

RECENT AMENDMENTS AFFECTING EMPLOYERS

TAXABLE WAGE BASE

This is the amount of each worker's annual wage that is multiplied by the employer's state unemployment experience rate.

It increases from the former \$9,000 to \$9,500 until the Unemployment Compensation Fund reaches a balance of \$2.5 Billion.

To determine an employer's yearly unemployment tax, the wages of each covered worker, up to the "taxable wage base," is multiplied by the employer's annual unemployment tax rate.

Before the amendment, the first \$9,000 of each covered worker's wage in a year was subject to the unemployment tax. The amendment increased that amount to the first \$9,500 of each covered worker's wage in the year, until the Unemployment Compensation Fund reaches \$2.5 billion, at which time the taxable wage base will revert to the former \$9,000 amount.

RECENT AMENDMENTS AFFECTING EMPLOYERS

BECOMING FULLY EXPERIENCE-RATED

This is the number of years it takes for a new employer's own experience to be the sole factor used in computing the employer's rate.

Formerly, the employer was assigned a 2.7% rate for the first 2 years of liability, and over the next 3 years the employer's own experience phased in.

An employer's state unemployment tax rate is generally based the employer's "experience" in having unemployment compensation claims of its former workers charged to the employer's account, and in paying unemployment taxes. The size of the employer's taxable and total payrolls are also factored in. It takes a few years after an employer first becomes a "liable" employer in Michigan for the employer's own unemployment experience to be fully used in calculating the employer's state unemployment tax rate.

For employers that became "liable" before 2012, it took 5 years for an employer's own experience to be fully used in the calculation. In the first two years, the "new employer" rate of 2.7% was assigned to the employer, and gradually, over the next 3 years, the employer's own experience was used in calculating the rate.

RECENT AMENDMENTS AFFECTING EMPLOYERS

BECOMING FULLY EXPERIENCE-RATED

Under the amendment, for an employer first liable in 2012, it will take 4 years for an employer's own experience to be fully used.

For an employer first liable in 2013, it will take 3 years for an employer's own experience to be fully used.

Under the amendment, for employers that first became liable in 2012, it takes 4 years for the employer's own experience to fully be considered in calculating the tax rate, and for employers first becoming liable in 2013 and thereafter, it will take 3 years.

RECENT AMENDMENTS AFFECTING EMPLOYERS

LOOK-BACK PERIOD

Formerly, the “Chargeable Benefits Component” (CBC) of the tax rate, which looks at prior years’ benefit charges as compared with prior years’ taxable wages, added together those factors for the previous 5 years (60 months)

The largest component of the state unemployment tax rate is called the “Chargeable Benefits Component.” It, alone, can be as high as 6.3% of the overall tax rate. It is calculated based on the ratio of prior years’ benefit charges to prior years’ taxable wages. Before the amendment, the prior 5 years of benefit charges and taxable wages were included in the calculation.

RECENT AMENDMENTS AFFECTING EMPLOYERS

LOOK-BACK PERIOD

Under the amended law, in 2012 the “look-back” period for calculating the CBC will be the last 4 years (ending the prior June 30) and in 2013 and thereafter it will be the last 3 years (ending the prior June 30).

Under the amendment, in 2012 the prior 4 years of benefit charges and taxable wages are included in the calculation, and in 2013 and thereafter, the prior 3 years of benefit charges and taxable wages are included.

RECENT AMENDMENTS AFFECTING EMPLOYERS

OBLIGATION ASSESSMENT

Private bonding was used to pay off the loans from the federal government, plus interest. The FUTA tax reverted to 0.6% in 2012 (payable in 2013), and there will be no more solvency tax assessed. To pay off the bonds, there will be an “Obligation Assessment” on all employers, starting in 2012.

Because Michigan and about 30 other states borrowed from the federal government to pay state unemployment benefits in the past several years, employers in those states saw an increase each year in their FUTA (Federal Unemployment Tax Act) taxes to repay the loan. In addition, negative-balance employers in Michigan have been assessed a “solvency tax” to pay off the interest on those loans. With private bonding, Michigan has now paid off the loans and interest, and employer’s FUTA taxes will go back to 0.6% beginning next year. The solvency tax will no longer be assessed on that interest. To pay off the bonds, an “obligation assessment” will be added to each employer’s tax rate, starting in 2012.

RECENT AMENDMENTS AFFECTING EMPLOYERS

ON-LINE FILING OF QUARTERLY REPORT

Beginning in 2013, an employer with more than 25 employees must file quarterly reports on-line.

Beginning in 2014, an employer with more than 5, but fewer than 26, employees, must file on-line.

Beginning in 2015, all employers must file on-line (but a hardship extension can be granted for a limited time for employers with 5 or fewer employees).

Over the next few years, Michigan employers will be required to file quarterly tax and wage reports on-line, through the Agency's secure website.

Beginning in 2013, an employer with more than 25 employees will be required to file on-line. Beginning in 2014, that requirement will extend to employers having more than 5 employees, and beginning in 2015, all remaining employers will be required to begin filing on-line. However, an employer with 5 or fewer employees can be granted a limited extension by the UIA Director on a showing of hardship.

RECENT AMENDMENTS AFFECTING EMPLOYERS

PENALTY FOR FILING LATE OR ERRONEOUS REPORT

If a quarterly wage detail report was filed late, the previous penalty was \$25. Under the law change, the penalty is increased to \$50 if the report is filed within 30 days of the due date. After that, the penalty is increased to \$250 per quarter that the report remains late. However, if the UIA notifies the employer of an error and it is corrected within 14 days, no penalty will apply.

The current \$25 penalty for late filing of a late, incomplete, or erroneous quarterly wage detail report has been increased to \$50, and if the report is filed after the due date for the next quarter, a \$250 penalty applies for that and each succeeding quarter. However, if the UIA discovers an error in a report and notifies the employer, and the employer corrects the error within 14 days, no penalty will apply.

RECENT AMENDMENTS AFFECTING EMPLOYERS

OWNER/OFFICER/DIRECTOR LIABILITY

The Agency is authorized to apply penalties for intentional misrepresentation, or failure to comply with the law, to owners, officers, agents, and directors of an employer.

Penalties applied to a business entity can now be applied as well to owners, directors, officers, and agents of the entity.

RECENT AMENDMENTS AFFECTING EMPLOYERS

SINGLE QUARTERLY REPORT

Beginning with the 3rd quarter of 2012, there will be a single quarterly report that will combine the current *Quarterly Wage Detail Report* and the *Quarterly Tax Report*.

The two quarterly reports, (Form UIA 1020, *Quarterly Tax Report*, and Form UIA 1017, *Quarterly Wage Detail Report*) are being combined into a single Form beginning with the 3rd calendar quarter of 2012.

RECENT AMENDMENTS AFFECTING EMPLOYERS

ALLOCATION OF FIRST QUARTER LIABILITY

Beginning in 2013, an employer with 25 or fewer employees that incurred 50% or more of its unemployment tax liability during the first quarter of the previous year may elect to spread out its first quarter liability equally among all four quarters without interest or penalty charges imposed.

Beginning in 2013, the amendments also offer an employer who has 25 or fewer employees, and who, the prior year, incurred 50% or more of its annual unemployment tax liability in the first calendar quarter, to spread out its first quarter liability equally over all 4 quarters, without incurring penalties or interest by doing that.

RECENT AMENDMENTS AFFECTING EMPLOYERS

EMPLOYER OF HOUSEHOLD (DOMESTIC) EMPLOYEES MAY PAY ANNUALLY

An employer liable solely on the basis of employment of domestic (household) employees may elect to pay unemployment taxes once a year (although the employer must still file quarterly unemployment tax reports).

If an employer is a liable employer solely on the basis of employing domestic (household) employees, the employer may elect, after notification to the Agency, to pay the state unemployment tax annually, although quarterly reports must still be filed.

RECENT AMENDMENTS AFFECTING EMPLOYERS

“AMNESTY PROGRAM” FOR MISCLASSIFICATION OF WORKERS

During 2012, an employer that believes it might have misclassified workers as “1099” independent contractors rather than employees may request the UIA to review the services and issue a Determination as to those workers. No penalties will apply, and any benefits paid based on wages before the date of the Determination will not be charged to the employer.

The amendments provide for an “amnesty” program for employers that believe they might have misclassified employees as “independent contractors” (that is, “1099” workers). The amendment allows the employer to request the Agency to determine whether the workers in question are properly classified as independent contractors, or whether they should in fact be classified as employees. If the Agency concludes they should have been classified as employees, then only benefits paid based on wages after the date of the Determination will be charged to the employer. No penalties or interest will apply on the previously misclassified wages.

RECENT AMENDMENTS AFFECTING EMPLOYERS

IRS 20-FACTOR TEST WILL BE USED BEGINNING IN 2013

Beginning in 2013, the UIA will abandon the “Economic Reality Test” for determining independent contractor versus employee, and will use instead the IRS 20-Factor test.

Beginning in 2013, the UIA will abandon the “economic reality test” for classifying a worker as an “independent contractor” versus an “employee,” and the Agency will adopt the 20-factor IRS test, which is much more familiar to employers.

RECENT AMENDMENTS AFFECTING EMPLOYERS

"SEASONAL EMPLOYER" DESIGNATION NO LONGER DEPENDS ON INDUSTRY

An employer that employs workers for regularly recurring 26-week periods, or less, in any 52-week period may request designation as a "seasonal" employer and employees given reasonable assurance of returning will not be paid unemployment benefits between seasons chargeable to that employer. It no longer matters whether the employer's industry is also seasonal.

The construction industry remains excluded.

Under the amendments, an employer may request and receive designation as a "seasonal" employer if the employer employs 1 or more workers to work regularly-recurring periods of not more than 26 weeks within any 52-week period.

Previously, the employer had to either operate during not more than 26 weeks in a 52-week period, or half or more of the employer's employees had to be limited to working 26 weeks or less within a 52-week period. Also, the employer's industry had to be seasonal using that test.

If an employer receives the "seasonal" designation, and gives reasonable assurance to its seasonal workers that they will return the following season, the seasonal workers will be denied unemployment benefits between seasons, chargeable to the seasonal employer. Employers in the construction industry are still excluded from being designated as "seasonal."