

WorkForce West Virginia Employer Handbook

June 2024

A GUIDE TO THE UNEMPLOYMENT INSURANCE PROGRAM FOR EMPLOYERS



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ABOUT THIS HANDBOOK

PURPOSE OF THE EMPLOYER HANDBOOK

This handbook provides important Unemployment Insurance (UI) program information for employers. (The **Glossary** in [Appendix B](#) includes definitions for all underlined terms.) If you do not understand or have questions about the information in this document, please contact WorkForce West Virginia for help.

CONTACT INFORMATION

There are many ways to contact us:



Go to our Website

Visit: WorkForceWV.org



Email Us

Status Determination: uctaxunit@wv.gov

Accounts Receivable: uctaxunit@wv.gov

Audit and Compliance: workforcefieldaudit@wv.gov

Compliance and Enforcement: wfwvcompliance@wv.gov



Call Us

Status Determination: 304-558-2677

Audit and Compliance: 304-558-2650

Compliance and Enforcement: 304-558-2451

Accounts Receivable: 304-558-2676



Visit in Person

You may visit our office at:

1900 Kanawha Blvd. E.

Building 3, Suite 400

Charleston, WV 25305

LANGUAGE ASSISTANCE

Free services are available to assist you if you do not speak English. To request assistance in a language other than English, please call 1-800-252-JOBS (5627).

Hai servicios gratis si no puede hablar ingles. Para asistencia en otra idioma por favor llama 1-800-252-JOBS (5627).

OVERVIEW OF UNEMPLOYMENT INSURANCE (UI)

ABOUT THE UI PROGRAM

UI is a program designed to provide temporary income to workers who lost their jobs through no fault of their own – such as a layoff, plant closure, or lack of available work. Benefits are not available to all workers. For example, workers who were fired from their job for [misconduct](#) cannot receive UI benefits.

Funding for the UI Program

Our state UI program is funded through taxes paid by employers. This handbook is designed to help you understand and comply with UI tax requirements.

HOW YOUR TAX DOLLARS ARE USED

The state UI taxes you pay are used to provide benefits to eligible unemployed workers. For the most part, UI benefits are spent in the claimant's local community, thereby helping sustain the economic well-being of local businesses.

WE ARE HERE TO HELP YOU

WorkForce West Virginia is here to assist you. We provide information and resources to help your business thrive, including:

- [Economic statistics](#) for your industry or geographical area to help guide your business decisions.
- [Recruitment assistance](#) for employers who want help finding workers with the skills necessary to help your business prosper.
- Support through our [Short-time Compensation Program](#), in the event of a business slowdown.
- Resources through our [Rapid Response Program](#), in the event of a large layoff or downsizing.
- Assistance with [Worker Adjustment and Retraining Notification \(WARN\) Act](#) compliance, in the event of a plant closure or mass layoff.
- Should you incur a financial emergency that leaves your business unable to pay taxes due in full, contact Compliance and Enforcement at 304-558-2451 to set up a payment plan.

For Fastest Service, Go Online

You can visit our safe and secure [website](#) twenty-four (24) hours a day, seven (7) days a week.

For information about the unemployment process, including how to register your business, visit our [Navigate the Unemployment Process](#) webpage.

Accommodations for Employers

If you have difficulty with online filing, you can fill out a paper [Employer's Initial Statement](#) and submit it to uctaxunit@wv.gov.

REPORTING REQUIREMENTS

You are required to provide WorkForce West Virginia with the following information:

- [Business registration information](#)
- [New hire details](#)
- [Quarterly wage information](#)
- [Prompt responses to requests for employment and wage data](#)
- [Details about the refusal of an offer of suitable work](#)

BUSINESS REGISTRATION INFORMATION

If you have employees or plan to hire employees in West Virginia, you must register with WorkForce West Virginia. Use business4wv.gov to register your business. Our agency uses the information you provide on the registration form to determine if your business is required to pay UI taxes, and, if so, your initial tax rate.

Did you know?

Failure to register your business with WorkForce West Virginia could cost you interest and penalties for each quarter you operated without being registered.

Domestic Worker Exemption

You are not required to register with WorkForce West Virginia if you employ domestic workers to assist with tasks around your house (such as babysitters, health aides, housekeepers, gardeners, landscapers, etc.) and you pay each worker less than \$1,000 per quarter.

NEW HIRE DETAILS

West Virginia law requires that all new hires be reported to the [West Virginia New Hire Reporting Center](#) regardless of the number of hours worked. This requirement also applies to rehires, if the employee hasn't worked for your company within the past sixty (60) days.

For each new employee, provide the following information:

1. **Full name**
2. **Mailing address**
3. **Date of birth**
4. **Social Security Number (SSN)** – New employees who have not been issued a [SSN](#) must apply within seven days of being hired and must provide you with a copy of the application.

Report all new hires within **fourteen (14) days** of hire. Our agency uses the information you provide to:

- Prevent people who have returned to full-time work from continuing to claim UI benefits.
- Verify that claimants who have secured part-time employment are reporting their earnings.
- Report new hire details to the [National Directory of New Hires \(NDNH\)](#).

QUARTERLY WAGE INFORMATION

Follow these guidelines to accurately report the required information about your employees' earnings:



When to Report Wages

All wages must be reported for the quarter you paid the employee(s). See the [Tax Due Date Calendar](#) for specific deadlines.



What Wages to Report

You must report all wages you pay an employee each quarter, including:

- **Vacation pay**
- **Overtime**
- **Commissioned and piecework employees**
- **Pay in lieu of notice**
- **Salaried employees**
- **Payment other than cash**



How to Calculate Wages

All wages must be reported for the quarter you paid them.

Wages Include:

- ✓ Salary, commissions, bonuses, cash wages, and values of gifts before deductions
- ✓ Compensation paid in lieu of cash
Often have only one employer
- ✓ Tips that are reportable for federal income tax
- ✓ Vacation and holiday pay
- ✓ Employees' entire gross pay, including 401(K) and cafeteria plan deductions
- ✓ Meals and lodging- if you require an employee to eat and live on site and the total value of meals and lodging is 25% or more of total compensation (value plus salary)
- ✓ Monies received by officers of a corporation that provide services; including distributions, dividends, and draws in lieu of W2 wages
- ✓ Sick leave (for the first 6 months)

Wages Do Not Include:

- ✗ Jury duty pay not reported for income tax purposes
- ✗ Death benefits
- ✗ Employee exercised stock options
- ✗ Severance pay
- ✗ Pay in lieu of notice
- ✗ Employer paid benefits, such as 401(K) matching, SCorp Insurance and Life Insurance
- ✗ Supplemental unemployment benefits from a SUB plan approved by WorkForce WV
- ✗ Services performed by student workers who are enrolled and regularly attending classes



How to Amend a Wage Report

If you need to amend a wage report, circle the incorrect amount(s) on a copy of your original filing, write in the correct amount(s), and put *amended* on the top of the form. If you owe additional monies, mail the amended report along with payment to avoid penalties and interest. If no additional monies are due, you can submit your amended form to uctaxunit@wv.gov. If the amendment results in a credit, you can request that it be refunded, or the overpayment can be applied to your account the following quarter.

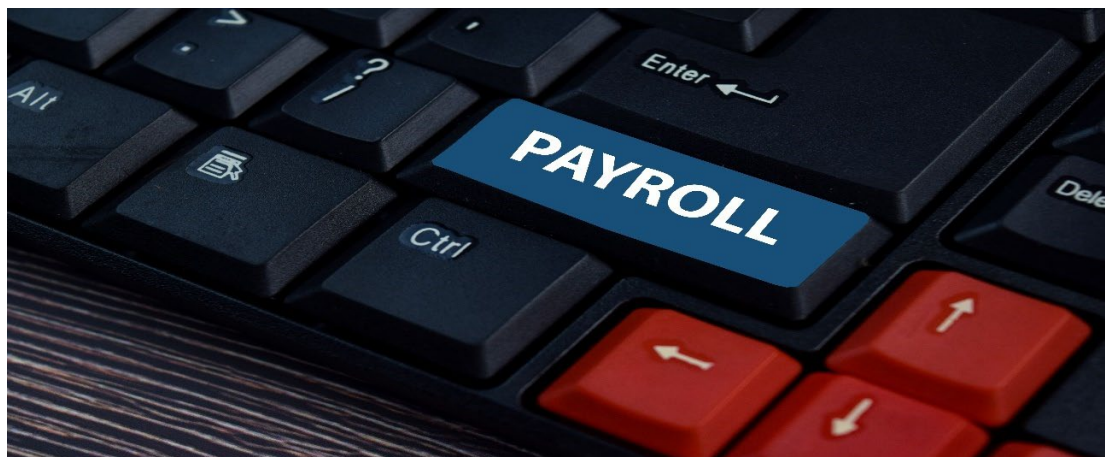


Employees Who Worked Zero Hours and Received Wages

You may have employees who worked zero (0) hours in a quarter but still received wages. These employees must be included in your quarterly wage report.

Common reasons for reporting zero hours include:

- **Back pay** – Report any payments you made to an employee to adjust the wages that you reported in a previous quarter as an amendment.
- **Bonus** – Report any bonuses you paid an employee for hours worked in a previous quarter.
- **Cafeteria plan/401K plan** – Report the amount you paid to cover the cost of a benefit plan that ensures continued enrollment if no hours were worked during the quarter.
- **Commercial fisherman** – Report the wages you paid a commercial fisherman for hours worked in a previous quarter.
- **Commission** – Report any commissions you paid an employee for hours worked in a previous quarter.
- **Royalties/residuals** – Report the amount you paid an author or artist for the use, display, or performance of previously created artistic or intellectual works.
- **Settlement** – A settlement is an amount paid for a negotiated settlement for termination or violation of an employment contract. Report settlement pay only if paid as wages and not damages.
- **Sick leave payout** – Report the amount you paid an employee for sick leave if no hours were worked during the quarter for the first six (6) months of sick leave only.
- **Tips/gratuities** – Report any tips or gratuities you paid an employee for hours worked in a previous quarter.





Employees Who Work in Two or More States

If your business has employees who work in more than one state, you may need to report wages to another state. The following questions, applied in the sequence shown, can help you determine which state wages should be reported to:

1. Is most of the employees' work performed in West Virginia with only minor or temporary tasks performed outside of West Virginia? If so, report all wages to our agency. If not, contact the state in which the services are performed.
2. If employees do not perform most of their work in one state, do they perform some work in the state where their [base of operation](#) is located? If so, report their wages to the state where the base of operation is located. If they do not have a base of operation, consider the next question.
3. If there is no base of operations, do employees provide services in the state from which their work is directed or controlled? This is the location where basic authority resides and general control comes from (such as a corporate or regional office), rather than the place at which they are supervised. If employees provide services in the state from which the work is directed or controlled, report their wages to that state. If not, consider the next question.
4. If the employees do not perform any services in the state from which their work is directed or controlled, do the employees perform some work in the state in which they live? If so, report their wages to that state.

If you have any doubt as to which state wages should be reported, please contact uctaxunit@wv.gov.



Employees Who Work Internationally

If your business employs US citizens who perform work outside of the United States, those wages must be reported to West Virginia for UI purposes if:

- The employer is a resident of West Virginia, or
- Your principal place of business is in West Virginia, or
- You're the sole proprietor or a corporation that was organized under the laws of West Virginia.



QUARTERLY WAGE REPORTING EXCEPTIONS

You are **not** required to report wages for individuals who provide services to your business under any of these circumstances:

- You have a sole proprietorship or partnership and **your spouse** or **children** (under the age of 18) work for the family business.
- **Real estate** or **insurance agents** if all such services are performed in exchange for a commission.
- **Clergy members** who perform services primarily for religious purposes.
- **Medical students** who perform services as a part of a training program.
- **Students** enrolled in a full-time program at a nonprofit or public school who provide services.
- **Inmates** who perform services at a custodial or penal institution.

REPLY PROMPTLY TO REQUESTS FOR EMPLOYMENT AND WAGE DATA

Complete and return requests for information within **four (4) days** of the mailing date on the form. The information is used to determine whether your former employees should receive UI benefits, and if so, in what amount.

If you do not provide a timely and accurate response in the format requested, your employer account may be charged for benefits that your former employees were not entitled to receive.

By providing our agency with the requested information, you can help keep UI costs as low as possible.

REFUSAL OF AN OFFER OF SUITABLE WORK

In order to remain eligible for UI benefits, claimants must be able to work full-time, be available to work full-time, and actively seeking full-time work. If you offer employment to an individual who refuses your offer of work, you must notify WorkForce West Virginia. Use our [Report Work Refusal](#) form to provide the date and details of the work offered.

Individuals who refuse suitable work are no longer eligible to receive UI benefits. By notifying our agency of such a refusal, you can help to control UI costs.



KEEP COMPLETE RECORDS

You must keep the following information on file for each employee for five (5) years after the quarter in which they were employed by your business:

- Name
- Full Social Security Number (SSN)
- Dates of employment
- Basis of pay (e.g., hourly, monthly)
- Location of work
- Daily record of hours worked
- Gross pay for each pay period
- Payroll deductions for each pay period
- Reason for discharge or quit, if applicable
- Copies of independent contractor agreements and invoices
- Records and supporting evidence such as: cash books, journals, ledgers, and corporate minutes

Importance of Keeping Employment Records

Failing to keep employment records as required by law may result in a penalty of \$500 up to \$25,000 and/or imprisonment for up to two (2) years.

THIRD-PARTY ADMINISTRATOR (TPA)

Some employers utilize a [Third-Party Administrator \(TPA\)](#) to help them fulfill UI program reporting requirements.

Remember, even if you have given a TPA permission to work on your company's behalf, you are still ultimately responsible for ensuring they accurately fulfill the UI program reporting requirements.



DETERMINING YOUR TAX RATE

For 2022, the average tax rate in West Virginia was 2.52%. Each year, our agency sends every employer a tax rate notice by December 31. This notice informs you of your UI tax rate for the year.

EXPERIENCE-BASED SYSTEM

The UI program is an experience-based system. This means that the more UI benefits your former workers collect, the higher your tax rate will be. For example, seasonal employers that have an annual mass layoff often pay more than similarly sized employers that operate year-round.

The main component of state UI taxes:

1. **The experience rate** – This is calculated by dividing the cost of all UI benefits charged to your account over the last three (3) fiscal years minus credited contributions paid into the trust fund by your average annual taxable payroll. This calculates the ratio which determines the tax rate for the year.

TAX RATES FOR EXPERIENCED EMPLOYERS

To be an experienced employer you must meet **both** of these criteria:

1. You submitted all contribution and wage reports and made all necessary tax payments for the past three (3) fiscal years (July 1 through June 30) by August 31st of each year.
2. You **did not** have eight (8) or more consecutive quarters with zero (0) payroll.

TAX RATES FOR DELINQUENT EMPLOYERS

1. Delinquent employers are those who have not submitted contribution and wage reports for the past three (3) fiscal years by August 31st of the year prior to the rate calculation. For example: For 2024 rate year, reports for July 1, 2021 through June 30, 2023 must be filed by August 31, 2023.
 - Delinquent employers receive a tax rate that is **7.5%**.

TAX RATES FOR OTHER EMPLOYERS

If you are not an experienced employer or delinquent employer, your tax rate will be determined as follows:

Successorships

If you purchased an existing business, you inherit the UI tax rate that was attached to the business prior to purchase.

New Businesses

If you did not purchase an existing business, your initial tax rate will be 2.7%. The exception to this is if you are an out-of-state business engaged in construction, then your initial tax rate will be 8.5%. After three (3) years (36 months), you will be eligible for experienced employer status.

Non-Profit Organizations, Government Entities, Indigenous Peoples, and Public Schools

Organizations with a non-profit 501(c)(3) status, government agencies, and public schools have the option to pay the full cost of all UI benefits collected by their former employees, instead of paying a set UI tax rate. These types of employer accounts are referred to as [reimbursable employer](#) accounts.



Potential Risk: This type of self-insurance carries with it the risk that you will have to reimburse benefits that would typically be non-charged if you were a taxable employer. If you elect this option, you will be billed on a quarterly basis for any benefits charged against your employer account.

WAYS TO REDUCE YOUR TAX RATE

Here are some ways you may be able to reduce your UI tax rate.

Removing Delinquencies

Employers who receive a delinquent rate may reduce their tax rate if they:

- File a protest, and
- Pay off the entire tax debt, or
- Submit any missing reports, or
- Replace and pay any reports which were previously Summary Assessed.

Making Voluntary Contributions

You may be able to reduce your UI rate by making a non-refundable voluntary payment. For negative balance employers, you may only reduce your tax rate to the highest positive rate of 4.5%.



WHAT IS TAXED?

You pay UI taxes on **each** employee's wages up to the [taxable wage base](#). You do not pay UI taxes on wages exceeding the taxable wage base. For 2024 the state's taxable wage base is \$9,521.

EXCESS WAGES ARE NOT TAXABLE FOR UI PURPOSES

You must report all wages paid to employees, even if they make more than the taxable wage base. The wages employees are paid above the taxable wage base are referred to as [excess wages](#). Excess wages are not taxable for UI purposes. They are most often paid during Q3 or Q4, after employees have earned enough wages to meet the taxable wage base.

Calculating Excess Wages

Example: If an employee earns a salary of \$52,000 per year (\$13,000 per quarter) and the taxable wage base for 2024 in West Virginia is \$9,521, that employee makes \$42,479 in excess wages for the year.

Accurately Reporting Excess Wages			
Quarter	Quarterly Wages	Taxable Wages	Excess Wages
Quarter One (Q1)	\$13,000	\$9,521	\$3,479
Quarter Two (Q2)	\$13,000	\$0	\$13,000
Quarter Three (Q3)	\$13,000	\$0	\$13,000
Quarter Four (Q4)	\$13,000	\$0	\$13,000
TOTALS	\$52,000	\$9,521	\$42,479

Common Error When Reporting Excess Wages

Excess wages **cannot** be distributed equally throughout the year, even if employees are paid an annual salary.

What To Avoid			
Quarter	Quarterly Wages	Taxable Wages	Excess Wages
Quarter One (Q1)	\$13,000	\$9,521	\$3,479
Quarter Two (Q2)	\$13,000	\$9,521	\$3,479
Quarter Three (Q3)	\$13,000	\$9,521	\$3,479
Quarter Four (Q4)	\$13,000	\$9,521	\$3,479
TOTALS	\$52,000	\$38,084	\$13,916

PAYING TAXES

[West Virginia Unemployment Compensation Law](#) requires covered employers to make [contributions](#) into the UI Trust Fund. These contributions are used to pay benefits to jobless individuals who meet the eligibility requirements.

WHEN TAXES ARE DUE

By the last day of the month following the last month of the quarter, you must:

- 1) File your quarterly contribution and wage reports, and
- 2) Pay your taxes.

In the event a due date falls on a weekend or holiday, your tax and wage report may be postmarked by the following business day.

Tax Due Date Calendar				
Quarter	Months When You Paid Wages			Due Date
Quarter One (Q1)	Jan	Feb	Mar	April 30
Quarter Two (Q2)	Apr	May	June	July 31
Quarter Three (Q3)	July	Aug	Sept	October 31
Quarter Four (Q4)	Oct	Nov	Dec	January 31

HOW TO PAY YOUR TAXES

You have the option to pay your UI taxes:



Online

For fastest service, visit: WorkForceWV.org



By Mail

WorkForce West Virginia
Accounts Receivable Unit
PO Box 106
Charleston, WV 25321

Your payment must be postmarked by the due date.

Most Employers Pay Their Taxes on Time

In West Virginia, 90% of employers pay their UI taxes on time and in full each quarter. This helps to ensure the solvency of the UI Trust Fund.

CONTROLLING UI COSTS

Your actions can have a direct impact on the amount of UI taxes your business pays. Here are some ways you can help control UI costs:

1. Report the reason for employee [separation](#) quickly and accurately
2. Notify our agency of changes to your business
3. Attend appeal hearings
4. Report new hires and rehires within **fourteen (14) days**
5. File quarterly tax and wage reports and pay UI taxes timely

REPORT EMPLOYEE SEPARATION DETAILS

If you have a former employee who files for UI benefits, WorkForce West Virginia will send you a request for separation information. Some people falsely report that they were laid off in an attempt to fraudulently claim UI benefits. If you fail to respond to our request for information, it is more challenging for our agency to identify these fraudulent claims.

In response to our request for separation details, you must provide the reason the individual is no longer employed by your business within **four (4) days**. Common separation reasons include:

- Discharged, fired, or terminated from job
- Layoff, lack of work, or business closure
- Quit
- Student or starting school
- Personal leave of absence
- Suspended or on administrative leave
- Was asked to resign
- Seasonal employee between terms (e.g., school employee, athlete, etc.)
- Work not available due to a labor strike at the job location
- Retired

Help Prevent Overpayments

Our agency uses the separation information you provide to help determine if the claimant is eligible for UI benefits. Failure to provide the requested information may lead to an overpayment.

NOTIFY OUR AGENCY OF CHANGES TO YOUR BUSINESS

Notify our agency by completing the [Employer's Report of Change](#) form if there are any changes to your business, including:

- A new business or mailing address.
- Changes to the ownership or legal entity associated with your business.
- Your business has closed or no longer has employees.

Email your completed form to uctaxunit@wv.gov.

ATTEND APPEAL HEARINGS

These are examples of situations in which you may need to attend an appeal hearing:

- **You filed an appeal related to a former employee's UI eligibility.** For example, your business terminated an employee who was repeatedly late to work. Then that employee filed a claim for UI benefits stating that they were laid off due to lack of work. In this situation, if you win the appeal, the claimant will not receive UI benefits.
- **A former employee who was denied benefits filed an appeal.** For example, a former employee of your business who did not earn enough wages to qualify for UI benefits is claiming that they earned more wages than were reported by your business. In this situation, if the claimant wins the appeal, the denial will be overturned, and the claimant will receive UI benefits.

If you fail to come to an appeal hearing, a decision may be made based solely on the facts presented by your former employee. Your participation in the appeal hearing ensures that ALL facts are presented by both sides. See the [Appeal Rights](#) section for more information about your right to appeal.

REPORT HIRES AND REHIRES

See the [New Hire Details](#) section of this handbook for instructions on reporting new hires and rehires. Remember that timely reporting (within **fourteen (14) days** of hire) will help prevent payment of ineligible UI claims.

FILE QUARTERLY TAX AND WAGE REPORTS AND PAY UI TAXES TIMELY

Proper payment of UI taxes enhances the solvency of the UI Trust Fund. Prompt, accurate wage reporting helps in the proper determination of claimant eligibility.

Failure to report wage information and pay UI taxes on time may result in [Penalties and Interest](#). This may also increase your federal UI tax liability.

Qualifying for the FUTA Tax Credit

The [Federal Unemployment Tax Act \(FUTA\)](#) requires employers to pay taxes at a rate of 6% on the first \$7,000 of taxable wages paid. However, when you pay your state UI taxes on time, you can receive a 5.4% credit on FUTA. This federal tax savings is on top of avoiding penalties and a delinquent tax rate in your state.



AUDITS

Federal law requires that WorkForce West Virginia conduct payroll audits on active employers each year. Audits help to ensure employers are reporting accurately and paying the correct amount of UI taxes in a timely manner.

TYPES OF EMPLOYER AUDITS

Our agency conducts different types of employer audits:



Random Audits

Each year, employer accounts are randomly selected by our computer system to be audited. Every employer in West Virginia has an equal chance of being selected for this type of audit.



Request Audits

This type of audit is initiated when our agency receives a tip or referral about potentially fraudulent activity by an employer. It can also be triggered if an employer fails to cooperate with a Benefit Claims Investigation or Wage Audit.



Targeted Audits

Some employers typically have a higher chance of non-compliance, based on type of industry, prior reporting history, high employee turnover, and other factors. Our agency audits these employers more often than businesses that are likely to be compliant.



Large Employer Audits

These audits are targeted at businesses that paid wages to 100 or more individuals during the current or previous calendar year or those that reported at \$1,000,000.00 in taxable payroll per quarter.

EMPLOYER PARTICIPATION IN BENEFIT CLAIMS INVESTIGATIONS OR WAGE AUDITS

Each quarter, claims are randomly selected by our computer system to be audited. We ask employers to provide hours worked and gross wages for these claimants to determine if there is a match with the information provided by the claimant. This type of audit helps us prevent claimants from collecting UI benefits they are not entitled to receive.



YOUR RESPONSIBILITIES DURING AN AUDIT

If your business is selected for an audit, you are responsible for being prepared and cooperative. This includes producing the following records, as requested:

- Employment and payroll records
- Check registers, check books, cancelled checks, and bank statements
- Journal ledgers/general ledger
- Corporate minutes
- Vendor lists/vendor files
- Cash payment records
- Annual financial statements (income & expense reports, balance sheet, etc.)
- Federal and state income tax returns, including forms such as 1099, W-2, W-4, Form 940, and Form 941
- Non-payroll payments to individuals, such as invoices, contracts, receipts, etc.

YOUR RIGHTS DURING AN AUDIT

All employers have the right to be treated fairly throughout the audit process.

- You have the right to be approached without bias or prejudice. Just because you are being audited, that does not mean you are noncompliant.
- You or your designee have the right to receive a report stating the audit findings, as well as the facts that led to the determination.
- You have the right to [appeal](#) the findings of the audit if you disagree.

POTENTIAL OUTCOMES OF AN AUDIT

At the conclusion of the audit, our agency will inform you if:

- You are in compliance with UI program requirements, or
- You previously overpaid taxes and are due a credit or [refund](#), or
- The results show you owe additional taxes. In this situation, we provide details of the findings, including taxes, penalties, interest owed, and amount due. We also advise you how to report correctly in the future and discuss your payment options.

VOLUNTARY AUDIT PROGRAM

Our agency offers a voluntary audit program to review your records and verify you are reporting correctly – without fear of penalty. If the review finds you are not reporting correctly, we do not charge late-payment penalties or assign a delinquent tax rate. However, you will have to pay all taxes due and any interest charges. The voluntary audit may show that you have overpaid your taxes and result in a tax refund to your business.

If you have questions about an audit or would like to schedule a voluntary audit review:



Email Us

workforcefieldaudit@wv.gov



Call Us

304-558-2650

UI FRAUD

If you knowingly misrepresent the amount of your payroll on your quarterly tax and wage reports, it is considered UI fraud and you could be charged [penalties](#).

PAYING WORKERS CASH OR “UNDER THE TABLE”

The underground economy refers to employers who deal in cash (pay their employees “under the table”) or use other tactics to conceal their activities and true tax liability from government agencies. The underground economy includes tax evasion, fraud, cash pay, payments under-the-table, and payments off-the-books.

Employers who are found to be operating using the underground economy may be subject to taxes, interest, and a **10% penalty** (no less than \$50 or more than \$500).

MISCLASSIFYING WORKERS

Misclassification occurs when an employer classifies workers as independent contractors, even though they are employees. Misclassification hurts workers during a layoff because they are not eligible for UI benefits. Employers who misclassify their workers may be subject to taxes, interest, and a **10% penalty** (no less than \$50 or more than \$500).

If you are uncertain about whether to classify a worker as an employee or independent contractor, review the [West Virginia Unemployment Compensation Law](#) for more information. Generally, the major differences between employees and independent contractors are as follows:

Employees

- Have assigned hours or a set schedule
- Are provided with the tools and materials necessary to finish their work
- Often have only one employer
- May receive benefits (such as health insurance) from your company
- Receive employment protections from your company

Independent Contractors

- Written contract
- Accept jobs on a case-by-case basis (and can turn down work)
- Independently established
- Often advertise their business to attract clients
- Do not receive benefits or employment protections from the companies they work for
- Responsible for all Federal, State, and Local taxes

STATE UNEMPLOYMENT TAX ACT (SUTA) DUMPING

[SUTA](#) dumping refers to tax evasion schemes where employers shuffle employees among different employer accounts in order to get a lower tax rate. This causes tax shortages to fall upon honest employers who report and pay their taxes correctly.

Federal law requires substantial penalties for individuals who engage in or promote such illegal schemes.

FICTITIOUS EMPLOYER SCHEMES

Fictitious employer schemes occur in UI when fraudsters take over an inactive employer account and misuse it to collect UI benefits for individuals who are not entitled to those benefits. To help avoid this type of fraud, it is important that you notify our agency if your business has closed or no longer has employees. To deactivate an employer account, use the [Employer's Report of Change](#) form.

TO AVOID FRAUD

The most important thing for you to do is report information and wages accurately. If you intentionally make false statements or hide information to reduce your UI tax liability, you are committing fraud. If you are confused about what you are supposed to do or report, email uctaxunit@wv.gov for clarification. We are here to help!

HOW YOU CAN HELP PREVENT UI FRAUD

You can help prevent fraud by:

- Using the online [SSN verification service](#) to verify that every new employee's Social Security number matches the Social Security Administration records.
- Thoroughly reviewing every notice you receive from WorkForce West Virginia. If the person listed never worked for you, has not had their hours reduced, or still works for you full-time, contact us immediately.

Reducing fraud helps control UI costs and lower tax rates.

Report Suspected Fraud

If you are aware of an employer who is committing UI fraud, please report it. Your identity will be kept confidential. You can report fraud:

- Online at uc.workforcewv.org
- Through email at: reportunemploymentfraud@wv.gov
- Through our toll-free Fraud Hotline at 1-800-252-JOBS (5627), Option 5

Tips about possible fraud are pursued by our team of Investigators.

WHAT WE DO TO STOP UI FRAUD

These are just some of the ways we identify employers who are committing UI fraud:

- Comparing earnings reported by workers and their employers
- Running [queries](#) and [cross-matches](#) to identify schemes and false registration information
- Auditing employers
- Maintaining a fraud hotline
- Comparing new hire and quarterly wage data to other government agency records to check for consistency



PENALTIES AND INTEREST

You must file complete and accurate tax and wage reports every quarter. You may be charged penalties and interest if your tax and wage reports and payments are late, incomplete, or in an incorrect format.

COMMON MISTAKES TO AVOID

Here are some common reasons that employers may be charged penalties and interest:

- Failing to register with WorkForce West Virginia
- Filing contribution reports late
- Paying taxes late
- Failing to keep employment records

PENALTY AMOUNTS

State law sets penalty amounts for employers who fail to comply with UI program requirements.

Late Filing of Quarterly Wage Reports

You must file a quarterly wage report every quarter, even if you do not have payroll. You may file a No Payroll Report if you have a quarter in which no payroll was paid. A **10%** penalty (no less than \$50 or more than \$500) will be charged to your account for each report that is not filed/paid on time.



Failing to Keep Employment Records

Failing to [keep required employment records](#) as required by law, may result in a penalty of \$500 up to \$25,000 and/or imprisonment for up to two (2) years.

Late Payment of UI Taxes

Every month a 1% interest charge on your total taxes due per month is assessed on any unpaid balance. In addition, a late payment penalty fee is assessed:

- First month: 1% of the total tax due
- Second month: an additional 1% of the total tax due
- Third month: an additional 1% of the total tax due
- Note: Interest is compounded on a quarterly basis

Returned Payments

UI tax payments that are returned due to insufficient funds, such as not enough money in your checking account to cover the UI tax payment, may result in WorkForce West Virginia instituting legal action, such as placing a lien on your assets.

Misrepresenting Your Payroll

If you knowingly misrepresent the amount of your payroll on your quarterly tax and wage reports, you will be required to file amended reports and may be subject to an audit.

WAIVER REQUESTS

Employers can request a waiver of penalties and interest. All waiver requests are assessed on a case-by-case basis with the [burden of proof](#) placed on the employer. Email your waiver request to uctaxunit@wv.gov and be sure to include all relevant facts, accompanied by available proof.



YOUR ROLE IN BENEFIT PROCEDURES

Employers must provide WorkForce West Virginia with all employment information needed to accurately administer the law. We use the employment information you provide to make UI eligibility determinations for your former employees.

ELIGIBILITY DETERMINATIONS

When one of your former employees files a claim for UI benefits, WorkForce West Virginia will send you a request for [separation information](#). We use the information you provide to determine whether the claimant is eligible for UI benefit payments.

If the claimant is eligible, we use information from your quarterly wage reports to determine the [Weekly Benefit Amount \(WBA\)](#) the claimant may receive, up to a [Maximum Benefit Amount \(MBA\)](#). This amount varies based upon how long the claimant worked for you and how much they were paid in wages. The maximum amount of benefits a claimant can receive per week in West Virginia in 2023 is \$662.



Remember: By promptly providing our agency with the necessary information, you can help to ensure proper determination of claimant eligibility and keep UI costs down.

QUARTERLY STATEMENT OF CHARGES

Once each quarter, you will receive a Statement of Charges. This notice provides details about any claimant(s) who are receiving UI benefits that are being charged to your employer account. It also shows the total charges made to your account during the current fiscal year.

Notify the Initial Claims Unit immediately at uiinitialclaim@wv.gov if you notice any irregularities on the Statement of Charges. These are the most common items employers identify:

- Individuals who were never employed by your business
- Individuals who were previously employed by your business but were fired for misconduct or [voluntarily quit](#) their job
- Former employees appear to be receiving more UI benefits than their expected entitlement

If you object to a claimant being paid benefits or take exception to any of the charges, you may contact the Initial Claims Unit at uiinitialclaim@wv.gov for assistance.

How Are Charges Calculated?

Our agency uses a proportionate charging system. This means that if a claimant worked for more than one employer during the [base period](#), each employer is charged an amount equal to the percentage of wages earned through that employment. If the claimant only had one employer, all benefits paid to that employee are charged to the employer's account.

Proportionate Charging of Benefits Example				
Name of Employer's Company	Total Wages Earned	% Wages Earned	Claimant's WBA	\$ Charged to Employer Account Per Week
Tidy Maids	\$40,000	80%	\$200	\$160
Excellent Cleaners	\$10,000	20%	\$200	\$40

APPEAL RIGHTS

If you or your former employee(s) disagree with a decision made by WorkForce West Virginia, you each have the right to appeal. Appeals must be submitted within **eight (8) days** from the date the [determination](#) letter was mailed.

HOW TO SUBMIT AN APPEAL

To submit an appeal, follow the instructions on the appealable determination and submit the appeal to the nearest [WorkForce West Virginia local office](#) by the date indicated on the determination. You may appeal:



In-Person

Visit the nearest [WorkForce West Virginia local office](#) to file your appeal.



By Mail

Mail your appeal to the address listed on the determination you are appealing. To locate the nearest WorkForce West Virginia local office or obtain contact information, visit [WorkForceWV.org](#).



By Email

Email your appeal to your [WorkForce West Virginia local office](#).



By Fax

Fax your appeal to the nearest [WorkForce West Virginia local office](#).

THE APPEAL PROCESS

After your appeal is received, you will be sent a Notice of Hearing. It will inform you of the date and time of your [appeal hearing](#). An Administrative Law Judge (ALJ) is responsible for the appeal hearing.

The ALJ will issue a written decision that is mailed after the hearing to you and any other interested parties, such as your former employee(s). If you disagree with an ALJ decision, you may appeal that decision.

For more information about appeals, visit [WorkForceWV.org](#).

The Importance of Attending Appeal Hearings

- **If you fail to come to the appeal hearing**, a decision may be made based solely on the facts presented by your former employee.
- Similarly, **if your former employee fails to come to the appeal hearing**, a decision may be made based solely on the facts presented by you.

When both parties participate in the appeal hearing, it ensures that the ALJ is able to hear and consider *all* relevant facts and render a fair determination.

APPENDIX

APPENDIX A – LEGAL DISCLOSURES

Data Sharing Agreement

Under state and federal law, government agencies may access private and confidential employment information when necessary for specific official purposes including, but not limited to:

- Verification of an individual's eligibility for other government programs
- Compliance activities
- Fraud detection and criminal investigations
- Research and evaluation of publicly funded employment and training programs
- Studies concerning growth management

Your Privacy Matters to Us

Any information shared with other agencies will be treated as private and confidential, subject to penalties. For additional information regarding confidentiality and public record disclosure, please visit WorkForceWV.org



APPENDIX B – GLOSSARY

This section defines commonly used terms and acronyms.

Allocated Tips – Allocated tips are most common in service industries, such as restaurants. These types of tips are reported to the IRS by employers, as opposed to workers reporting their own tips. Typically, employers use 8% of gross receipts to determine allocated tips for each worker.

Appeal – A process for requesting a formal review of a prior UI decision.

Base of Operation – A location from which employees usually start and return to work.

Base Period – The window of time used to determine UI benefit eligibility. At the time an initial claim for benefits is filed, wages from the first four (4) of the last five (5) completed calendar quarters are reviewed to determine UI benefit eligibility.

Benefit Week – A seven (7) day period during which a claimant has an active claim. The benefit week begins on Sunday and ends at midnight the following Saturday.

Benefit Year – Also referred to as a Claim Year, this is the fifty-two (52) weeks from the Claim Effective Date to the Claim End Date.

Benefits – The money given to eligible individuals who are unemployed due to no fault of their own.

Burden of Proof – The necessity or duty of affirmatively proving a fact or facts in a dispute on an issue raised between the parties in a matter or cause.

Claim Effective Date – The Sunday of the week in which an initial claim for benefits is filed.

Claim End Date – Also referred to as a Benefit Year End (BYE), this is the last Saturday of a Benefit Year. This falls fifty-two (52) weeks after the Claim Effective Date.

Claimant – An individual (former employee) who files a claim for UI benefits.

Contributions – UI tax payments.

Cross-Matches – The automated comparison of data from various sources, including, but not limited to, UI claim information, employer account information, other agency data, etc., to detect potential fraudulent characteristics.

Determination – A document that explains a decision made by WorkForce West Virginia staff regarding benefit eligibility for a claimant or the tax status of an employer. Determinations are based on state law and provide information on appeal rights. Sometimes referred to as an assessment.

Excess Wages – Non-taxable wages an employee earns in excess of the current year's taxable wage base.

Federal Unemployment Tax Act (FUTA) – Federal law that levies a federal unemployment tax on businesses with employees. FUTA funds the federal share of the costs of administering state unemployment law. In addition, FUTA covers some administrative costs of job service programs, pays one-half the cost of extended unemployment benefits (that trigger on during periods of high unemployment) and provides for a fund from which states may borrow to pay benefits temporarily when there are insufficient funds in the state's own UI Trust Fund.

Fraud – Knowingly claiming or accepting UI benefits illegally. Fraud is a crime.

Gross Earnings – The amount of money paid for work before taxes and deductions are taken out.

Maximum Benefit Amount (MBA) – The maximum amount of benefits a claimant may receive during a benefit year.

Misconduct – Careless or deliberate behavior that results in an employee being fired or suspended from a job. Examples include dishonesty related to employment, unexcused absences, or violation of a company policy.

National Directory of New Hires (NDNH) – A national database used:

- To assist state child support agencies in locating parents and enforcing child support orders, and
- By UI programs to cross-match against claims to prevent and/or detect Benefit Year Earnings (BYE) errors.

Net Earnings – A worker's take-home pay, after taxes and deductions are taken out.

No Payroll Report – A quarterly report that indicates no payroll was paid in the quarter.

Penalty – An amount of money charged to an employer for improperly reporting information or failing to pay their UI taxes.

Quarter 1 (Q1) – January 1 through March 31.

Quarter 2 (Q2) – April 1 through June 30.

Quarter 3 (Q3) – July 1 through September 30.

Quarter 4 (Q4) – October 1 through December 31.

Queries – Within UI, queries are requests for data from a database or table, usually made by an investigator or adjudicator on a benefit claim that has been flagged by a cross-match or a watchful claims processor.

Professional Employer Organization (PEO) – A firm that provides a service under which an employer (client) can outsource employee management tasks, such as employee benefits, payroll, unemployment insurance, worker's compensation, recruiting, risk/safety management, and training and development. The PEO does this by hiring a client company's employees thereby creating a co-employment relationship with the client company.

Refund – Money given back to an employer for overpayment.

Reimbursable Employer – A non-profit organization or government agency that is billed (not taxed) for the UI benefits received by its former workers.

Separation – When an employee or employer ends the working relationship. This can be due to a quit, discharge, leave of absence, suspension, or layoff.

Severance Pay – Money paid to an employee in addition to wages and any other money that employers owe employees when their employment ends, such as through mass layoffs. Severance pay may also be called separation, termination, or final pay.

Social Security Number (SSN) – A nine (9) digit number issued by the Social Security Administration (SSA) to identify an individual who may work or receive government services.

State Unemployment Tax Act (SUTA) – A law that describes the state UI taxes imposed on employers. State UI tax laws vary by state and each state determines its own SUTA rate and rating methodology within the framework of the Federal Unemployment Tax Act (FUTA).

Taxable Wage Base – The maximum amount of wages subject to taxation for any employee paid by the same employer in a given year.

Third-Party Administrator (TPA) – An organization that serves as an employee representative by managing administrative tasks, such as employee benefits or payroll processing, on behalf of another company.

UI – Unemployment Insurance, which is the benefit program for workers who become unemployed through no fault of their own.

UI Trust Fund – A fund established in the Treasury of United States into which UI contributions (taxes) are paid and from which UI benefits are paid.

Voluntary Quit – Resigning from or leaving one's job without being terminated. For UI purposes, an individual who voluntarily leaves his or her job without "good cause", as defined by state statute, is not eligible to collect UI benefits.

Weekly Benefit Amount (WBA) – The maximum amount of money a claimant is eligible to receive per benefit week.

APPENDIX C – STATE INFORMATION DATA EXCHANGE SYSTEM (SIDES)

SIDES is a free tool that allows employers to share information electronically and securely with WorkForce West Virginia.

Benefits of SIDES

By using SIDES, you can:

- Receive an email notification of a claim being filed within twenty-four (24) hours, allowing for additional time to gather needed information
- Reduce staff time, paperwork, postage costs, and lost forms
- Reduce follow-up time and phone calls
- Easily attach supporting documents to information requests
- Protect sensitive employer and claimant information
- Gain access to data checks that help ensure fully completed responses

Features of SIDES

The most common types of communication through SIDES include:

Separation Information Exchange	Sends a request for separation information to the employer after a claim for benefits is filed
Monetary & Potential Charges Exchange	Notifies an employer of wages used to set up a claim
Additional Fact-Finding Exchange	Allows WorkForce West Virginia to request additional information regarding the claim
Determinations & Decisions Exchange	Provides employers with non-monetary determinations and decisions
Earnings Verification Exchange	Provides an automated way to respond to wage audits
Benefit Charges Exchange	Transmits the summary of final charges
<i>Currently, WorkForce West Virginia only utilizes Separation Information and Earnings Verification.</i>	



Connection Options

There are two (2) ways you can connect to SIDES:

1. **SIDES E-Response** – Most small business owners prefer this option. You only need internet access to connect to the secure website.
2. **SIDES Integration** – This option is generally used by large employers and [Third-Party Administrators \(TPAs\)](#) or Professional Employer Organizations (PEOs). Integration can streamline the UI response process for organizations who deal with a large volume of UI requests.

Get Started Using E-Response

To begin using E-Response:

- Gather your company's Federal Employer Identification Number (FEIN) and State Unemployment Tax Account number
- Visit WorkForceWV.org for information on how to enroll
- Confirm your email address

Once you have enrolled in SIDES you will receive email notifications when a request has been generated that needs your response. Your PIN will be included in each email.



If your business uses a Third-Party Administrator (TPA), Employee Leasing Company, or [Professional Employer Organization \(PEO\)](#), contact your representative before utilizing E-Response.

Using SIDES Integration

SIDES integration requires your business to either provide IT resources who can develop the software or subscribe to a software provider who offers software as a service. To learn more about this option, please visit <https://www.naswa.org/uicides>.

THANK YOU

Thank you for taking the time to review the important information in this handbook. Remember, you can always [contact us](#) if you have questions about UI program requirements.

