

Missouri Unemployment Tax Information for 501(c)(3) Nonprofit Corporations



**DIVISION OF
EMPLOYMENT
SECURITY**

Section 501(c)(3) of the Internal Revenue Code exempts certain organizations, such as nonprofit organizations organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, from filing federal income and federal unemployment taxes. All 501(c)(3) organizations are nonprofit, but not all nonprofit organizations are 501(c)(3) exempt. To receive an exemption, an organization must apply to the Internal Revenue Service (IRS). When approved, the IRS sends the organization an exemption letter.

Establishing Liability for Missouri Unemployment Tax

Each employer or potential employer is required to file an “Unemployment Tax Registration” to furnish the Division of Employment Security (DES) with information on its business operations, worker employment, and wage payments. A 501(c)(3) organization also must furnish a copy of its IRS exemption letter. The DES will make a determination and mail it to the employer regarding whether the business is required to pay unemployment insurance (UI) contributions (taxes).

There are five different types of employers that can become liable to pay state unemployment taxes and provide

workers UI coverage: (1) general business employers and nonprofit organizations that have not been granted 501(c)(3) status by the IRS; (2) governmental entities; (3) nonprofit organizations described in Section 501(c)(3) of the Internal Revenue Code; (4) employers of domestic (household) workers; and (5) employers of agricultural workers.

A nonprofit organization described in 501(c)(3) of the Internal Revenue Code becomes liable if it employs four or more workers for some portion of a day in 20 different weeks during the current or preceding calendar year.

The 20 weeks do not have to be consecutive, but do have to be in the same year. The four or more workers do not have to work at the same time during the day, and the workers do not have to be the same individual(s) for all 20 weeks.

Exempted Employment

Some services are specifically excluded from “employment” for the purposes of the Missouri Employment Security Law, including:

1. Services performed by individuals whose earning capacity is impaired by age, or physical or mental deficiency, or injury, if performed in a facility conducted for carrying out a program for rehabilitation of such individuals;

2. Services performed by individuals, who because of injury or physical or mental capacity cannot be readily absorbed in the competitive labor market, if performed in a facility whose purpose is to carry out a program of providing work for such individuals;
3. Services performed by an individual receiving work relief or work training if the program is assisted or financed in whole or in part by a federal agency or by an agency of the state or any of its political subdivisions;
4. Services performed in the employ of a nonprofit school, college, or university by a student who is enrolled and regularly attends classes at such school, college, or university;
5. Services performed by a student's spouse in the employ of a nonprofit school, college, or university at which the student is enrolled and regularly attends classes provided the spouse is advised at the beginning of such services that:
 - a. The employment is provided under a student-assistance program; and
 - b. The employee is not covered by any UI program.
6. Services performed by an inmate of a custodial or penal institution.

Churches

The following are exempt from UI coverage if services are performed:

1. In the employ of a church, convention, or association of churches;
2. In the employ of an organization that is operated primarily for religious purposes and is operated, supervised, controlled, or principally supported by a church, convention, or association of churches;
3. By a duly ordained, commissioned, or licensed minister of a church in the exercise of the ministry;
4. By a member of a religious order in the exercise of duties required by such order.

Voluntary Election of Coverage

If a **501(c)(3) organization** does not have sufficient employment to become liable under the above conditions, or if it wishes to provide UI coverage for its workers who normally would be exempt under some provision in the law, the **501(c)(3) organization** may request approval by the DES to become an employer.

If approved, the voluntary election of coverage would go into effect on the first day of the quarter in which the election is requested and must continue in effect for at least two complete calendar

years. If a 501(c)(3) organization elects coverage, all employment normally exempted under the law would be covered.

Worker Notification Requirements

If a 501(c)(3) organization has non-covered workers, it must provide each worker with written notice of ineligibility for UI benefits at the time of hire or when there is a change in the organization's liability status. This is according to Section 288.041 of the Missouri Revised Statutes (RSMo), which requires workers be notified that their wages and services do not constitute "employment," as defined in Section 288.034 RSMo.

Quarterly Reporting Requirements

Each liable employer is required to file a "Missouri Quarterly Contribution and Wage (CW) Report." The wages reported on this quarterly report will be used to establish a claim for UI benefits should one of the covered workers become unemployed.

This report must show each worker's name, Social Security Number, and the amount of wages paid to each wage earner during the calendar quarter. If no wages are paid during the quarter, the employer must submit the report indicating there was "no payroll".

The CW Report forms are furnished by the DES near the end of each calendar quarter. These reports should be filed during the month following the end of each calendar quarter. Employers that choose the contributing method of taxation should pay any contributions (taxes) due when submitting the CW Report. **No part of the contributions (taxes) due can be deducted from a worker's pay.** Employers that choose the reimbursing method of taxation repay the UI trust fund for UI benefit payments made to former workers. **No part of the reimbursement made can be deducted from a worker's pay.**

The "Missouri Quarterly CW Reports" become delinquent after the last day of the month following each calendar quarter. Due dates are:

First Quarter - April 30
Second Quarter - July 31
Third Quarter - October 31
Fourth Quarter - January 31

The CW Reports are deemed filed on the date postmarked or the date received in a DES office.

Penalty for Late Filing of Contribution and Wage Reports

The penalty is 10 percent of the contributions (taxes) due or \$100, whichever is greater, for each "Missouri Quarterly CW Report" not filed within the month following the due date. This

penalty will continue to be imposed each month or fraction of a month the report is not filed. The maximum penalty per quarter is 20 percent of the contributions (taxes) due or \$200, whichever is greater.

Interest Charges

Interest accrues at a variable rate, as established by the IRS, on contributions (taxes) that are due and unpaid after each quarterly due date.

The DES grants newly subject employers a 30-day extension from the date of liability notice to file reports and pay taxes.

Reimbursable Employer

When liability is established, governmental entities and 501(c)(3) nonprofit organizations have the option to elect their method of payment. An election to make payments to reimburse the Missouri Unemployment Compensation Fund in lieu of contributions (taxes) for the amount of UI benefits paid to former employees who have been determined to be eligible claimants (reimbursing method) must be made in writing within 30 days of the date the original notice of liability is mailed, or at least 30 days prior to January 1 of a calendar year for which such election shall be effective.

If no request is received, the DES automatically assigns the contributing method of taxation.

An election to make payments in lieu of contributions (taxes) cannot be changed to the contributing method for two full calendar years.

Contributory Employer

All employers, except those making reimbursing payments, have an assigned tax rate. A contributory employer makes quarterly tax payments based on the employer's taxable wages and rate. Initially, an employer receives the new employer rate. The tax rate for a new 501(c)(3) corporation is one percent (1.0%) until it is eligible for an experience rate. Applicable percent increases or decreases may apply and surcharges may be applied to this rate.

An experience rate may change each year when it is calculated by the DES based on the ratio between an employer's average annual taxable payroll, UI claims against its account, and taxes previously paid by the employer. An employer's rate stays the same for the entire calendar year except in successorship situations. For more information on experience rates and successorship see the "Employers' Rights and Responsibilities" (MODES-INF-151).

Benefit Charge

A benefit charge is an amount charged to a contributory employer's account for UI benefits paid to a former worker. Each employer's account is charged proportionally to the amount of wages

paid by such employer to a claimant during the base period of a claim. The maximum amount of regular UI benefits chargeable on a Missouri claim within a benefit year is 20 times the maximum weekly benefit amount ($20 \times \$320 = \$6,400$). If state extended benefits (EB) beyond Missouri's regular UI benefits have been authorized by law, they will be chargeable only at a rate of one-half (1/2) of benefits paid unless alternative funding is provided by the U.S. Department of Labor. However, per federal and state statutes, governmental entities are charged the entire amount of state EB paid.

Contributory Employers

Contributory employers have account charge protection, meaning that benefit payments are not charged to a contributory employer's experience if:

1. It is found that the claimant quit the employment to accept more remunerative work or failed without good cause to accept work offered by a former employer;
2. The claimant was disqualified for being discharged due to misconduct connected with the work or quit without good cause attributable to the work or the employer;
3. The claimant was paid \$400 or less by the employer during the entire base period of the claim;
4. The claimant was properly reported as a probationary worker whose

period of employment for the employer was 28 consecutive days or less;

5. The employer continued to employ the individual in part-time work on a regular recurring basis each week claimed during the charged period, to at least the same extent the employer had previously employed the claimant, and informs the DES within 30 days from the date of the "Statement of Benefit Charges;"
6. It is found that the claimant quit temporary work with the employer to return to work for a regular employer. Any benefits paid to a claimant based on wages paid by such temporary employers are charged to claimant's regular employer;
7. The claimant quit work, which was determined not suitable as defined by Missouri law, within 28 calendar days of the first day worked; or
8. The employer was required to discharge the claimant because the claimant's name was placed on a disqualification list maintained by the Missouri Department of Health and Senior Services after the date of hire.

Contributory employers are charged for the entire amount of regular UI benefits and up to one-half (1/2) of state EB paid attributable to the base period wages, except that contributing governmental entities are charged the entire amount of state EB paid (see page 11).

Reimbursable Employers

Reimbursable employers are charged for benefits in the same ratio as the amount of wages paid to a claimant by such employer during the base period of the claim relative to the claimant's other employers, if any. Reimbursable employers are billed directly for the entire amount of regular UI benefits and one-half (1/2) of state EB paid attributable to the base period wages, except that reimbursing governmental entities must pay the entire amount of state EB paid. Reimbursable debits (charges to a reimbursable account) are not charged or credited to an employer's experience rating account. This method of payment **only** applies to benefits paid after the effective date of electing to be a reimbursable employer.

Reimbursable employers do not receive any account charge protection.

Statement of Benefit Charges

The DES will mail a “Statement of Benefit Charges” to the employer for each quarter in which a charge or credit is made to the employer’s account. The statement reflects all charges or credits to the account during that quarter. If no charges or credits are assigned to the account, no statement will be sent for that quarter.

The “Statement of Benefit Charges” is mailed by the 30th day of the month following the end of the calendar quarter.

Employers that choose the reimbursing method of financing are mailed a “Debit/Credit Memorandum” with the “Statement of Benefit Charges.” Reimbursable employers have until the end of the next month to pay the benefit charges. The “Statement of Benefit Charges” and the “Debit/Credit Memorandum” are mailed to an employer’s principal mailing address.

Each form includes an instruction sheet. Please read the instruction sheet because it includes information that will be useful in communicating with the DES.

If, upon your review of the “Statement of Benefit Charges,” you decide to protest any of the charges, submit your letter of protest within 30 days from the date of mailing noted on the statement. See “Right of Protest” on the instruction sheet enclosed with the charge statement.

Terminating “Liability”

There are two situations in which a nonprofit 501(c)(3) organization that did not employ four or more workers in 20 weeks in the preceding year may apply for termination of coverage:

1. An employer may file an application to terminate coverage within 90 days from the date of receiving an initial notice of liability for prior years, if during the current or preceding calendar year the organization did not employ four or more workers in 20

weeks. If granted, the termination of coverage would be effective January 1 of the next calendar year.

2. An employer may file an application to terminate liability as of January 1st of any calendar year, if during the preceding calendar year, the employer and any predecessor combined had less employment and wages than was necessary to become liable under the law. The application must be filed by February 10th of such year.

An employer that voluntarily elects coverage must continue coverage for at least two complete calendar years before requesting termination.

For additional information see the
“Employers’ Rights and Responsibilities,”
(MODES-INF-151)
or
visit our website at
www.labor.mo.gov/DES

**Missouri TTY User: 800-735-2966
or 711 for Relay Missouri.**

IMPORTANT: If needed, call 573-751-1995 for assistance in the translation and understanding of the information in this document.

¡IMPORTANTE!: Si es necesario, llame al 573-751-1995 para asistencia en la traducción y entendimiento de la información en este documento.

Missouri Division of Employment Security is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.

**MISSOURI
DEPARTMENT OF LABOR
& INDUSTRIAL RELATIONS**