

Liability of an Employer



What the law says: This issue is covered under Section 41 of the *Michigan Employment Security Act*. It says that, in general, there are three ways that an “employing unit” in Michigan can become an “employer,” “liable” (that is, responsible under the law) for paying unemployment insurance “contributions” (taxes) to UIA:

1. If the employing unit employs one or more persons in any 20 different calendar weeks (Sunday through Saturday) in a calendar year (January 1 through December 31); or
2. If the employing unit pays (or owes payment of) total wages of \$1,000.00 or more in a calendar year.
3. If the employing unit acquires the organization, trade, or business, or 75% or more of the assets of a company that was already an employer liable for the payment of unemployment taxes. Becoming an employer in this way is known as “successorship.” (For more information on successorship, see the separate Factsheet on the “Transfer of Business” issue.)

In addition, an employing unit (such as a homeowner) can become a “domestic employer” (liable for the payment of unemployment taxes on the wages of household workers) if the employer pays \$1,000.00 or more in cash wages to a domestic worker in any calendar quarter.

An employing unit can become an “agricultural employer” (liable for the payment of unemployment taxes on the wages of agricultural workers) if the employer pays \$20,000.00 or more in cash wages to an agricultural worker in any calendar quarter, or employs 10 workers in 20 different weeks in a year.

Examples: The ABC Company began its business on April 3, 2012 with two employees. The first employee the manager hired was paid \$600.00 a week; the second, an assistant, was paid \$300.00 a week. The employer reached \$1,000.00 in payroll on April 17, 2012. Therefore, as of April 17 the employing unit became an “employer” liable for the payment of unemployment taxes.

The employer should file Form 518, “Registration Report to Determine Liability” immediately after April 17, 2012 in this example. The employer will be required to file a tax report (Form UIA 1020) and a wage report (Form UIA 1017) for the quarter ending June 30, 2012. The reports are due July 25, 2012, and all reports thereafter are due on the 25th day of the month following the end of the quarter to which the reports apply.

In another example, the DEF Company began its business on April 3, 2012 with two part-time employees. Twenty weeks later, on August 18, the company had employed at least one of those workers in 20 different weeks (the weeks do not necessarily have to be consecutive weeks) in calendar year 2012 (though it had not yet paid \$1,000.00 in payroll). Therefore, as of August 18, the employing unit became an “employer” liable for the payment of unemployment taxes.

The employer should file Form 518, “Registration Report to Determine Liability” immediately after August 18, 2012 in this example. Also, the employer should file a tax report (Form UIA 1020) and a wage report (Form UIA 1017) for the completed quarter ending June 30. The tax report and payment are due 15 days after the employer became liable (in this case, 15 days after August 18, which is September 2). Beginning for the 3rd quarter of 2012, the employer should file a new Form UIA 1028, replacing the other two quarterly forms.

Finally, XYZ company bought the ABC company, an employer already determined by UIA to be a liable employer. UIA determined the XYZ company to be the “successor” to the ABC company. By being the successor to a liable employer, the XYZ company itself became a liable employer as of the date of the transfer of the business.

Proof at the Hearing: The UIA has the burden of proving that the employing unit is an “employer” under the law, liable for the payment of unemployment compensation. The employer can present evidence to the contrary.

For Further Help: The UIA Advocacy Program can provide assistance to employers and/or unemployed workers in preparing for an Administrative Law Judge hearing. Call 1-800-638-3994, Item 2.