Pennsylvania's Unemployment Compensation Programs…

UC Issues Update

pennsylvania
DEPARTMENT OF LABOR & INDUSTRY

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Labor & Industry's New UC Website - Still At uc.pa.gov - Launched on Wednesday, Dec. 9, 2015

The new uc.pa.gov site is modern and easy-to-navigate. The over-arching goal of the site is to present a faster and more rewarding user experience. Information is easier to find on the new site, as the use of "quick links" and a "Resources" tab allows users to access pages more efficiently.

The new and improved uc.pa.gov contains content for claimants collecting benefits, and hosts UC tax and benefits information for employers as well, making uc.pa.gov a one-stop-shop for all unemployment compensation needs. In addition, uc.pa.gov/espanol is available for Spanish-speaking customers to quickly access the Spanish pages of the website. The site also now features a more robust search engine that guides users to the appropriate pages quickly and accurately.

The website incorporates the use of responsive design, allowing for more mobile-friendly access. The design adjusts the structure of the website to look and operate optimally without regard to the size of the screen being used to view the pages. Since the site launched on Dec. 9, 2015, mobile usage has increased exponentially.

If you have any questions about the new websites, please feel free to email the press office at ra-li-press-dlipress@pa.gov.

Important Tax Facts for 2016

The Office of UC Tax Services mailed the Pennsylvania Contribution Rate Notice for calendar year 2016, Form UC-657, on Dec. 31, 2015. Employers who receive their 2016 UC Contribution Rate Notice with this mailing date have the following important tax deadlines:

- **Jan. 30, 2016** was the last day to file a timely Voluntary Contribution to lower the 2016 contribution rate (A Voluntary Contribution must be filed within 30 days of the mailing date of the UC Contribution Rate Notice or no later than April 29, 2016, whichever is earlier).

- **March 30, 2016** is the last day to file a timely rate appeal to the contribution rate reflected on the UC Contribution Rate Notice (A timely rate appeal must be filed within 90 days of the mailing date

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of the UC Contribution Rate Notice). Please note that the surcharge adjustment, additional contributions and interest factor are not appealable items.

- **April 30, 2016** is the last day to file a timely election for a Debit Reserve Account Balance Adjustment.

Employers who received a 2016 UC Contribution Rate Notice with a mailing date other than Dec. 31, 2015, will need to adjust these deadlines according to the instructions on the reverse side of the form.

Taxable Wage Base and State Adjustment Factor

As part of the Act 60 amendments to the Pennsylvania UC law, the taxable wage base for employer contributions will be increasing each year from 2013 through 2018. At the same time, the maximum state adjustment factor has been decreased from 1.5 percent to 1.0 percent through 2016 and will decrease further thereafter. The following chart lists the taxable wage base and state adjustment factor amounts beginning 2012:

Calendar Year	Taxable Wage Base for Employer Contributions (per employee per year)	Maximum State Adjustment Factor
2012 and prior	$8,000	1.5%
2013	$8,500	1.0%
2014	$8,750	1.0%
2015	$9,000	1.0%
2016	**$9,500**	**1.0%**
2017	$9,750	0.85%
2018 and thereafter	$10,000	0.75%

The following solvency measures will be in effect for 2016:

Employer Taxes

A 5.1 percent (.051) surcharge on employer contributions, unchanged from 2015. The surcharge adjustment is computed by multiplying your basic rate by the 5.1 percent surcharge. The surcharge adjustment does not apply to reimbursable employers.

A 0.65 percent (.0065) additional employer contribution, unchanged from 2015. The additional contribution is added to your tax rate as adjusted by the surcharge. The additional contribution is not applicable to non-delinquent newly liable and reimbursable employers.

A 1.1 percent (.011) interest factor, unchanged from 2015. Under Act 60, the interest factor is used to fund the payment of bond obligations. It may also be used to fund payment of interest on federal loans, although Pennsylvania does not currently have a federal loan balance. The interest factor is not applicable to non-delinquent newly liable employers. Also, it is neither credited to the employer's reserve account nor considered for federal certifications.

Employer Taxes Example:

Basic Rate	Surcharge	Additional Contributions	Interest Factor	2016 Total Contribution Rate
.0210	+ (.0210 x .051 = .001071) +	.0065 +	.011	= 0.039571

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Employee Contributions

A 0.07 percent (.0007) tax on employee wages, or 70 cents on each $1,000 paid, unchanged from 2015. Employee withholding contributions are submitted with each quarterly report. Employee withholding applies to the total wages paid in 2016. It is not limited to the $9,500 taxable wage base for employer contributions. Failure to withhold or remit this employee tax could result in interest charges and may affect your contribution rate for subsequent years.

Benefit Reduction

A 1.7 percent (.017) benefit reduction, unchanged from 2015. With few exceptions, the weekly UC benefit amount for all claimants will be reduced by 1.7 percent.

Information on penalties and interest for unpaid UC taxes is available online at www.uc.pa.gov. To access this information, select "Employer UC Services/UC Tax," then "Filing Information," and then select "Calculating Contributions, Penalties and Interest."

If you have any questions concerning this information, please contact the Employer Contact Center at 866-403-6163 Monday through Friday from 8 a.m. until 4:30 p.m.

How Will Unemployment Claims Affect My Contribution Rate?

If an employer qualifies for an experience-based contribution rate, the employer's rate is a reflection of the employer's UC history from the date the employer became subject to the Pennsylvania UC law. An experience rate takes into consideration wages paid by the employer and reported to the department, contributions paid to the UC Fund and benefits that are charged to the employer's reserve account.

Under the UC contribution rate formula, benefits charged to an employer's account put upward pressure on the employer's rate for subsequent calendar years. The extent that UC benefit charges may affect an employer's rate depends on the amount of the charges in relation to other values that have a favorable impact on a contribution rate. If the amount of the benefit charges is high in comparison to the size of the employer's payroll or the amount of contributions the employer has paid to the UC Fund, the benefit charges will have a greater impact on the employer's rate.

One component of an experience rate is the "reserve ratio factor." This is the ratio of an employer's reserve account balance to their average payroll for the most recent three fiscal years. The higher the reserve ratio, the lower the employer's rate. An employer's reserve account balance is determined by subtracting the benefits charged to the employer from the amount of contributions paid by the employer, over the lifetime of the employer's UC account. Benefit charges decrease the employer's reserve account balance and lower the reserve ratio, which can result in a higher contribution rate.

Another rate component is the "benefit ratio factor." This is the ratio of the employer's average benefit charges to their average payroll, both for the most recent three fiscal years. The higher the benefit ratio, the higher the employer's rate. Benefit charges directly increase the benefit ratio and thus can raise the employer's contribution rate.

The benefit ratio factor looks only at benefit charges for the most recent three fiscal years. Therefore, benefit charges cease to affect the benefit ratio factor when they are no longer within this three fiscal year period. However, the reserve account balance is a lifetime figure. Benefit charges never leave the calculation of the employer's reserve account balance, but their impact can be diminished over time if the employer's future contributions exceed their future charges.

L&I Announces $493,075 Federal Grant for Worker Misclassification Public Awareness Campaign

The Department of Labor & Industry (L&I) was recently awarded $493,075 in grant funds from the U.S. Department of Labor (USDOL) to implement prevention strategies to help reduce worker misclassification.

Worker misclassification occurs when an employer incorrectly classifies an employee as a nonemployee/ independent contractor.

Misclassification of employees is a serious problem that affects workers, employers and the economy. Employees who are misclassified do not have benefits and protections, such as minimum wage, overtime compensation, family and medical leave, Social Security benefits, or retirement coverage. Employee misclassifications also adversely affect the federal and state governments in the form of lower tax revenues, including state unemployment insurance and workers' compensation funds.

USDOL's Employment and Training Administration made $10 million available through competitive grants to states to help increase their capacity to detect and prevent worker misclassification.

The grant will be administered by L&I's UC program. The funds will be used to develop and implement the Worker Misclassification Public Information and Outreach campaign, which is expected to launch in the second or third quarter of 2016.

The statewide campaign will educate individuals on worker rights and the difference between employees and nonemployees. Equally as important, it will educate business owners on their required responsibilities and the consequences of improperly misclassifying workers.

The proper classification for workers is an important priority for L&I. This grant will enable the department to increase its efforts to ensure workers receive critical benefits and protections to which they are entitled, and that employers understand their responsibilities and the consequences of improperly misclassifying workers.

Limited Liability Companies (LLC) - Taxation of Members

While the IRS considers certain single member entities, including single member LLCs, to be "disregarded entities" for federal income tax purposes, single member LLCs are not disregarded entities for Pennsylvania UC tax purposes.

UC tax treatment of LLC members is governed by Title 15, Section 8925 of the PA Consolidated Statutes which provides, in relevant part, as follows:

> § 8925. Taxation of limited liability companies.
>
> (a) General rule.--For the purposes of the imposition by the commonwealth of any tax or license fee on or with respect to any income, property, privilege, transaction, subject or occupation, a domestic or foreign limited liability company that is not a domestic or qualified foreign restricted professional company shall be deemed to be a corporation organized and existing under Part II (relating to corporations), and a member of such a company, as such, shall be deemed to be a shareholder of a corporation….

Treating members of an LLC as corporate shareholders does not, by itself, dictate their UC status. A shareholder who performs services for a corporation for remuneration may be an employee of the corporation, if their services constitute "employment" under the Pennsylvania UC law. However, a shareholder, unlike a corporate officer, is not statutorily designated as an employee.

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The Pennsylvania UC law presumes that services performed for remuneration constitute "employment," and that the individual performing the services is an "employee." Accordingly, a member of an LLC performing services for the LLC is presumed to be an employee of the LLC. However, employee status will not apply if the independent contractor test in section 4(l)(2)(B) of the Pennsylvania UC law is satisfied. Under section 4(l)(2)(B), a member is an independent contractor if, with respect to work performed for the LLC, he or she is (a) free from direction and control and (b) customarily engaged in an independently established trade, occupation, profession or business.

For example, if all members have an equal ownership percentage and all participate in management of the LLC, each member is likely exempt under Section 4(l)(2)(B). On the other hand, if an LLC has 15 members, one of whom owns 86 percent and the remainder own 1 percent each, and the 86 percent owner is designated as the sole manager of the LLC, it is likely that the 86 percent owner is exempt as self employed, but the others are employees of the LLC to the extent that they perform services for remuneration. The specific facts of each case must be reviewed.

Additionally, the family employment exemption does not apply to LLCs. Because the LLC entity is not disregarded for Pennsylvania UC tax purposes, the "employer" is the LLC not its member or members. Similar to a corporation, the LLC is an artificial entity and not a human being with family relationships.

If you have questions regarding LLC member coverage, please contact the UC Employer Contact Center at 866-403-6163.

Shared Work Rebranding

The Department of L&I will soon be launching a new campaign to promote its Shared-Work program, an alternative to laying off employees during temporary declines in business.

Pennsylvania's Shared-Work program allows an employer to temporarily reduce the work hours of a group of employees and divide the available hours equally, rather than laying off any employees. Employees covered by a Shared-Work plan receive a percentage of their UC weekly benefit amount (WBA) while they work the reduced schedule, if they are otherwise eligible for UC. Shared-Work benefits are charged in the same manner as regular UC benefits, that is, to each participating employee's base year employers.

Shared-Work allows the employer to retain its workforce during a temporary slowdown and then quickly ramp up operations without the expense of recruiting, hiring and training new employees. At the same time, Shared-Work helps to protect employees from the financial hardship of a full layoff.

The department is currently working with an outside marketing firm to rebrand the program to spotlight the many benefits of the program for employers and employees alike. This will include a new logo, posters, brochures, and an increased web presence. In addition, the UC customer services team will provide outreach to employers to help spread the word about this alternative to layoffs.

For more information and to view FAQs, forms and the brochure, please visit www.uc.pa.gov/sharedwork.

Trade Adjustment Assistance Program

Trade Adjustment Assistance (TAA) is a federal program that provides assistance to workers who have lost or may lose their jobs as a result of foreign trade. This program is administered by the U.S. Department of Labor (USDOL) under the Trade Act of 1974, as amended (Trade Act) (19 USC § 2271 et seq.).

TAA benefits are 100 percent funded by the federal government; the costs of benefits to workers are not charged to the firm.

A group of workers at a firm or subdivision can petition to be certified as "adversely affected" if their jobs are lost, threatened, or there is a reduction in hours or wages due to Trade-related circumstances. These circumstances may include:

- Increased imports
- A shift in operations to a foreign country
- Supply of downstream production to certain companies with TAA-certified workers

Adversely affected workers, covered under TAA certifications issued by the USDOL, may qualify to receive reemployment benefits, funded training, job search and relocation allowances, federal tax credits for the cost of health insurance, Trade Readjustment Allowances (TRA), which are weekly cash payments and Reemployment Trade Adjustment Assistance (RTAA), which are income supplements for certain older workers who return to work with a different firm.

The first step required by the TAA Program is to file a petition to obtain a certification of group eligibility for adversely affected workers. A petition may be filed by any of the following: a group of three or more workers, an official of the company where the workers worked, the official certified union that represents the workers, or a state workforce official, such as Pennsylvania CareerLink® operators/partners.

The best method to file a petition with the USDOL and the department is online at www.doleta.gov/tradeact/. Click "file online."

The petition may also be downloaded at the web address above. The completed TAA petition must be mailed or faxed to both:

U.S. Department of Labor
Employment and Training Administration
Office of Trade Adjustment Assistance
200 Constitution Avenue, N.W., Room N-5428
Washington, DC 20210
Fax: 202-693-3584 or 202-693-3583

AND

PA Department of Labor & Industry
Federal Programs Unit
651 Boas St., Room 604
Harrisburg, PA 17121-0750
Fax: 717-772-0378

After a petition is certified, all the workers covered by the certification will be notified by the department and a meeting will be scheduled to explain the eligibility requirements. For further information on the TAA program, visit www.doleta.gov/tradeact/

Trade Adjustment Assistance for Firms (TAAF) is a federal program that provides technical assistance to businesses negatively impacted by imports. Sponsored by the U.S. Department of Commerce, this cost-sharing federal assistance program pays for a percentage of the fees of consultants and industry-specific experts for projects that improve a business' global competitiveness.

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To learn more about TAAF, contact your regional TAA center representative shown below:

MidAtlantic TAAC
460 Norristown Road, Suite 301 Blue Bell, PA 19422
Toll Free: 800-566-7522
Fax: 610-825-7708
URL: www.mataac.org

Relief From Charge Requests

Important! When requesting relief from charges to your unemployment account, please submit your completed request to the Employer Services Section and not the UC Service Center. The correct address is: Employer Services Section, P. O. Box 67504, Harrisburg, PA 17106. You can also fax your request to 717-772-0398. If you are not using Form UC-44FR, please be sure to include the employer name, account number, the claimant name, Social Security number, the last day the claimant worked and the reason for the separation.

The Pennsylvania New Hire Reporting Program

The Pennsylvania New Hire Reporting Program was established in 1998 in accordance with federal and state law, and mandates that all employers report basic information about all newly hired and re-hired employees. Administered by the Center for Workforce Information and Analysis (CWIA) within L&I, the Pennsylvania New Hire Reporting Program aids in the collection of child support from non-custodial parents.

Information provided by employers is matched against files containing the names of non-custodial parents who owe child support. When a match occurs, a notice is immediately sent notifying the employer to withhold child support, thus expediting child support payments. For calendar year 2015, in excess of $19.4 million in child support monies was collected due to the new hire cross match. Since 2010, child support collections activity from wage garnishments issued to obligors totaled $154.1 million through December 2015, an average of $2.1 million per month.

Data collected from the Pennsylvania New Hire Reporting Program is also used to detect fraud in the UC and Workers' Compensation programs. Since 1998, this matching process has identified in excess of 83,200 UC fraud overpayments resulting in the recovery of $36.3 million.

CWIA continues to increase public awareness of the New Hire Program (and increase employer compliance with reporting laws) by conducting outreach meetings with employers at local CareerLink® offices, partnering with the Department of Human Services at the local level through the Office of Child Support Enforcement, and educating and informing both the public and employers about the importance of reporting new hires.

To learn more about the Pennsylvania New Hire Reporting Program and reporting process, please visit www.CWDS.pa.gov and click on the "Report New Hires" hyperlink under the Employers section of the page.

UC Issues Update is published by the Pennsylvania Department of Labor & Industry on a quarterly basis. Questions, comments and feedback can be sent via email to **uc-news@pa.gov**. General UC Tax information is available by calling 717-787-7679 or outside the Harrisburg area, toll free 866-403-6163 from 8 a.m. to 4:30 p.m. If you have questions regarding UC benefit charges to your account, please call 717-787-4677 from 8 a.m. to 4:30 p.m. **If you suspect fraud, report it online at www.uc.pa.gov under "Report Fraud," or contact 800-692-7469**.

Auxiliary aids and services are available upon request to individuals with disabilities. Equal Opportunity Employer/Program