

Assessments

What the law says: This issue is covered in Section 15(b) of the *Michigan Employment Security Act*. The law requires the Unemployment Insurance Agency (UIA) to bill an employer, claimant, or third party for delinquent unemployment taxes or restitution of benefit overpayments, interest, and penalties.

The determination that an employer, claimant, or third party owes such amounts to the Agency is called an “assessment.” An assessed party can disagree with the amount of the assessment, and can protest and appeal the assessment determination.

The law authorizes the UIA to collect assessments through a variety of methods, including placing a tax lien on the employer’s property, seizing the employer’s assets, and filing a law suit. The UIA may also seek a warrant to seize the bank accounts of the claimant or employer for amounts owing, or may administratively garnish an employee’s wages.

When an employer makes a payment to the UIA, except when fraud has been determined, the payment is applied first to the oldest calendar quarter for which any payment is owed to the UIA, then to the next oldest, and so on. Within a calendar quarter, the UIA first applies a payment to the interest on the Obligation Assessment, then to the principal amount of the Obligation Assessment, then to penalties, interest, and finally to the remaining tax owed. If fraud is found against a claimant, the payment is first applied to the unemployment compensation trust fund, then in the order described above.

Examples: An employer receives an assessment saying that the employer owes a certain amount to the UIA for unpaid taxes, interest, and penalties. However, the employer believes that he/she made the payments to cover the amount the UIA says is owing. The employer can protest or appeal this determination. The employer must then provide the UIA with copies of the cancelled checks to show that they paid the UIA the amount in question. If an assessment redetermination is issued and the employer is still dissatisfied, he or she can appeal the assessment amount to an Administrative Law Judge.



Sometimes, though, an employer will protest or appeal an assessment because the employer believes the business should not be considered a “successor” to the former business or should not become responsible for the unemployment tax rate of the prior owner. The disagreement here is not actually with the amount of the assessment, but rather with the “successorship” issue. Therefore, protesting the assessment will not change the amount of the assessment. In this example, it is the determination of successorship that should have been protested, not the determination of assessment. (But usually, by the time the determination of assessment is issued, it is too late to protest the determination of successorship.)

Proof at the Hearing: The UIA has the burden of proving the accuracy of the amount of the assessment. The employer can bring business records to show that the amount of the assessment is wrong (but not to show that the employer should not have been considered a liable or a successor employer, or that the tax rate was incorrect).

For Further Help: The Unemployment Insurance Agency (UIA) Advocacy Program can provide assistance to employers and unemployed workers in preparing for Administrative Law Judge hearings on these issues. Call 1-800-638-3994; select option #2.