees are counted. Note: Partners of a partnership, and sole proprietors and their spouses, parents, and minor children are not counted for this purpose. (This test is known as the "general" test), or;
- The employer paid cash wages of \$20,000 or more to farm workers during any calendar quarter for the reporting year, or;
- The employer had 10 or more farm workers for some part of a day in each of 20 different weeks in the reporting year. Aliens admitted to the United States on a temporary basis to perform farm labor are counted for this purpose. (This test is known as the "farm workers" test), or;
- The employer paid cash wages of \$1,000 in any calendar quarter in the reporting year for household work done in a private home, local college club, or local chapter of a fraternity or sorority. (This test is known as the "household employees" test).

## Figuring the Tax

The federal unemployment tax is figured on the first \$7,000 in wages paid (“wage base”) to each employee during the year. The federal unemployment tax rate is 6.0 percent of the wage base (Note: The wage base and tax rate are subject to change annually); however, the employer is given a credit of up to 5.4 percent if the state unemployment insurance tax payments were timely. Therefore, the tax rate can be as low as 0.6 percent (6.0 percent minus the 5.4 percentage point credit). An employer may not take FUTA credit for any state taxes the employer did not actually pay.

In computing the employee wage base for FUTA, an employer who takes over the business of another employer who was subject to the federal unemployment tax may count wages paid by the first employer to those employees who continue to work for the second employer. Because the Minnesota Unemployment Insurance Trust Fund had unpaid loans due the federal treasury during 2011, the credit for timely payment of state tax is reduced to 5.1 percentage points for the 2011 FUTA tax return (Form-940).

Additionally, wages paid to an owner/officer who owns 25 percent or more of a corporation or limited liability company (LLC), and has not opted to be covered under the Minnesota Unemployment Insurance Program (i.e. wages on which no Minnesota unemployment insurance tax has been paid), are not eligible for the 5.1 percentage point FUTA credit. For more information on this topic, see the section entitled “Coverage” under STATE UNEMPLOYMENT INSURANCE TAXES below.

## Reporting and Paying the Tax

Editor’s Note. Starting on January 1, 2011, most Federal Tax Deposits must be made using EFTPS. At the time the *Guide* went to press, the IRS had issued proposed regulations (REG 153340-09) which would eliminate the rules for making federal tax deposits by paper coupon because the paper coupon will no longer be maintained by the Treasury Department after December 31, 2010. Final regulations will be issued after the comment period. Usually the final regulations are very similar to the proposed regulations. Information on EFTPS can be found at [www.eftps.gov](http://www.eftps.gov) or by calling Customer Service (800) 555-4477.

FUTA tax is reported on Form 940. The form covers one calendar year, and is due January 31st of the following year. An employer may, however, be required to make deposits of the tax before filing the return. If at the end of any calendar quarter the employer owes but has not yet deposited more than \$500 in FUTA tax for the year, the employer must make a deposit by the end of the following month. If the tax is \$500 or less at the end of a quarter, no deposit is required. Instead, it is added to the tax for the next quarter. If the total undeposited tax is more than \$500 in the next quarter, a deposit is required. These payments must be made electronically via the Electronic Federal Tax Payment System (EFTPS). To enroll, visit [www.eftps.com](http://www.eftps.com) on the Internet.

## Penalties

An employer can avoid penalties and interest by making tax deposits when they are due, correct returns, and paying the proper amount of tax when due. Penalties may be imposed for filing late deposits and late filing, unless the employer can show reasonable cause for the delay. Information on penalties can be obtained from the Internal Revenue Service at the address and telephone number provided in the Resource Directory section of the *Guide*.

## STATE UNEMPLOYMENT INSURANCE TAXES

### Coverage

All firms or organizations having services performed for them in Minnesota are subject to the provisions of the Minnesota Unemployment Insurance Law, and most of these firms or organizations are required to pay unemployment insurance taxes. In lieu of taxes, governmental entities and some non-profits reimburse unemployment benefits paid to their former employees on a dollar-for-dollar basis. Whether or not a business is required to report wages and pay unemployment insurance taxes depends on the amount and type of employment, the amount of wages paid and other factors present in special situations. As discussed in "FEDERAL UNEMPLOYMENT TAXES" above, the wages paid to an owner/officer who owns 25 percent or more of a corporation or limited liability company (LLC), and has not chosen to be covered under the Minnesota Unemployment Insurance Program, are not subject to Minnesota unemployment insurance tax, nor do they need to be reported on the Wage Detail Report (discussed below in "Wage Detail Reports").

### Registering for a Minnesota Unemployment Insurance Employer Account

All entities that pay wages to employees performing covered services in Minnesota are required to register with the Minnesota Unemployment Insurance Program. Registration is done either online or by automated phone system, and should be completed as soon as possible after wages are paid to employees performing covered services in Minnesota, but not later than the due date of the first Wage Detail Report (discussed below in "Wage Detail Reports"). Based on the information provided, the Minnesota Unemployment Insurance Program will determine if the entity is required to report the wages paid to its employees and pay Minnesota unemployment insurance taxes on those wages, or (if eligible) reimburse any unemployment benefits that are paid to the entity's former employees. If the entity meets the reporting requirements, it will be assigned an unemployment insurance employer account number.

The following entities do not need to register for a Minnesota Unemployment Insurance Employer Account:

- sole proprietorships whose only employees are the spouse, parents, and/or minor children of the sole proprietor, or;
- corporations and LLCs whose only employees are owner/officers who directly or indirectly own 25 percent or more of the business and have not chosen to be covered under the Minnesota Unemployment Insurance Program, or;
- partnerships whose only workers are the partners of the partnership.

### Determining Succession

A firm that buys or otherwise acquires any part of an existing business that is subject to the Minnesota Unemployment Insurance Law must, within thirty days of the acquisition, report the acquisition online, or by using the automated phone system. If the entire business was acquired, and the predecessor and successor share 25 percent or more common ownership, the successor inherits the unemployment experience record of the predecessor. Common ownership includes,

ownership by a spouse, parent, grandparent, child, grandchild, brother, sister, aunt, uncle, niece, nephew, or first cousin, by birth or by marriage. Common ownership is assumed if both the predecessor and successor are publicly held corporations. If this is the case, the rate remains until the successor establishes its own experience record. If a distinct severable portion of the business of a commonly owned predecessor is acquired, the successor may apply for the portion of the predecessor's experience record that is applicable to the portion of the business acquired. An organization that plans to acquire any part of an existing business may obtain information on the predecessor's account by submitting a release from the predecessor to the Minnesota Unemployment Insurance Program. An organization that acquires assets in the normal course of the seller's business is not, solely by reason of the acquisition, subject to this provision of the law.

## **Tax Rates**

The law requires that each new employer pay tax at a new employer rate, unless the rate was acquired from a predecessor with an existing Minnesota Unemployment Insurance Employer Account, and the new employer is eligible to have an experience rate computed based on all or part of the predecessors experience record (as described above in "Determining Succession"). Minnesota's new employer unemployment insurance tax rate is a ratio of the total of all benefits paid to all Minnesota unemployment insurance benefit applicants to all taxable wages reported within the computation period. The new employer rate cannot be less than 1.00 percent plus the base tax rate, which can range from 0.10 percent to 0.50 percent dependent upon the balance in the Minnesota Unemployment Insurance Fund. The base rate is 0.50 percent for 2011 and 2012.

New employers in high experience rating industries are assigned a separate new employer rate. The tax rate for new employers in these industries is set by law at 8.00 percent, plus the base tax rate.

High experience rating industries include (but are not limited to):

- residential, commercial or industrial construction;
- sand, gravel, or limestone mining;
- manufacturing of concrete, concrete products or asphalt; and
- road building, repair or resurfacing, including residential and commercial driveways and parking lots.

Experience rating assigns a tax rate to employers who have paid wages for a sufficient period to rate their experience with unemployment. The fewer layoffs an employer's workers experience, the lower the tax rate. By relating tax rates to unemployment history, experience rating results in employers paying tax at a rate that covers the cost of unemployment for which their business is responsible. Experience rates are computed to the nearest one-hundredth of a percent, to a maximum of 8.90 percent. To receive an experience rate, an employer must have paid covered wages for a specific period of time, generally two calendar years. The computation period used in computing the experience rate is 48 months (sixteen quarters), ending on June 30 of the year prior to the year for which the experience rate is computed.

The experience rates assigned to employers for 2012 are based on the time period beginning July 1, 2007, and ending June 30, 2011. Employers do not need to have employees during the entire 48-month period to receive an experience rating. Employers who have paid wages before July 1 of their first year of coverage will be eligible for an experience rating in the third year. For

example, employers who first paid wages on or before June 30, 2010 will receive an experience rate in the year 2012. Note that any special assessments and the Workforce Development Fee must be added to the percentages discussed above to arrive at the total cost rate.

## **Additional and Special Assessments**

If the balance in the Minnesota UI Fund on March 31 falls below certain levels, an additional assessment takes effect for the following year. The additional assessment is currently 14 percent of the tax due. There is also a provision in the law for a special assessment to pay interest on federal loans which help to keep the Trust Fund solvent during periods of high unemployment. The special assessment in place for 2011 and 2012 is 2 percent of the tax due.

## **Special Assessment for Workforce Development**

A special Workforce Development Assessment of 0.10 percent of taxable payroll is paid with the quarterly unemployment insurance tax. The assessment collected is deposited in the Minnesota Workforce Development Fund, and is used to fund programs that help unemployed workers with retraining and re-employment, helping to keep them a valuable part of their local economy in Minnesota.

The Minnesota Unemployment Insurance Program's website, [www.uimn.org](http://www.uimn.org), provides detailed information on experience rating and the other assessments.

## **Wage Detail Reports**

Minnesota requires employers to file wage reports and pay unemployment insurance tax on a quarterly basis. When employers pay covered wages to employees for services provided, they are required to submit quarterly wage reports detailing the wages they paid to each employee, and pay tax on the wages reported. All covered wages paid to both full and part-time employees during the calendar quarter must be reported (this includes commissions, bonuses, tips as well as the cash value of any remuneration paid by a means other than cash), except those wages excluded by law. Examples of excluded employment are listed in the Employer Handbook, which is available on the Minnesota Unemployment Insurance Program's website, [www.uimn.org](http://www.uimn.org).

Not all covered wages are taxable. Unemployment insurance tax is only paid on wages up to an annual taxable maximum per employee. The taxable maximum wage is \$27,000 per employee for calendar year 2011 and \$28,000 for calendar year 2012.

The wage information that is required quarterly for each employee is:

- full name;
- Social Security number;
- total wages paid in the quarter;
- number of hours worked in the quarter, and;
- work location(s).

Employers are also required to report the total number of covered workers who worked or received pay during the payroll period which included the 12th of the month for each month in the reporting period. The wage detail report and the related taxes and other assessments are due within one month after the end of each calendar quarter. The due dates are April 30, July 31, October 31 and January 31. If any of these dates falls on a weekend or state government holiday, the due date is the next state government business day. Wage Detail Reports are required from all covered employers, even though they may have had no employees during the quarter, and therefore owe no tax. Even though no tax is due, a late fee will still apply if the Report is filed late. Reports must be electronically filed and accepted by the due date. The electronic receipt date of the accepted report will determine timeliness.

Wage Detail Reports are filed online or with an automated phone option using the Employer Self-Service System. Features of the System include:

- All tax and wage reporting is done on a secure Internet website or using automated telephone reporting (for employers with few employees and no access to the Internet).
- Wage and tax reports are combined - the System calculates taxable wages and the amount of tax and other assessments due.
- Several standard electronic file formats and submission types are accepted.
- Electronic Payments—Electronic payment options using either ACH debit or ACH credit are available for all employers, and required for employers reporting 50 or more employees and all third-party processors paying on behalf of their clients. The receipt date of the payment (not the postmark date for paper check payments) will determine its timeliness.
- Features allow the user to view and update account information, view payment history and wage detail information, make changes to account information, view benefits paid charges and receive and respond to Determinations of Benefit Account and Eligibility—all online.

### **Interest Charged on Late Tax Payments**

If the taxes due are not received by the due date, the employer is assessed interest at the rate of 1.5 percent per month or any part thereof, from the due date until payment is received by the Unemployment Insurance Program. Interest assessments may be removed if a late payment is attributable to certain extenuating circumstances. All requests for interest removal must be in writing, and the reasons for late payment must be substantiated.

### **Late Fees for Failure to File Timely Reports**

An employer who knowingly fails to submit a Wage Detail Report by the due date is required to pay a late fee in addition to the interest. An employer who submits the Wage Detail Report, but knowingly fails to include any part of the required information or knowingly enters erroneous information is also subject to an administrative fee. Additional information on interest and administrative fees is available on the Unemployment Insurance Program's website at: [www.uimn.org](http://www.uimn.org).

## **Adjustments and Refunds**

An employer that overpays the tax due may apply for an adjustment within four years from the date the tax was paid. To obtain an adjustment the employer should complete an adjustment transaction using the Unemployment Insurance Employer Self-Service System. Upon approval of the submission, the employer will receive a credit that can be applied to future taxes. When specifically requested, a refund check will be issued for the full amount of the credit. An employer who fails to include all wages in a previous report should complete an adjustment transaction via the Minnesota Unemployment Insurance Employer Self-Service System. Upon review and approval of the completed submission, the necessary adjustments will be made. Adjustments for a prior quarter should not be made on a subsequent quarter's Wage Detail Report. All adjustments should be made to the quarter and year to which they relate. Overpayments or underpayments may also result from an unemployment insurance audit of an employer's payroll records. In such cases, all adjustments will automatically be made, and the employer will be notified of any overpayment or underpayment.

## **Audits**

Unemployment Insurance Auditors perform regular examinations of employer payroll records. An audit to verify wage items and employment is generally confined to a single year, but may be expanded if errors or exclusions are found. All of the employer's records, including subsidiary records, must be made available to the auditor. Auditors may also inspect records for the purpose of establishing an employer's liability under the law, to obtain information regarding an application for unemployment benefits and in connection with unemployment insurance fraud investigations. The Minnesota Unemployment Insurance Law provides that the records of any employing unit must be open to inspection, audit and verification at any reasonable time, and as often as may be deemed necessary.

## **Records**

True and accurate employment records must be kept by all Minnesota employers, whether or not they are covered under the Minnesota Unemployment Insurance Law.

Since an employer's reporting requirements cannot be properly determined without such records, the records must be open to inspection as requested by the Audits & Special Accounts Section of the Minnesota Unemployment Insurance Program. The law provides penalties and administrative fees to ensure compliance. Records must contain the following information for each employee:

- full name;
- complete home address;
- Social Security number;
- the beginning and ending dates of the pay period and the date of payment;
- the days and number of hours in which the individual performed services;
- the location where the services were performed;
- the amount of gross wages paid and wages due but not paid for services performed;

- the rate and base unit of pay;
- any amounts paid as allowances or reimbursement for expenses; and
- the date of, and reason for, an employee's separation from employment.

Wages paid and wages due but not paid must be broken down to show the character of each payment. For example, meals, lodging, bonuses and gifts must be shown separately. Employment records must be kept for at least eight years after the calendar year in which the wages were paid or became due and payable.

### **Personal Liability for Payment of Unemployment Insurance Tax**

In the event that a corporation or limited liability company fails to pay its unemployment insurance tax, its individual officers, directors, employers, governors, members or owners who are responsible for filing Wage Detail Reports and paying taxes may be held personally liable for any unpaid taxes, interest and fees.