



## Handbook for Employers

An explanation of the employer's rights and responsibilities  
under the West Virginia Unemployment Compensation Law

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Telephone numbers are subject to change.



## Foreword

### To all employers:

You pay the taxes which support the Unemployment Compensation programs.

Your contributions to the West Virginia Unemployment Compensation Fund are used to pay unemployment benefits to qualified claimants, benefits which sustain the purchasing power of the individual, the community and the state during periods of involuntary unemployment. Your contribution rate may be affected by the promptness and accuracy with which you submit reports, pay taxes, and supply information to the Unemployment Compensation Division.

The taxes which you pay directly to the federal government finance the Employment Service (Job Service) placement system and related activities such as research in matters pertaining to the West Virginia economy and participation in the training of workers to meet the demands of industry. Your federal taxes also defray the administrative costs of unemployment compensation and provide funds which may be loaned for unemployment benefit purposes, to states whose unemployment compensation reserves are depleted.

All programs under WorkForce West Virginia are vital to the economic health of the state, nation and community, and they affect your business directly or indirectly. Your payroll taxes therefore constitute an investment. To protect that investment it is necessary for you to understand your rights and duties under the Unemployment Compensation Law and that you cooperate with all divisions of WorkForce West Virginia to ensure that the Unemployment Compensation, Employment Service, and related programs are administered efficiently and economically.

We have prepared this handbook to promote your understanding and to encourage your cooperation. We hope it will be helpful to you and to others in your organization who are responsible for hiring and discharging workers, issuing separation reports, examining and completing unemployment compensation claim notices, and preparing payrolls and tax forms.

Statements in the handbook are for general information and do not have the effect of law or regulation.

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## Employing Units

An employing unit is an individual, partnership, association, corporation, governmental entity, or other type of organization which has in its employ one or more individuals performing services within West Virginia.

### ♦ Initial Statement by employing unit

Every employing unit is required to submit an Employer's Initial Statement, Form UC-201-B, when beginning business in West Virginia or succeeding to the business of another employing unit in this state. The Initial Statement must bear the exact business name of the employing unit and the street address of the business headquarters. A post office box number or general delivery address is not sufficient.

If the employing unit is an individual, the Initial Statement must show the individual's name, social security number and home address. If the employing unit is a partnership, each individual partner must sign the statement and indicate social security number and place of residence. If the employing unit is a corporation, the individual name, title, social security number and residence of each officer must be entered.

An Initial Statement submitted by a political subdivision or government agency must bear the signature and title of a duly authorized individual.

### ♦ Supplements to Employer's Initial Statement

An employing unit succeeding to the business of a liable employer is required to submit a Supplement, Form UC-201-BS, Statement for Transfer of Business, which must be signed by both the successor employer and the predecessor employer.

An employing unit which is a political subdivision, government agency or private nonprofit organization is required to prepare a Supplement, Form UC-201-BNP, describing the nature of the employing unit and indicating on which basis, tax or reimbursement, it wishes to make payments if found liable. (See 'Government agencies and nonprofit organizations.')

From the information shown on the Initial Statement and any supplements, the Unemployment Compensation Division is able to determine whether the employing unit is an 'employer' as defined in the Unemployment Compensation Law and, therefore, liable for the payment of contributions (or for a political subdivision, government agency or private nonprofit organization that so elects, liable for the reimbursement of benefit payments).

### ♦ Records to be kept by employing unit

Whether or not liable for payment of contributions, or reimbursement of benefits, every employing unit is required to keep records showing: the period covered by each payroll; the place of employment within the state; the scheduled hours per day or week; and, for each individual worker and each payroll period, the worker's social security number, name, wages (and other remuneration), wage rate, travel expenses, and dates covered, time lost due to reasons other than lack of work, exact dates of employment, and cause of any separation. Records and supporting evidence include cash books, journals, ledgers and corporate minutes. The state law specifies that such records be open to inspection by the Commissioner of WorkForce West Virginia or a representative. A federal statute requires that employment records be retained for four years.



**♦ Responsibility for notifying the Division when liability is incurred**

It is the responsibility of the employing unit to notify the Unemployment Compensation Division when it incurs liability under the law, regardless of the fact that an Initial Statement reflecting nonliability may have been submitted previously.

**♦ Penalties**

An employing unit which fails to provide required reports to the Unemployment Compensation Division is considered guilty of a misdemeanor and upon conviction may be fined not less than \$500 on a first offense to a fine of up to \$25,000 and/or imprisonment up to two years for repeat offenders.

## **Employer Liability**

An employing unit is subject to the Unemployment Compensation Law and is required to make payments into the Unemployment Compensation Fund if it comes within any one of the following classifications:

1. Has in employment subject to the law one or more individuals for some portion of a day in each of 20 different weeks of the calendar year. (The weeks of employment need not be consecutive, nor need the same individual be employed each day.)
2. Pays total wages of \$1,500 or more in any calendar quarter in the current or preceding calendar year.
3. Acquires the organization, trade or business, or substantially all the assets of a liable employer.
4. Pays cash wages of \$1,000 or more in any calendar quarter for domestic service in a private home, local college club or local chapter of a college fraternity or sorority.
5. Has in agricultural employment ten or more individuals for some portion of a day in each of 20 different weeks of the calendar year.
6. Pays for agricultural labor cash wages of \$20,000 or more in any calendar quarter.
7. Becomes a liable employer under any federal unemployment tax act.
8. Is a state or local government agency, entity or instrumentality meeting any of the above conditions.
9. Certain religious, charitable, educational, or other organizations classified as nonprofit under Section 501(c)(3) of the Internal Revenue Code, having in employment four or more individuals for some portion of a day in each of 20 different weeks of a calendar year.

Only work which is classified as 'employment' under the law is considered in determining whether an employing unit has incurred liability, except for agricultural employers. When determining the liability of an agricultural employer, the wages and number of alien agricultural workers are used. Among the services excluded from employment are those for an institution operated exclusively for religious purposes. For other exclusions, see 'Employment.'

#### ◆ **Location of employment and worker**

For an employing unit to incur liability under the West Virginia Unemployment Compensation Law, employees must perform their work in West Virginia (or outside the United States if the employer's base of operations is in West Virginia).

Work is considered to be within the state if (1) most of the employee's services are performed in West Virginia, and the employee works outside the state only at times or at occasional tasks; or (2) the employee performs some work in West Virginia, and the base of operation, or the place from which the employee is directed, is located in West Virginia; or (3) the employee's residence and some work are in West Virginia, and neither the base of operations nor the place from which the employee is directed is in any other state in which some work is performed.

If a worker is employed both within and without the state, but it is determined that the worker is in 'employment in this state,' the employer is required to pay contributions on all of the worker's wages, those earned in West Virginia and elsewhere.

#### ◆ **Interstate reciprocal coverage arrangement**

If any of an employer's workers customarily perform services in more than one state, the employer may apply for coverage under the West Virginia Unemployment Compensation Law of all the worker's services, provided: any part of the worker's services are performed in West Virginia; the worker lives in West Virginia; or the employer maintains in West Virginia a place of business to which the worker's services bear a reasonable relationship.

The Contribution Accounting section of the Unemployment Compensation Division can furnish additional information and forms for applying for coverage of multi-state workers.

#### ◆ **Voluntary coverage**

A nonliable employing unit or an employer wishing to insure workers who are not engaged in 'employment' as defined in the Unemployment Compensation Law may elect voluntary coverage by completing Form WVUC-A-33, Voluntary Election to Become an Employer. If approved, voluntary coverage remains in effect at least two calendar years, the year it is elected and the following year.

#### ◆ **Employer's Certificate of Registration**

When an employer has been determined liable, or an application for voluntary coverage has been approved, the Division issues an Employer's Certificate of Registration, Form WVUC-A-29 and assigns the employer a ten-digit account number. The employer should enter this number, in its entirety, on all correspondence with the Division and on unemployment compensation forms where called for.

#### ◆ **Poster to be displayed**

Every liable employer is required by law to display prominently in each business establishment a poster, Notice to Employees — Unemployment Benefits, Form WVUC-B-59. The poster contains information about insured workers' rights and duties under the West Virginia Unemployment Compensation Law.

#### ◆ **Duration of coverage**

An employer who becomes liable within a calendar year is liable for all of that year. The employer is required to submit Contribution and Wage Reports for each calendar quarter in that year and to pay contributions on all taxable wages paid in any quarter of that year (or for a government agency or nonprofit organization that so elects, to reimburse benefits based on wages paid in any quarter of that year). For example, an employer who reaches the twentieth

week of employment in December is required to submit reports for the first, second, third and fourth quarters of that calendar year even though the employer may not have had any employees in the first and second quarters. The employer also is required to pay contributions on any taxable wages paid prior to the fourth quarter, when liability was incurred (or to reimburse benefits based on any wages paid prior to that quarter).

Once an employer has incurred liability or voluntarily elected coverage, that employer is required to submit reports and make payments for the full calendar year in which liability was incurred or elected and for the full succeeding calendar year.

#### ♦ **Termination of coverage**

Termination of coverage under the West Virginia Law is not automatic. Once an employing unit becomes liable, it remains liable until officially released by the Unemployment Compensation Division. An Application for Termination of Coverage, Form WVUC-A-47-A, must be filed with the Division on or before January 31 of the year for which termination is sought. It can be approved only if the Commissioner finds that during the immediately preceding calendar year the employing unit met none of the liability criteria listed under 'Employer Liability.'

(**Exception:** An employer who elects voluntary coverage is liable for at least two calendar years, the year coverage is elected and the following year.)

#### ♦ **Employer Coverage and Responsibility**

It is illegal for an employer or other individual(s) to transfer workers between businesses for the purpose of obtaining a lower contribution experience rate, a practice referred to as State Unemployment Tax Act (SUTA) Dumping. The Commissioner, or his representative, has the authority to impose penalty rates and/or initiate civil and criminal penalties necessary to enforce the provisions of §21A-5-10c. If it is determined that the purpose of a transfer of business was to obtain a lower rate of liability for paying contributions, the experience rating of the employers involved will be recalculated to a single penalty rate for both employers. If a person knowingly violates or attempts to violate this section of law, the person will be subject to penalties. If the person is an employer, that employer will be assigned the highest rate assignable for the rate year and the three rate years immediately following. However, if the business is already at the highest rate, or if the amount of increase would be less than two percent for that year, then a penalty rate of contributions of two percent of taxable wages would be imposed for that year. If the person is not an employer, that person would be subject to a fine of up to \$5,000.

## **Employment**

Employment means service, including service in interstate commerce, performed for wages or under any contract of hire. Employment means an individual's entire service, within this state or without this state, or both, if the base of operations is in this state. It means an individual's entire service if the base of operations is not in any state where the individual works, but the individual lives in this state.

Service performed for wages is considered employment unless (a) the individual is free from control or direction in the performance of the service; and (b) the service is outside the usual course of the business for which it is performed; and (c) the individual is customarily engaged in an independently established trade, occupation, profession or business.

Service of a United States citizen performed outside the United States (except Canada) for an American employer constitutes employment under the state law if the employer's principal

place of business is located in this state, or if the employer is a resident of this state or a corporation organized under the laws of this state.

Service performed by an officer of a corporation is considered employment, but service performed by a sole proprietor or partner is not.

If the service performed during half or more of a pay period constitutes employment, all of the service constitutes employment.

♦ **Service excluded from definition of employment**

Certain types of service are specifically excluded from the definition of employment. Among them are: agricultural labor performed by alien agricultural workers; service covered by Railroad Unemployment Insurance; service of an individual in the employ of the individual's son, daughter or spouse; service of a child under 18 in the employ of the child's father or mother; service in the employ of an employing unit operated primarily for religious purposes; service performed by agents of mutual fund broker-dealers or insurance companies (exclusive of industrial insurance agents) or by agents of investment companies, who are compensated wholly on a commission basis; service of any election official appointed to serve during any municipal, county or state election, if the amount of remuneration received by the individual during the calendar year for services as an election official is less than one thousand dollars; and maritime employment if the office of the vessel is outside the state. (See also 'Government agencies and nonprofit organizations.')

If the service performed during more than half of a pay period is not deemed employment, none of the service is deemed employment.

## **Wages**

The term wages includes all remuneration for employment, whether designated as wages, salary, tips, commission, bonus, or any other term; and whether paid on the basis of piece rate, hourly rate, daily rate, or fixed weekly, monthly or annual salary. Wages include the remuneration of all workers of all ranks, including officers of a corporation, provided the workers are in employment covered by the law.

Wages paid to Limited Liability Company (LLC) members are not reportable if the LLC files as a sole proprietorship or partnership for federal tax purposes. Wages paid to LLC members are reportable if the LLC files as a corporation for federal tax purposes. All wages paid to employees of a Limited Liability Company are to be reported in the same manner as any other business entity.

The term wages also includes the reasonable cash value of remuneration paid in a medium other than cash, unless paid for domestic service or agricultural labor.

Wages means the amount paid to a worker before any deductions for such items as (1) house rent, electricity and water; (2) board and lodging; (3) purchases at the company store; (4) union dues; (5) fines; (6) payments by an employee into pension or benefit funds; (7) employee's tax under Section 1400 of the federal Internal Revenue Code; (8) premiums on group insurance; and (9) contributions to a 401K plan or an IRS Section 125 cafeteria plan.

Wages reported must include all payments for time worked and also such other payments as those for (1) time lost due to sickness or accident, unless paid under an approved state workers' compensation law; (2) expense allowances which are not regularly and reasonably segregated; (3) gratuities customarily received in the course of employment from persons

other than the employer when the gratuities exceed \$20 per month and which are required to be reported to the employer by the employee; (4) vacation pay.

Payments not ordinarily considered wages include (1) travel and other expenses of the worker if a separate, reasonable account of them is kept; (2) the value of any special discount or markdown allowed a worker on goods or services purchased from or supplied by the employer if the purchase is optional with the worker and does not constitute regular or systematic remuneration for services; (3) facilities or privileges such as cafeterias, restaurants, medical services or so-called 'courtesy discounts' on purchases furnished or offered by an employer merely as a convenience to workers or as a means of promoting their health, goodwill or efficiency; (4) discounts on property or security purchases; (5) directors' fees if customary and reasonable; (6) remuneration in a medium other than cash for services not in the course of the employer's trade or business; (7) payments by the employer for insurance or annuities on behalf of employees; (8) retirement pay or payments made to a fund for this purpose; (9) payments made to an employee for sickness or accident disability or medical or hospital expenses after the expiration of six months following the last month in which the individual worked for the employer; (10) payments on behalf of employees to or from a trust exempt from tax under Section 165(a) of the federal Internal Revenue Code; (11) payments to an individual after 65 if the individual is no longer working; (12) supper money given a worker to compensate for the additional cost of a meal made necessary by working overtime; (13) payments, not required under any contract of hire, made to an individual with respect to a period of training or service in the armed forces of the United States; (14) payments by an employer of the tax imposed upon an employer under Section 3101 of the federal Internal Revenue Code with respect to remuneration paid to an employee for domestic service in the employer's private home or agricultural labor; (15) severance pay; and (16) savings plan proceeds.

## **Contributions and reports**

Most subject employers are required to pay contributions at the rate of 2.7 percent of all taxable wages paid to permanent and temporary employees each quarter, or at a higher or lower rate if such a rate has been assigned (see 'Experience Rating').

Regardless of the employer's contribution rate, only the first \$12,000 of wages paid each employee by the employer during a calendar year is taxable (subject to contributions). Against this \$12,000 an employer may credit any wages the employer has paid the employee for services performed in another state, and any wages the employer's predecessor has paid the employee, during the same calendar year.

The employer is required to show gross wages before deductions when submitting a wage report, since all wages are used in computing unemployment benefits.

### **♦ Due dates**

Contributions, together with contribution and wage reports, are due quarterly, by the end of the month following the calendar quarter covered. That is, they are due April 30, July 31, October 31, and January 31. Reporting Forms, WVUC-A-154 and WVUC-154-A, Contribution Report and Wage Report, are mailed to all liable employers during the last month of each quarter. However, failure to receive forms does not relieve the employer of the responsibility for filing.

#### ♦ **Request for extension of time**

Upon an employer's written request filed on or before the due date for any payment or report, the Commissioner, for good cause shown, may grant an extension of time, not exceeding 30 days, for making the payment or filing the report.

#### ♦ **Penalties for delinquency in submitting wage reports**

An employer who fails to submit wage and contribution reports when due is guilty of a misdemeanor. Upon conviction the employer may be fined not less than \$500 for first offense to a fine up to \$25,000 and/or imprisonment up to two years for repeat offenders.

If an employer fails to submit wage and contribution reports by August 31 for all past periods necessary for the computation of a contribution rate, that employer is disqualified from receiving a reduced contribution rate under the experience rating provisions of the law. Instead, the maximum contribution rate of 7.5 percent is assigned.

#### ♦ **Penalties for delinquency in making contributions**

If contributions are not paid when due or by the end of an extension granted by the Commissioner, interest accrues at the rate of one percent per month and is compounded quarterly. Also, a late penalty of 10% of the computed tax, not less than \$50 nor more than \$500, will be assessed. Interest accrues on the penalty amount in the same manner as for contributions.

The Commissioner is empowered to take civil action against an employer to collect overdue contributions and interest. If an employer defaults on payments or interest for as many as two calendar quarters, the Commissioner may take civil action to enjoin the employer from continuing to carry on the business in which the liability was incurred.

All liable employers registered with this agency who fail to pay contributions due in a timely manner are placed on the default list until such liability is cleared. All state agencies are required to verify a liable employer is not in default before a license can be issued or renewed, a permit for certain business operations is issued or renewed, or a grant or final settlement payment from a government contract is issued.

Additionally, if an employer becomes delinquent after a permit or license has been issued by a licensing authority, the Unemployment Compensation Division can direct the licensing authority to revoke the permit or license immediately.

Licensing authorities include, but are not limited to, the WV Department of Tax and Revenue, Division of Forestry, Division of Labor, Lottery Commission, Alcohol Beverage Control Administration, etc. The Division of Highways and the School Building Authority, among others, routinely check the default status of employers before issuing final settlement payments. Other agencies who check the default status of employers before issuing or renewing various licenses and permits include the Board of Dental Examiners, Department of Environmental Protection, Office of Miners' Health, Safety & Training, Board of Nurses, Board of Professional Surveyors, the State Police for inspection compliance, and the Division of Natural Resources.

#### ♦ **Quarterly reports**

The Employer's Quarterly Report mailing packet consists of a cover sheet, the Contribution Report (Form WVUC-A-154), the Wage Report (Form WVUC-A-154-A), and a return envelope.

The cover sheet should be completed if there has been a change in name, mailing address, business location or ownership, or a cessation of business. The employer also should use the cover sheet to correct the preprinted Federal Employer Identification Number if necessary.

On the Contribution Report, the employer should show the total amount of wages paid during the quarter for West Virginia employment, the amount of wages in excess of the first \$12,000 paid each employee, taxable wages, contributions due on taxable payroll, the amount of any penalty due, amount of any interest due, amount of any Credit Memorandum being used, and resulting payment due. (Reimbursable employer will enter only the total amount of wages paid during the quarter.)

The employer also should show, for each month in the quarter, the number of covered workers employed during the payroll period that included the twelfth of the month, and the total number of workers employed during the quarter. If not preprinted on the Contribution Report, the quarter being reported, Federal Employer Identification Number, contribution rate, account number, name and address should be entered by the employer.

To complete the Wage Report (WVUC-A-154-A) the employer should enter the social security number, name, and total wages, nontaxable as well as taxable, of each covered worker who received wages during the quarter. Each page of the Wage Report must be numbered and must show a page total.

The Wage Report is used by the Division to compile individual wage records from which unemployment benefits may be computed. It is therefore essential that the employer enter the correct social security number, name and total wages for each employee. Even though wages may have been earned in a different quarter, they are reported for the quarter in which they actually are paid to the employee.

All of the wages of each worker must be entered on the Wage Report even though a portion, or all, of the wages may be nontaxable. This is necessary for the correct determination of benefits should the individual become separated and file a claim. (Note: The employer must keep a record of the nontaxable wages paid to each worker in order to obtain the aggregate amount of nontaxable wages for entry on the Contribution Report.)

The social security number should be taken from the worker's Social Security Account Card. The employer is urged not to accept the number orally, from withholding tax forms, or from any document other than the card. If the worker does not yet have a social security number or has misplaced the card, it is the employer's responsibility to help the worker obtain a card through the nearest office of the Social Security Administration. Until it is received, the employer should indicate on the Wage Report that the worker's social security number or replacement card has been 'Applied for.'

#### ♦ **Report required whether or not employer had payroll in quarter**

If no wages were paid during a given quarter, the employer should nevertheless file contribution and wage reports, indicating 'No payroll.' If the employer ceases business and does not expect to have any further employment, the Division should be notified in order that the employer's records may be so annotated. The cover sheet of the quarterly report packet may be used for this purpose.

#### ♦ **Remittance**

Any check, money order, or other remittance to cover the amount of contribution, penalty, or interest due should be made payable to the Unemployment Compensation Division. Note: The employer must file the required contribution and wage reports by the prescribed due date even though the contribution cannot be submitted with the reports.



#### ♦ **Corrected reports**

If an employer has submitted an erroneous report of wages in a previous quarter, the employer is required to prepare a separate report, marked 'Corrected,' showing the quarter in which the error occurred and the correct name, social security number and amount of wages with respect to each previously omitted or erroneous item. If not self-evident on the corrected report, the type of error which occurred on the original report should be indicated.

If the employer has made an error in the amount of total, nontaxable, or taxable wages reported for a previous quarter, a corrected Contribution Report should be filed for that quarter showing the corrected amounts which should have been reported. A Debit or Credit Memorandum reflecting any underpayment or overpayment caused by the error will be issued to the employer.

#### ♦ **Erroneous payments**

A Debit Memorandum, Form WVUC-A-94-A, is issued by the Division to an employer who has underpaid contributions, penalty, or interest. Since a tax lien may be filed against the employer after 20 days from the date of the Debit Memorandum, the employer should remit the amount shown promptly, enclosing a copy of the Memorandum with the remittance.

If the Division finds that an employer overpaid contributions, penalty, or interest, a correction is made and a Credit Memorandum, Form WVUC-A-94-B, is issued. In preparing the next Contribution Report the employer may deduct the credit due, as shown on the Credit Memorandum, from contributions or interest otherwise payable for the quarter. The employer should enter in the space provided on the Contribution Report the amount of credit being applied and should enclose a copy of the Credit Memorandum.

If the amount paid in error is too large to be adjusted in a reasonable length of time by use of Credit Memorandum, or if the account is inactive when the error is discovered, the employer may file a claim for refund on Form WVUC-A-176, Application for Refund or Adjustment. The claim must be submitted within two years from the date the erroneous payment was made.

#### ♦ **Credit against federal unemployment tax**

An employer having one or more workers for some part of a day in each of 20 weeks of a calendar year, or paying wages of \$1,500 or more in a calendar quarter is required under the Federal Unemployment Tax Act to pay a federal tax of 6.2 percent or more on taxable payroll. However, the employer is allowed a credit of 5.4 percent if contributions have been paid into a state unemployment compensation fund by the due date, January 31.

The balance of the federal tax is paid directly to the Internal Revenue Service. For example, if the federal tax is 6.2 percent, as it was in 1997, the employer who is credited with state contributions pays .8 percent to the federal treasury.

The 5.4 credit, no more and no less, is allowed whether the employer paid state contributions at a 2.7 rate or a higher or lower rate assigned under the experience or delinquency provisions of state law.

Upon request of the Internal Revenue Service the Unemployment Compensation Division verifies the taxable wages reported, as defined in state law, and the contributions paid on those taxable wages.

**Note:** A government agency or nonprofit organization is not subject to the Federal Unemployment Tax Act on either a tax or a reimbursement basis.



## Experience Rating

Most newly-liable employers pay contributions at the rate of 2.7 percent on the first \$12,000 paid each worker in the calendar year. Exceptions are foreign business entities engaged in the construction trades which are required to pay contributions at the rate of 7.5 percent for a minimum of 36 consecutive months.

After an employer's account has been potentially chargeable, or actually charged, with unemployment benefits for 36 months preceding the computation date of June 30, the employer is assigned an earned rate, which may be higher or lower than 2.7 percent depending upon the stability of the employer's employment experience. The earned or penalty rate assigned an employer is based upon the employer's average annual payroll, credits to the employer's account, and charges made against the account for benefits paid to former employees. Penalty and earned rates range from a maximum of 7.5 percent to a minimum of 1.5 percent. An employer who is delinquent in submitting reports is assigned a rate of 7.5 percent.

A government agency or nonprofit organization has a choice of paying contributions at the 2.7 (or higher or lower) rate or reimbursing the Unemployment Compensation Division in the amount of benefits attributable to service in the employ of the agency or organization. If the reimbursement method is chosen, the employer does not have an experience-rating account. (See 'Government agencies and nonprofit organizations.')

### ♦ Method of determining employer's rate

Rates are established June 30 of each year, to be effective the following January 1, in accordance with the ratio of each employer's reserve balance to that employer's average annual payroll.

The credits to an employer's account are the contributions paid which exceed an amount equal to .4 percent of taxable wages. To arrive at the employer's reserve balance, all the benefits charged against the account are subtracted from the credits to the account.

Average annual payroll is the average of the employer's taxable payrolls for the three-year period ending on the computation date of June 30. Dividing the employer's reserve balance by average annual payroll yields a ratio which places the employer's account in a bracket established by law. For example, if the employer's reserve balance amounts to 12.5 percent of average annual payroll, the account falls into the bracket that sets the employer's rate of 2.3 percent.

### ♦ Credit balance employer rates

A credit balance employer, one having an account in which credits equal or exceed charges, is assigned a contribution rate in accordance with the table below. If the employer's credits for all past years exceed benefits charged to the account by an amount equal to less than 6 percent of average annual payroll, the employer's rate is 4.5 percent. If credits for all past years exceed benefits charged by at least 18 percent of average annual payroll, the rate is 1.5 percent. Between these extremes are 13 other brackets, and corresponding rates, as shown in columns b and c.

While each employer's earned rate depends upon individual experience, the actual rate at which an employer is required to pay contributions for a calendar year may be affected by the balance in the Unemployment Compensation Fund. If the fund balance on January 1 is greater than or equal to 1.75 percent but less than 2.25 percent of the gross covered wages for the twelve-month period ending on June 30, the employer's rate will be reduced to the one

shown in column d. If the fund balance equals or exceeds 2.25 percent but is less than 2.75 percent, the employer's rate will be reduced to the figure appearing in column e. If the fund balance equals or exceeds 2.75 percent but is less than 3.0 percent, the employer's rate will be the figure in column f; and if the balance equals or exceeds 3.0 percent, the rate will be the figure in column g.

| column a      | column b  | column c           | column d | column e | column f | column g |
|---------------|---|--------------------|----------|----------|----------|----------|
| rate<br>class | percent of<br>average annual<br>payroll by which<br>credits exceed<br>charges | employer's<br>rate |          |          |          |          |
| (1)           | 0.0 to 6.0  | 4.5                | 4.0      | 3.5      | 3.0      | 2.0      |
| (2)           | 6.0   | 4.1                | 3.6      | 3.1      | 2.6      | 1.6      |
| (3)           | 7.0   | 3.9                | 3.4      | 2.9      | 2.4      | 1.4      |
| (4)           | 8.0   | 3.7                | 3.2      | 2.7      | 2.2      | 1.2      |
| (5)           | 9.0   | 3.5                | 3.0      | 2.5      | 2.0      | 1.0      |
| (6)           | 10.0  | 3.3                | 2.8      | 2.3      | 1.8      | 0.8      |
| (7)           | 10.5  | 3.1                | 2.6      | 2.1      | 1.6      | 0.6      |
| (8)           | 11.0  | 2.9                | 2.4      | 1.9      | 1.4      | 0.4      |
| (9)           | 11.5  | 2.7                | 2.2      | 1.7      | 1.2      | 0.2      |
| (10)          | 12.0  | 2.5                | 2.0      | 1.5      | 1.0      | 0.0      |
| (11)          | 12.5  | 2.3                | 1.8      | 1.3      | 0.8      | 0.0      |
| (12)          | 13.0  | 2.1                | 1.6      | 1.1      | 0.6      | 0.0      |
| (13)          | 14.0  | 1.9                | 1.4      | 0.9      | 0.4      | 0.0      |
| (14)          | 16.0  | 1.7                | 1.2      | 0.7      | 0.2      | 0.0      |
| (15)          | 18.0 and over   | 1.5                | 1.0      | 0.5      | 0.0      | 0.0      |

**Note:** Rate class (1) shows in column b the range 0.0 to 6.0. This range is interpreted as 0.0 through 5.9, with 6.0 being in wage class (2).

#### ◆ Debit balance rates

A debit balance account is one in which the benefits charged for all past years exceed the payments credited for such past years.

If an employer's debit balance ratio is five percent or less of average annual payroll, the employer's rate is set at 5.5 percent. If the debit balance ratio is more than five percent but less than ten percent, the rate is 6.5 percent; and if the debit balance ratio is ten percent or more, the rate is 7.5 percent.

**◆ Computation date**

The books of the Unemployment Compensation Division are closed on July 31 of each year. Any contributions thereafter paid, as well as benefits thereafter paid with respect to weeks ending on or before June 30, the computation date, are not taken into account until the next annual date for fixing contribution rates.

**◆ Delinquent employer rate -- 7.5 percent**

If an employer has failed to furnish on or before August 31 wage information for all past periods necessary for use in rate computation, the employer's rate must be fixed at 7.5 percent. However, any payments made or information furnished on or before the termination of a time extension granted by the Commissioner will be taken into account.

**◆ Construction firms**

A foreign business entity engaged in the construction trades pay contributions at the rate of 7.5 percent until its account has been potentially chargeable with benefits for 36 months preceding the computation date of June 30.

**◆ Surtax**

In making contributions for wages paid on or after January 1, 1981, every employer was subject to a surtax of one percent, which was added to the employer's earned or penalty contribution rate. For example, if the employer's earned rate is 3.7 percent, the addition of the surtax of 1.0 percent results in an actual rate of 4.7 percent. The surtax was terminated effective January 1, 1989 for most employers. The ONLY exception to the surtax exemption is debit-balanced employers and new foreign corporations or business entities engaged in the construction trades. These groups are required to pay a surtax of 1.0 percent.

**◆ Notice of Contribution Rate**

Taking into consideration the employer's reserve balance, credits, charges and adjustments, the Unemployment Compensation Division establishes the employer's contribution rate for the following year. A Notice of Contribution Rate, Form WVUC-MR-7, is mailed to the employer by January 31 each year.

**◆ Voluntary payments**

If an employer believes additional payments would improve the employer's reserve balance and gain a favorable experience rate, voluntary payments may be made, subject to the Regulations of the Commissioner. Such payments are credited to the employer's account in the same manner as required payments. No voluntary payment, however, may be considered a prepayment of future required contributions, nor may such a payment be refunded under any condition. A voluntary payment must be mailed within 30 days from the date the Unemployment Compensation Division mailed the employer's rate statement for the year. Payment must be by separate check or the equivalent accompanied by a transmittal letter specifically designating that it is a voluntary payment under Article 5, Section 4a of the Unemployment Compensation Law, and that it is for the purpose of producing a rate to be designated.

If an employer has made a voluntary payment, but through error in computation the payment is not sufficient to produce the designated rate, with the approval of the Commissioner an additional payment may be made within ten days from the mailing date of the rate statement reflecting the original voluntary payment.

#### ♦ **Transfer of business**

When an employer acquires the entire organization, trade or business, or substantially all the assets of another employer and so notifies the Unemployment Compensation Division, a transfer of experience records is made. The acquiring employer's contribution rate for the remainder of the calendar year is not affected by the transfer, but that employer's rate for the succeeding calendar year is based on the combined experience of the two accounts as of July 31 of the year in which the transfer occurred.

If the predecessor is delinquent in the payment of contributions or interest, the acquiring employer assumes the responsibility for payment of the delinquent contributions or interest. The benefit and contribution experience records of the predecessor will be transferred to the successor. If the purchase of a business is accomplished with the assistance of a state economic development agency, a new employer's contribution rate will be assigned the successor upon receipt of certification from the state economic development agency which provided the assistance. No transfer of experience will be made in this case.

#### ♦ **Joint account**

Two or more employers may ask that their accounts be combined in a joint account, provided each employer's account has been chargeable with benefits for 36 months preceding the previous computation date, June 30. An application for Establishment of a Joint Account, Form WVUC-A-157, must be filed within 30 days after the rate statements are mailed.

#### ♦ **Charges to employer's account**

Benefits paid to an individual are charged to the accounts of that individual's employers in the base period based on each employer's percentage of total base period wages. Charges to the account of each such employer are to be that portion of the total benefits paid such individual as the wages paid the individual by such employer in the base period. This will provide a more equitable system of charging employers with benefits paid by requiring the charges to be prorated among all base period employers rather than charging the last 30-day employer with all benefits paid.

The base period employer may be relieved of charges if separation from the employer would have resulted in a disqualification for benefits because the individual voluntarily quit employment without good cause or was discharged for misconduct. However, relief of charges will occur only if the employer furnishes separation information within 14 days of the date the notice was mailed or delivered. (Note: Relief of charges applies only to contributory employers who have experience-rating accounts. There is no provision for relieving reimbursable employers of benefit liability. See 'Government agencies and nonprofit organizations'.)

#### ♦ **Notices of potential chargeability**

When a new claim is filed establishing a benefit year, an employer notice of claim filed is sent to the potentially chargeable base period employers.

When a new claim for extended unemployment benefits is filed, an Initial Claim Determination and Deputy's Decision is mailed to the same employers who received the forms in connection with the claimant's 'exhausted' regular claim. If some of those employers are not potentially chargeable with the extended benefits, an Employer Notice of Claim is sent to the employers who are.

#### ♦ **Notification of charges**

Quarterly, a Statement of Charges to Employer's Experience-Rating Account, Form WVUC-MR-6, is mailed to each employer whose account has been charged or credited in connection

with unemployment benefits paid to former employees. This statement shows by claimant's name and social security number the ending date of each benefit period and the amount of each payment.

♦ **Application for review of chargeability of benefits**

If a contributory employer believes that an experience-rating account has been illegally charged with benefits paid a claimant, the employer should write to the Initial Claims Unit of the Benefits and Technical Support Section, Unemployment Compensation Division, outlining the circumstances. If the charge occurred through clerical error or oversight, adjustments will be made promptly.

If a request for adjustment is denied on the grounds that the original charge was made in accordance with law, but the employer still considers the charge unjust, the employer may file an Application of Review and Redetermination of Benefits Charges, Form WVUC-L-19, pursuant to Regulation 17.02.

Such an application should be filed as promptly as possible after receiving notice that the benefits have been charged. The application should be prepared in duplicate, addressed to the Legal Counsel for the Unemployment Compensation Division, and set forth: the name and address of the applicant; the name, address and official position of any person filing the application on the applicant's behalf; the name, address and social security number of the individual to whom the benefits in question were paid; the date of the application; the amount of the charges being protested; the ending dates of the periods for which the benefits in question were paid; the date of the statement on which the protested charges appeared; the date on which the statement was received by the applicant; and a brief statement of the reasons for the application. Forms for making an application may be obtained from the Legal Counsel for the Unemployment Compensation Division.

If the employer does not agree with the administrative decision, an appeal may be filed with WorkForce West Virginia's Board of Review. From a decision of the Board, the employer may appeal to the Circuit Court of Kanawha County, and thence to the Supreme Court of Appeals of West Virginia.

If a reimbursing employer believes that benefits have been billed erroneously, the employer may request a review and redetermination by writing to the Commissioner of WorkForce West Virginia. The letter should be received no later than 15 days from the date the bill was mailed to the employer. Under West Virginia Unemployment Compensation Law, there is no provision for relief of charges if you are a reimbursing employer.

♦ **Application for review and redetermination of contribution rate**

An employer desiring a review and redetermination of a contribution rate may file an application for such a review within 30 days after the Notice of Contribution Rate was mailed. The application should be addressed to the Contribution Accounting Section of the Unemployment Compensation Division.

## **Government Agencies and Nonprofit Organizations**

Liable under the West Virginia Unemployment Compensation Law are the State of West Virginia, its political subdivisions and their instrumentalities.

Also liable is any nonprofit organization operated for charitable, scientific, literary or higher education purposes or for the prevention of cruelty to children or animals, if it had in

employment subject to the law four (4) or more individuals for some portion of a day in each of twenty (20) different weeks in the current or preceding calendar year.

Employment means service performed for wages or under any contract of hire. Service performed for wages is considered employment unless (a) the individual is free from control or direction in the performance of the service; (b) the service is outside the usual course of the business for which it is performed; and (c) the individual is customarily engaged in an independently established trade, occupation or business.

If the service performed during half or more of a pay period constitutes employment, all of the service constitutes employment.

Certain government services are specifically excluded from the definition of employment. These excluded services are those performed (a) as an elected official; (b) as a member of a legislative body, or a member of the judiciary; (c) as a member of the state national guard or air national guard (except as provided in §21A-1A-28(a) which states that the earnings of members of the state national guard or the air national guard are to be considered wages when they are serving on a temporary basis as requested by the Governor.); (d) by an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency; (e) by an individual serving in a position which, under or pursuant to the laws of the state, is designated a major nontenured policy-making position or a policy-making or advisory position not ordinarily requiring more than eight hours service a week; or (f) as an election official appointed to serve during any municipal, county or state election, if the amount of remuneration received by the individual during the calendar year for services as an election official is less than one thousand dollars.

Also excluded from the definition of employment is service performed (a) in the employ of an organization operated, directed or principally supported by a church; (b) by a minister in the exercise of the ministry or by a member of a religious order in the exercise of duties required by the order; (c) by an individual receiving rehabilitation or remunerative work in a facility operated to provide such rehabilitation or remunerative work to the aged or physically or mentally deficient; (d) by an individual receiving work relief or work training as part of a program assisted or financed even partially by an agency of the state or federal government; or (e) by an inmate of a custodial or penal institution.

Where work experience is combined with academic instruction as an integral part of a full-time program at a nonprofit or public educational institution, service performed by the student is not employment.

Also excluded from employment is service performed by a student at a school, college or university or by the spouse of a student if the spouse is informed at the outset that the employment is being provided to give financial assistance to the student, and it will not be covered by unemployment compensation.

Service performed in the employ of a hospital by a patient of the hospital is not employment.

See also 'Employment and Wages'.

#### ♦ Contributions or reimbursement of benefits

A liable government agency or nonprofit organization is required to pay state contributions at a specified rate unless it elects to pay an amount equal to the amount of benefits attributable to service in its employ.

An employer electing the regular tax basis is required to pay contributions at a rate of 2.7 percent of all taxable wages paid to each permanent and temporary employee each quarter, or at a higher or lower rate after a period of experience has made an earned rate assignable. (See "Experience rating.") Only the first \$12,000 of wages paid to each employee during a calendar year is taxable.

An employer electing the reimbursement method of payment is required to pay into the Unemployment Compensation Fund an amount equal to the amount of unemployment benefits paid to former full-time or part-time employees. If a claimant had more than one liable employer in the base period (the first four of the last five completed calendar quarters preceding the date of the new claim), each reimbursing employer pays benefit costs in proportion to the base period wages that the reimbursing employer paid the claimant. For example, if a reimbursing employer paid 65 percent of the claimant's base period wages, that reimbursing employer pays 65 percent of the benefit costs.

There is no provision in the law for relieving a reimbursing employer of liability for benefits paid to a claimant after a period of disqualification.

A reimbursing employer must file a quarterly Contribution Report, Form WVUC-A-154, but is required to show only the total amount of wages paid and the total number of workers employed during the payroll period that included the twelfth of the month. The employer also must file quarterly Wage Reports, Forms WVUC-A-154-A, listing each covered worker's social security number, name and total wages; and must provide separation information on request.

Quarterly, a Statement of Charges, Form WVUC-MR-6, is sent to each reimbursing employer who has been charged or credited in connection with benefits paid to former employees. The statement lists the claimant's name and social security number, the benefit period ending date, and the amount of payment. The employer also receives Form WVUC-B-206, Reimbursement Employer's Quarterly Statement of Benefits Paid to Former Employees, which shows the total amount of reimbursement due for the benefits detailed on the quarterly Statement of Charges. The reimbursing employer is required to remit the amount shown on Form WVUC-B-206.

## **Unemployment Compensation Claims**

Mindful of the interests of the unemployed, employers and the general public, the Unemployment Compensation Division must make sure that unemployment benefits are paid only to those claimants who are eligible in all respects and not disqualified, and that benefits are properly charged for experience-rating purposes. Such assurance, however, is not possible without the cooperation of the employer.

This section sets forth basic eligibility requirements, disqualification provisions, and procedures and explains the employer's responsibilities in relation to unemployment compensation claims

Material herein indicates why it is important for the employer to supply prompt, accurate information regarding such factors as the claimant's period of employment, the reason for separation, wages paid and offers of work. Where pertinent, specific instructions are given for the completion and submission of such information.



#### ◆ Initial Claim for benefits

Upon the loss of a job, the unemployed worker should report immediately to the nearest unemployment claims office to file a claim for unemployment benefits. To be eligible, the claimant must:

1. Be unemployed, or working less than full-time;
2. Be able and available for full-time work;
3. Be doing that which a reasonable prudent person in the same circumstances would do in seeking work;
4. Be totally or partially unemployed during that individual's benefit year for a period of one week prior to the week for which benefits are claimed;
5. Within that base period have been paid wages for employment of at least \$2,200 which must have been paid in more than one quarter of that base period; and
6. Report in person to a claims office, apply for benefits as directed, furnish social security number, and establish and maintain registration with West Virginia Job Service.

If the worker cannot be placed immediately on a job, a claim for unemployment compensation may be filed.

The basic form used to establish a benefit year is Form WVUC-CD-1, Application for Unemployment Benefits and registration with Job Service. This form is completed to show the claimant's social security number, name, address, dates of employment, reason for separation from work, and other relevant data. A Request for Separation Information, Form WVUC-B-6A, is mailed to the most recent (and in some cases previous) employer.

Under Article 7, Section 4 of the West Virginia Unemployment Compensation Law, the employer is required to complete the request for separation information whether or not the employer agrees with the claimant's statements and whether or not the employer's account is potentially chargeable with benefits. The employer should enter the number of days in the claimant's normal work week, the claimant's normal weekly gross wages, the date the claimant was hired or rehired, the date the claimant last worked, the date the claimant was separated, and the reason for separation.

In explaining the reason for the claimant's separation, the employer should give sufficient details to enable the Division to determine whether the claimant was laid off for lack of work, was dismissed because of inability to perform the job, was discharged for misconduct (if so, how serious the offense was, and whether written notice was given that recurrence of the act or acts for which the claimant was discharged could result in termination of employment; if so, a copy of the written warning should be attached), or voluntarily quit and for what reason.

The employer is required to indicate whether the claimant is receiving, has received, or will receive any wages in lieu of notice or any pension or annuity payments for any period after separation. If the answer is 'Yes,' the employer should enter the type, amount and date of the payment.

The employer also is required to check a 'Yes' or 'No' block to indicate whether the employer wishes to offer the claimant work; whether the employer requests an informal hearing on the claim; and, if the employer is an educational institution, whether the claimant has a contract or



reasonable assurance of returning to employment for the next academic year or term. The form must be further completed by entering the signature and title of the employer or the employer's representative and the current date.

The request for separation information must be mailed so that it reaches the local unemployment compensation claims office within four days from the date the claim copy was received by the employer.

♦ **Other requests for separation or wage information**

In some circumstances the claimant's previous employer may receive a request for separation information by means of Form WVUC-B-6A, Request for Separation Information, or similar form, or by correspondence or oral message. On occasion the employer may be asked to verify the amount of wages paid a worker and the period for which paid by means of Form WVUC-BPC-16, Request for Wage Verification, or other communication. The employer is required to respond promptly to any such request.

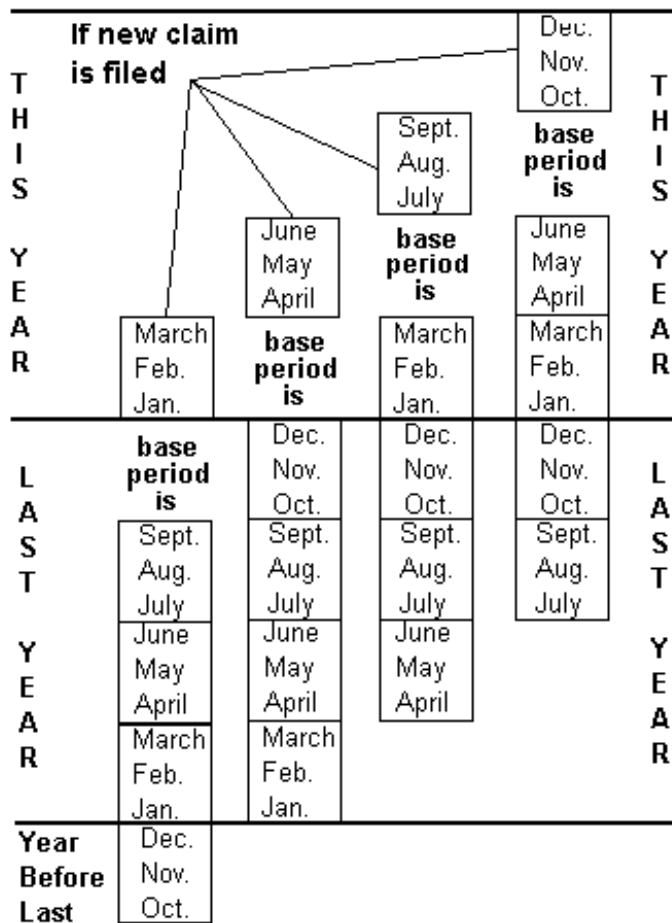
♦ **Claimant's base period and benefit year**

A new claim is considered valid if the claimant does not have a conflicting benefit year in effect, if the claimant has been paid as much as \$2,200 in jobs insured under the Unemployment Compensation Law, and if the claimant has been paid wages in at least two quarters preceding the date of the new claim as shown on the chart on the following page.

♦ **Base period**

Within the benefit year, which is the 52 weeks beginning with the first day of the calendar week in which the original valid claim was effective, the claimant may receive benefit payments totaling a certain maximum benefit amount and payable at a weekly benefit rate established in accordance with base period earnings. The maximum benefit amount is 26 weeks of total unemployment in the benefit year or benefits for a greater number of weeks in lesser amounts if compensation is reduced by earnings for partial or part-time employment. (In cases where the first day of the quarter falls on a Sunday and a claim is effective that date, the benefit year will be 53 weeks).

Claims effective July 4, 2010 and after will be established using either the **regular base period** (the first four of the last five calendar quarters immediately preceding the first day of the individual's benefit year) or the **alternative base period** (the last four completed calendar quarters immediately preceding the first day of the individual's benefit year). WV will routinely explore monetary eligibility using the alternative base period **only if** the claimant is not monetarily eligible using the regular base period.



◆ **Benefit rate table**

A table showing the weekly benefit rate and the maximum amount of benefits, which the claimant may receive in the benefit year in accordance with wages reported for the claimant in the base period by covered employers, is available on the WorkForce West Virginia web site at <http://www.workforcewv.org/UC/Employers.asp>.

◆ **Initial Claim Monetary Determination and Deputy's Decision, Form B-14-B/T-4**

Monetary determinations on new claims are prepared in the central office of the Unemployment Compensation Division in Charleston. The form used is a Monetary Determination and Deputy's Decision and Notice of Charges, Form WVUC-B-14-B/T-4, which is prepared to show the effective date of the claim, the benefit year ending date, the weekly and maximum benefit amounts, and other pertinent data.

If the claim itself, which reflects the claimant's statements at the new claim interview, contains no indication that an issue exists, the central office checks the block "Information furnished by the claimant at the original claim interview raised no eligibility or disqualification issue." Should the local claims office later receive information from the employer or another source showing that an issue exists, the local office deputy renders a decision on Form WVUC-B-14, Deputy's Decision.

If the claim itself shows that an issue exists, the central office checks the block "An eligibility and/or disqualification issue is known to exist in connection with this claim. All available facts will be considered and a formal decision will be issued and mailed to the issue employer."

The base period wage transcript portion of the Monetary Determination and Deputy's Decision and Notice of Charges shows the dates of the base period of the claim, the amount the base period wages total, and the number of quarters in which earnings are required to make it a valid claim. A block is checked to indicate whether the claimant is "Eligible-sufficient earnings in base period" or "Ineligible-insufficient earnings in base period." The claimant's copy also itemizes the wages paid in each of the four quarters of the base period.

#### ◆ **Total unemployment**

An individual is deemed totally unemployed in any week in which that person is separated from employment for an employing unit and during which the individual performs no services and with respect to which no wages are payable. To be totally unemployed the claimant must be actually separated from employment. That is, the employer-employee relationship must no longer exist between the claimant and the employing unit during any week for which total benefits are claimed.

The claimant is required to report the gross amount of any wages earned or any work performed during a week for which benefits are claimed. The UC Division deducts any wages in excess of \$60 from the claimant's weekly benefit rate in the computation of benefits for the week. On occasion the UC Division may ask the employer for information regarding a claimant's employment and earnings. Such information must be supplied with respect to exact periods as requested, usually by specific days and specific benefit weeks.

#### ◆ **Waiting period**

Before the claimant may begin to establish a week of total or partial unemployment for which benefits can be paid, the claimant is required to serve a waiting period of one week. Only one waiting period is required in a benefit year.

#### ◆ **Reporting requirements**

Initial claims for total unemployment must be filed in person at a claims office or an itinerant point of a claims office. Continued claims may be filed bi-weekly (or weekly) by mail or in person at a local claims office in accordance with the Regulations of the Commissioner on a reporting day assigned by the local claims office, or by the Interactive Voice Response (IVR) System via the telephone or internet. Only for reasons of good cause may a local office accept a claim filed later than the claimant's assigned reporting day.

#### ◆ **Partial unemployment**

If a worker is employed, but due to slack work, a breakdown of machinery, or other similar cause is unable to secure a full week's earnings, the worker may be entitled to partial benefits.

Also, if the worker is filing a claim for total benefits but secures odd-job work which does not constitute full employment, that worker may file a claim for the week in which such part-time earnings occur.

Employers are required to furnish an Initial Claim/Low Earnings Report, Form WVUC-B-6-11, to the employee whose wages for a week have been reduced due to lack of work. Such forms must be issued by employers on a Sunday-through-Saturday calendar week basis at the end of the pay period in which the low earnings occurred, and delivered or mailed to the worker on or before the regular payday for the week in which the low earnings occurred. Each such form should set forth (1) the worker's name and social security number; (2) the employer's name, address and six-digit state registration number as registered with the Unemployment Compensation Division; (3) the week ending date; (4) the earnings during the week; (5) any pertinent information regarding the claimant's eligibility; and (6) any other information required by the form.

Do not issue a Low Earnings Report for (1) any employee whose earnings in the week exceeded the worker's maximum weekly benefit rate plus \$60; (2) any person employed by you on a part-time basis only; (3) any person whose employment with you has been completely terminated. The back of the Low Earnings Report contains instructions to the employer for completing the form and to the employee for filing a claim.

Employees' low earnings may be reported on the employer's own form in lieu of the Form WVUC-B-6-11, provided such form has received prior approval from the Commissioner of WorkForce West Virginia.

#### ♦ **Causes of ineligibility**

A claimant is ineligible to receive benefits under the following conditions:

1. If a claimant is not registered at a Job Service office in accordance with the Regulations of the Commissioner.
2. If the claimant fails to report to a Job Service office in accordance with the Regulations of the Commissioner.
3. If the claimant is not able to work.
4. If the claimant is not available for full-time work for which fitted by prior training or experience. Among the conditions under which a claimant is considered not available for work are: residing in or moving to a community where there is normally no employment for which the claimant is fitted; not having transportation; being unable or unwilling to accept suitable work in a type of job found in the claimant's community; and being unwilling after a long period of unemployment to accept work other than that which the claimant prefers.
5. If the claimant has been paid less than \$2,200 in the base period in employment covered by the law.
6. If the claimant has not been paid covered wages in more than one quarter of the base period.
7. If the claimant is not doing what a reasonably prudent person in the same circumstances would do in seeking work.

8. If the claimant has worked less than 100 days in an industry recognized as seasonal, unless the claimant has been paid wages during the base period in other covered employment equal to not less than \$100.

9. If the claimant has filed a claim for a subsequent benefit year and has not returned to work and been paid wages in covered employment after the beginning of the previous benefit year in an amount equaling or exceeding eight times the claimant's previous weekly benefit rate.

10. If the claimant refuses to participate in reemployment services offered through the Job Service office when selected for Profiling unless the Commissioner determines the claimant has completed such services or there is a justifiable cause for failure to participate.

♦ **Causes for disqualification**

The Unemployment Compensation Law provides that a claimant shall be disqualified from receiving benefits under the following circumstances:

1. If the claimant left the most recent employment voluntarily without good cause involving fault on the part of the employer and until the individual returns to covered employment and has been employed in covered employment at least 30 working days. (Exception: If the employee left his most recent work in order to return to work for an employer that the claimant had been employed by for 30 days within a one year period and did return to that employer within 14 calendar days and was separated due to lack of work, this disqualification would not apply.)

2. If the claimant was discharged from the latest job or the most recent 30-day employment for gross misconduct. Such claimant is disqualified until that claimant has thereafter worked for at least 30 days in covered employment. Discharge for one of the following reasons is considered to be gross misconduct; willful destruction of the employer's property; assault upon the person of the employer or any employee of the employer committed at the individual's place of employment or in the course of employment; reporting to work intoxicated or being intoxicated at work; reporting to work under the influence of any controlled substance, or being under the influence of any controlled substance while at work; arson, theft, larceny, fraud or embezzlement in connection with work. An act of misconduct where the individual has received prior written warning that termination of employment may result if the act is repeated, is also gross misconduct.

3. If the claimant was discharged by the last employing unit or by the claimant's most recent 30-day employing unit for a lesser offense, not constituting gross misconduct. The claimant is disqualified for the week of such offense and for the six following weeks, and the maximum benefit amount is reduced by six times the weekly benefit rate. (If the claimant later has covered employment with one or more employers for 30 working days the benefits are reinstated.)

4. If the claimant failed without good cause to apply for available suitable work, accept suitable work when offered, or return to customary self-employment when directed to do so. The claimant is disqualified from drawing benefits for the week of such failure and for the four weeks immediately following. (Such disqualification shall carry a reduction in the maximum benefit amount equal to four times the claimant's weekly benefit amount.)

5. If a claimant's total or partial unemployment is due to a stoppage of work which exists because of a labor dispute, unless the claimant can prove to the satisfaction of the Commissioner that the claimant is not participating in, financing or directly interested in the dispute, and that the claimant does not belong to a grade or class of workers who are

participating in, financing or directly interested in the dispute. That part of the work stoppage lasting longer than four weeks after the termination of the dispute is presumed not attributed to the dispute unless the employer or other interested party can show otherwise.

6. For a week with respect to which the claimant has received or is receiving wages in lieu of notice.

7. For the weeks with respect to which a claimant has received or is receiving state or federal workers' compensation benefits for temporary or total disability.

8. For the weeks with respect to which the claimant has received or is receiving unemployment benefits under the laws of another state or of the United States.

9. For the week in which the claimant voluntarily quit employment to marry, or to perform any marital, parental or family duty, or to attend to personal business or affairs, and until the claimant returns to covered employment and has been employed therein at least 30 working days.

10. Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which begins between two successive sports seasons if the individual performed such services the first season and there is reasonable assurance they will be performed the second season.

11. Benefits shall not be paid for any week of unemployment (employees of educational institutions) which commences during any paid sabbatical leave, holiday or vacation period, or during a period between two successive academic years or terms if individuals performed such services in the period prior to the beginning of such holiday or vacation period and there is reasonable assurance that they will be performed the second year or term. (Exception: If the individuals have sufficient non-school employment and wages in the base period to qualify, benefits based upon the nonschool portion of their earnings may be payable during the school-related denial period if otherwise eligible and not disqualified.)

12. Nor shall benefits be paid to any individual employed by an educational service agency (a governmental agency or entity established and operated exclusively to provide services to educational institutions) for any week which commences during any holiday or vacation period, or during a period between two successive academic years or terms, provided there is reasonable assurance that the individual will be performing the service the second year or term. All between-terms school service personnel must be treated equally regarding unemployment compensation.

13. Benefits shall not be paid on the basis of services performed by an alien not lawfully admitted or not lawfully residing in the United States.

14. For each week in which the claimant is unemployed because, having voluntarily left employment to attend a school, college, university or other educational institution, the claimant is attending such institution or is awaiting entrance thereto, and until the claimant returns to work in covered employment.

15. For each week in which the claimant is unemployed because of the claimant's request or that of the claimant's authorized agent or union for a vacation period at a specified time that leaves the employer no other alternative except to suspend operations.

16. For each week for which the claimant is receiving or has received an annuity, pension or other retirement payment from an employer for whom the claimant has worked in the base period, or from any trust or fund toward which a base period employer contributed. (If the weekly amount of the annuity, et cetera, is less than the unemployment benefits otherwise payable to the claimant, that claimant may receive benefits reduced by the weekly amount of such remuneration.)

17. For each week in which and for 52 weeks thereafter, beginning with the date of the decision, the Commissioner finds that the claimant within the 24 months immediately preceding such decision, has made a false statement or representation knowing it to be false or knowingly failed to disclose a material fact, to obtain or increase or attempt to obtain or increase any benefit or payment. Such disqualification shall not preclude prosecution. This provides that an individual who is disqualified for fraud shall be disqualified for each week the fraud occurred.

♦ **Noncharging of benefits after disqualification**

If a base period employer properly informs the Division within the 14-day period required that a former base period employee voluntarily quit employment or was discharged for misconduct, then the employer's account will not be charged with any benefits paid to such individual. (Also, refer to Charges to employer's account.) Under no circumstances are reimbursing employers relieved of liability (see page 19).

♦ **Hearing before the deputy**

If it appears the claimant may be ineligible for benefits or subject to disqualification, but conflicting statements have been made by the claimant and former employer, the local claims office deputy may request that both parties meet to attempt to resolve the issues. A copy of Form WVUC-B-210, Notice of Hearing Before the Deputy, is mailed to the claimant and the employer, informing them of the time, date and place of this informal predetermination hearing. Although neither party is required to attend, failure to do so may deny the deputy the opportunity to hear all the facts before rendering a formal decision.

♦ **Deputy's Decision, Form WVUC-B-14, or other**

If on the basis of evidence presented by the claimant, former employer, or other source, it is determined that the claimant is not eligible to receive benefits or that the claimant should be disqualified for a certain period, or that benefits be reduced, the deputy renders a formal decision, a copy of which is mailed to the employer. Although Form WVUC-B-14, Deputy's Decision, is usually used, decisions also may be issued on Form WVUC-B-14-R, which shows denial of benefits due to failure to requalify. If there is some question as to the claimant's eligibility, or if a possible cause for disqualification exists, but the deputy decides that the claimant is eligible or not to be disqualified, the deputy renders a decision in the claimant's favor.

The Deputy's Decision will indicate whether a claimant is eligible or ineligible, and whether a disqualification is to be imposed. The exact period of any disqualification will be shown on the decision as will the amount of any reduction in the claimant's benefits.

♦ **Labor dispute claims**

If it appears from the deputy's investigation and from all the information presented that a claim relates to a labor dispute, the claim will be transferred to the Board of Review for hearing.

♦ **Appeal rights**

If the claimant or former employer does not agree with the Deputy's Decision, either has the privilege of filing an appeal with the Board of Review within eight days from the date such



decision is mailed. (The appeal period is shown on the decision form.) The decision of the deputy becomes final unless appealed within the prescribed time.

Assistance in filing an appeal may be obtained in a local claims office. An appeal may be filed by completing Form WVUC-BR-5, Request for Appeal, which is available at a claims office or itinerant point; by sending a letter to the office where the claim was filed; or by appearing at the office in person. The date of an appeal filed by mail is the postmark date.

The Board of Review notifies all interested parties of the time and place set for the hearing of the case before the administrative law judge by means of Form WVUC-BR-7, Notice of Hearing. At the hearing the claimant, employer or other interested party may present written or oral testimony and may bring witnesses. Upon consideration of the evidence, the administrative law judge renders findings, a copy of which is mailed to all parties.

From the decision of the administrative law judge, the claimant, last employer or other interested party may file an appeal to the Board of Review within eight days from the date the administrative law judge's decision is mailed. An appeal may be filed by letter, by personal appearance at a claims office or itinerant point or by Form WVUC-BR-5, Request for Appeal. Parties are notified of the Board of Review hearing by means of Form WVUC-BR-15, Notice of Hearing Before Board of Review.

If the claimant, last employer, other interested party or the Commissioner wishes to appeal the decision of the Board of Review to the Circuit Court of Kanawha County, West Virginia, such appeal may be filed within 30 days from the date the Board's decision was mailed (within 20 days in labor dispute cases).

An appeal from a decision of the Circuit Court of Kanawha County may be taken to the Supreme Court of Appeals of West Virginia if a proper petition for certiorari is filed within 60 days of the date of the final decision of the Circuit Court.

#### ◆ **Back Pay Awards**

When an employer is required to pay an individual back pay, if the back pay covers the same period in which the individual received unemployment compensation benefits, the employer must withhold an amount equal to the unemployment compensation benefits which the individual received and repay the amount withheld to the Unemployment Compensation Division.

#### ◆ **Interstate claims**

If the claimant has been paid base period wages in West Virginia but moved to another state, a claim may be filed against West Virginia through the unemployment compensation office in the state where the claimant now resides.

Conversely, if a worker moved to West Virginia after being paid wages in covered employment in another state, an interstate claim may be filed with the assistance of a West Virginia claims office against the state in which base period wages were paid.

#### ◆ **Combined wage claims**

A claimant who has worked and been paid wages in two or more states may file a combined wage claim based upon these earnings, and will be paid only by one of the states based upon wages in that state's base period. The cost of benefits paid to the claimant will be shared by the states transferring wages to the paying state.



**Extended unemployment benefits**

During periods of high unemployment, extended unemployment benefits are payable to individuals who have exhausted regular unemployment benefits. An extended benefit period runs for at least 13 consecutive weeks and may continue longer, depending on the rate of insured unemployment in the state.

To be eligible for extended benefits, the claimant must be totally or partially unemployed, must have a benefit year in effect or ending in the extended period, and must have received all the regular benefits to which entitled. If the benefit year ends in an extended benefit period and the claimant cannot establish a new benefit year, does not meet the eligibility requirements for seasonal workers, or is unable to establish a new benefit year entitling the claimant to regular unemployment benefits, the claimant may qualify for extended benefits.

The weekly benefit amount on an extended benefit claim is the same as the weekly benefit amount on the regular "exhausted" claim. The total amount of extended benefits that may be paid for weeks in an extended benefit period may be no more than 13 times the weekly benefit amount that was payable on the regular "exhausted" claim.

A claimant may be disqualified from receiving extended benefits for the same reasons that a claimant may be disqualified from receiving regular benefits.

The federal government pays one-half of any extended benefits allowed; the employer is charged with the remaining half. (Note: State and local government agencies are liable for the full amount of extended benefits paid.)

## **Overpayment and Fraud Control**

Many safeguards against paying benefits to which the individual is not entitled are built into regular claims procedures, discussed in the preceding section, "Unemployment Compensation claims." In addition the UC Division conducts a continuing audit of benefits paid, and makes spot checks to detect instances of illegal, including fraudulent, payments. Overpayments are collected through cash reimbursement or by offset of payable claims. Claimants found guilty of fraud are subject to prosecution by the courts.

### **♦ Safeguards within regular claims procedures**

Safeguards against illegal or fraudulent claiming of benefits are contained in these procedures:

1. The most recent employer and/or the most recent thirty (30) day employer named on the Application for Unemployment Benefits, Form WVUC-CD-1, receives a copy of Form WVUC-B-6A, Request for Separation Information, and is asked to supply information regarding the dates of the claimant's employment, reason for separation, et cetera. The employer thus is given the opportunity to notify the Division of any factors affecting the claimant's entitlement to benefits before any claim is approved for payment.
2. A Monetary Determination and Deputy's Decision and Notice of Charges is sent to all potentially chargeable employers, who thus are given an opportunity to notify the local claims office of any factors affecting the claimant's eligibility or liability to disqualification.
3. For each week with respect to which an individual signs a continued claim for total unemployment benefits, the claimant certifies whether able to work, available for full-time work, and actively seeking work, and whether the claimant refused any work offered during

the week. The claimant further certifies whether a student and whether unemployment compensation has been received under any other state or federal law. The claimant also certifies that the amount of earnings, retirement pay, wages in lieu of notice, or other income have been entered on the claim form.

4. When beginning a claims series, each totally unemployed claimant is required to complete an Eligibility Review Form and is interviewed and classified with respect to labor force attachment and re-employability prospects. Throughout a claims series, the individual is subject to repeated interviews to identify any unwarranted restrictions that person may be placing on re-employability and to detect and develop any eligibility issues concerning the individual's ability to work and availability for work. Each totally unemployed claimant is required to maintain a written record of work search efforts and to present it for review when filing a claim.

5. Form WVUC-MR-6, Statement of Charges to Employer's Experience Rating Account, notifies the employer of any payments made to a former worker and charged to the employer's account during the quarter. If the employer knows that the claimant was working or was ineligible for any reason during a week for which benefits were paid, the employer should notify the local claims office at once.

#### ♦ **Spot checks and audits**

The local office deputy makes "spot checks" of claims from time-to-time. This may involve securing information from the claimant's former employers. If investigation reveals that the claimant was self-employed, working or unavailable during the period for which benefits were received, the case is turned over immediately to the administrative office of the Unemployment Compensation Division for action.

Audits of claims are made in the administrative office by matching quarterly earnings with continued claims filled for the same period. If a claimant has been paid wages in a quarter for which benefits were drawn, the employer is asked, by means of Form WVBPC-41, Claims Audit Form, to indicate whether the claimant worked and earned any wages during the weeks for which unemployment compensation was received.

#### ♦ **Collection of overpayments**

If because of misrepresentation or withholding of information, either by the claimant or another, an individual has received benefits to which that individual is not entitled under the law, such sums are deducted from any future benefits payable, or the individual is required to reimburse the Division in the full amount of the illegal payment or payments. This is true whether or not the misrepresentation or nondisclosure was known and whether or not it was fraudulent.

#### ♦ **Penalties for fraud**

If it appears that an individual filed fraudulent claims, that individual is prosecuted at once through a magistrate court and if found guilty of a misdemeanor and convicted may be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment for not longer than 30 days, or both. Each false statement or misrepresentation, or failure to disclose a material fact, shall constitute a separate offense.

An individual who has been convicted of fraud is also subject to disqualification for each week in which the fraud occurred, and for 52 weeks thereafter, beginning with the date of the decision, if the Commissioner finds that the claimant, within the 24 months immediately preceding such decision, has made a false statement or representation knowing it to be false

or knowingly failed to disclose a material fact to obtain or increase or attempt to obtain or increase any benefit or payment. Such disqualification shall not preclude prosecution.

### **Income Eligibility and Verification System**

Federal Law (Public Law 98-369) mandates the exchange of information among State Agencies administering unemployment compensation, AFDC, Medicaid, Food Stamps, SSI, and certain state programs approved under the Social Security Act.

Information relative to an individual's claim for benefits and employer wage records is subject to disclosure. When a request for information relating to an individual's claim for benefits or employer wage record is received from one of the above agencies, the information must be released to that agency. The confidentiality of this information will be protected against unauthorized disclosure.

This Agency is also allowed to obtain information from the Social Security Administration (such as verification of claimant's social security number, receipt of disability, etc.) to verify claimant's eligibility for unemployment compensation.

### **West Virginia Job Service**

Understanding and using Job Service facilities can help the employer solve personnel problems and reduce the unemployment tax rate assigned to the employer.

In offices located throughout the state, Job Service provides a comprehensive placement service for employers and jobseekers and conducts other activities which directly or indirectly serve to match people and jobs effectively.

Only if able to work and willing to accept suitable employment may the unemployment compensation claimant receive benefits. Employers can protect the Unemployment Compensation Fund by listing their job openings with Job Service. By doing so, they make it possible for Job Service to apply the "work test" to unemployment compensation claimants and help open the way for prompt reemployment of persons receiving benefits.

The employer's own account may also be protected when the employer offers work through Job Service, if suitable job openings exist, to former employees who are currently receiving benefits. It is recommended that request for separation information, and other notices of the availability of former employees be given to the employer's personnel officer or any other person responsible for hiring.

As a personnel recruiting agency, Job Service operates on local, state and national levels as part of a national chain of state employment offices affiliated with the United States Employment Service. By using Job Service, employers can do highly selective hiring without having to interview a large number of job applicants for each opening. A job order placed with a local Job Service office provides the link between the employer and the greatest number of qualified jobseekers.

#### ♦ **Application process**

In taking an application for work, Job Service personnel obtain detailed information about the applicant's work experience, education, training, skills and personal characteristics, including the physical capacity. Completed applications are carefully classified according to the occupations in which the worker is qualified. This system enables Job Service personnel to locate quickly those applicants who possess the qualifications to fill the employer's job order.

#### ♦ **Job order process**

The processing of an employer's "job order" or request for referrals is handled similarly to the application process. The employer's request will usually consist of a description of the work that is to be performed, skill levels needed, compensation, education requirements, nonperformance requirements and referral procedures.

#### ♦ **Selection process**

Selection of applications for referral to employers is the next step in the placement process. This procedure starts with the simple task of matching the employer's job orders with the active applications.

Applications that match are screened against the employer's specifications on the job order. Only qualified applicants are then referred. Only after the decision to refer has been made is information about how to contact the employer provided to the applicant.

#### ♦ **Referral of applicant to employer**

When referring an applicant to an employer for a job interview, the Job Service office gives the applicant a computer generated introduction slip, showing the applicant's name, social security number, position for which being referred and the date the applicant is to report for the interview. The applicant is asked to present that introduction slip to the employer. After interviewing an applicant who has presented such an introduction slip, the employer will be asked to verify the results of the referral by telephone, mail or facsimile with the Job Service office.

#### ♦ **Recruitment**

Job Service has the largest available base of jobseekers looking for work throughout the state. Job Service also has intrastate and interstate referral capability. We match the job-seeking customer's qualifications – education, work experience and skills – with the employer customer's requirements for the job opening. Job Service offers recruitment, testing and screening services to assist employers in locating and evaluating qualified job-seeking customers. Employers may interview applicants in a local office. Upon request, a private office or conference room can be arranged.

#### ♦ **Clearance**

The cooperative clearance system involves a network of Job Service offices throughout the nation through which both employers' job orders and jobseekers' applications can be circulated for maximum exposure. Job Service maintains the most comprehensive data available regarding areas of the nation having either a surplus of or demand for specific occupations.

#### ♦ **Cooperation with community groups**

The local Job Service office maintains cooperative relationships with civic planning committees, employers, labor organizations, schools and other agencies seeking to promote a high level of stabilized employment. Not only does Job Service make the industrial surveys

required to identify economic problems and to develop solutions to those problems, but the agency also provides the professional services needed to staff a new or expanded industry; order-taking, counseling, testing, selection and referral. These same services are supplied in connection with federal and state programs for training and retraining workers to meet changing demands of industry.

♦ **Other services**

The Job Service office can furnish the employer many helpful aids such as job descriptions, information on hiring and employment techniques and required labor law posters. The WV Employer Advisory Committee (EAC) is made up of local employers who assist the local office by providing valuable input regarding ways Employment Service might improve its services to its employer customers, job-seeking customers, and unemployment compensation claimants. WVEAC members identify both successes and shortcomings while critiquing a local Job Service office's performance. Through local and statewide WVEAC meetings, employers who experience similar personnel and business problems are brought together and are encouraged to share knowledge and ideas. In cooperation with Employment Service and other local service groups, WVEAC employers often plan and present seminars on a vast array of business-related subjects.

### **Labor Market Information**

The Research, Information and Analysis Division of WorkForce West Virginia collects, analyzes and distributes information showing trends in labor supply and demand and current and prospective labor conditions. Such information is valuable to jobseekers and employers and is helpful to local civic groups in making vocational and industrial plans. Two of the principal media through which labor market data and analyses of employment and unemployment are furnished to the public are the Labor Market Trends and Labor Force Statistics in West Virginia Labor Area publications. For a full menu of available information visit [www.workforcewv.org/LMI](http://www.workforcewv.org/LMI).

# **Numerical list of forms used in connection with**

## **Unemployment Compensation and Job Service**

| Number<br>of form  | Title of form  | When due  | Purpose of form –<br>action required  | Reference<br>on page |
|--|--|---|---|----------------------|
| 940 (copy) or<br>940-B                                       | US Treasury<br>Department<br>forms                                   |   | Used by<br>Unemployment<br>Compensation<br>Division to certify<br>employer's<br>contributions or<br>credits to Internal<br>Revenue Service  |                      |
|  | Social Security<br>Account<br>Number Card                            |   | Employer should<br>obtain worker's SSN<br>from this official card   | 14                   |
| UC-201-B and<br>supplements<br>(UC-201-BS and<br>UC-201-BNP) | Employer's<br>Initial Statement                                      | When<br>requested by<br>UC Division;<br>when starting<br>or succeeding<br>to a business | To determine liability<br>of employing unit;<br>complete and mail to<br>Contribution<br>Accounting,<br>Unemployment<br>Compensation<br>Division, Charleston   | 7                    |
| WVUC-A-29  | Employer's<br>Certificate of<br>Registration                         |   | Certifies that the<br>employer has been<br>registered as such<br>with the<br>Unemployment<br>Compensation<br>Division and assigns<br>an account number to<br>the employer   | 9                    |
| WVUC-A-33  | Application for<br>Voluntary<br>Election to<br>Become an<br>Employer |   | A nonliable employer<br>who wishes to insure<br>workers under the<br>Unemployment<br>Compensation Law<br>may complete an<br>application and mail it<br>to Contribution<br>Accounting,<br>Unemployment<br>Compensation<br>Division, Charleston | 9                    |

| Number of form | Title of form                                      | When due  | Purpose of form – action required  | Reference on page |
|----------------|--|---|--|-------------------|
| WVUC-A-47-A    | Employer's Application for Termination of Coverage | Before January 31 of year following year in which the employing unit has not met the liability criteria | Employing unit which wishes to discontinue coverage whether original liability was voluntary or involuntary, must mail this form to Contribution Accounting, Unemployment Compensation Division, Charleston<br>Note: Voluntarily elected coverage remains in effect for at least two calendar years. | 10                |
| WVUC-A-94-A    | Debit Memorandum                                   | Amount due should be remitted promptly  | Issued by UC Division to show an underpayment of employer's contribution or interest; enclose one copy with remittance   | 15                |
| WVUC-A-94-B    | Credit Memorandum                                  | Credit must be used within two years from date overpayment was made                                     | Issued by UC Division to show an overpayment of employer's contribution or interest; enclose one copy with Contribution Report to which it is being applied  | 15                |
| WVUC-A-154     | Employer's Contribution Report                     | April 30, July 31, October 31, January 31   | Shows total wages, taxable and nontaxable, paid by employer during quarter, amount of employer-employee assessments collected, number of employees during pay period that included 12 <sup>th</sup> of the month, and total number of employees  | 12, 13, 14, 22    |

| Number of form | Title of form                                    | When due   | Purpose of form – action required   | Reference on page |
|----------------|--|--|---|-------------------|
| WVUC-A-154-A   | Employer's Wage Report                           | April 30, July 31, October 31, January 31  | Shows each employee's name, SSN, and total wages for the quarter; each form includes information for 18 employees   | 12, 13, 14, 22    |
| WVUC-A-157     | Application for Establishment of a Joint Account | September 15 of the preceding calendar year the joint account is to become effective | Used by two or more employers to request that their accounts be combined in a joint account; each such employer's account must have been chargeable with benefits for 36 months preceding the previous computation date of June 30  | 19                |
| WVUC-A-176     | Application for Refund or Adjustment             | Within two years from the date the erroneous payment was made                        | Used to claim refund or apply for adjustment upon discovery that contribution or interest was paid in error   | 15                |
| WVUC-B-6A      | Request for Separation Information               | Within four days from the date form is received                                      | Form should be completed by employer, showing dates of the claimant's employment, reason for separation, days and wages in claimant's normal work week, details of wages in lieu of notice, pension, annuity, etc., and statements as to whether employment is covered, whether the employer requests an informal hearing, and whether the employer has work for the claimant | 23, 24, 32        |



| Number of form        | Title of form   | When due   | Purpose of form – action required  | Reference on page |
|-----------------------|---|--|--|-------------------|
| WVUC-B-6A-1           | Second Request for Separation Information                       | Return immediately from the date the form is received  | Second Request sent when Form WVUC-B-6A has not been returned by employer  |                   |
| WVUC-B-6-11           | Initial Claim/Low Earnings Report                               | On or before pay day for the week in which employee earned less than the maximum weekly benefit rate plus \$60.00 because of lack of work  | Give or mail form to worker to be used by employee in filing a claim for partial unemployment benefits through the local claims office   | 27                |
| WVUC-B-14, or -B-14-R | Deputy's Decision   | <b>APPEAL</b> from the decision may be filed within eight days from the date the decision was mailed   | Decision regarding claimant's eligibility or qualification for benefits; WVUC-B-14-R shows denial of benefits due to failure to requalify  | 26, 30            |
| WVUC-B-14-B /T-4      | Monetary Determination; Deputy's Decision and Notice of Charges | <b>APPEAL</b> from decision must be filed within eight days from the date the decision was mailed;<br><b>PROTEST</b> of charges must be filed within 14 days of the date the decision was mailed | Decision is issued to most recent employer and all base period employers when new claim is filed; shows weekly and maximum benefit amounts; shows percentage of benefits potentially chargeable to each employer; indicates that claimant has sufficient wage credits to be eligible but does not indicate eligibility in all respects | 25                |

| Number of form                     | Title of form  | When due  | Purpose of form – action required  | Reference on page |
|------------------------------------|--|---|--|-------------------|
| WVUC-B-14-T                        | Employer Notice that Relief of Charges Has Been Disallowed                               |   | Informs base period employer that a request for relief of charges has been disallowed; provides appeal rights (see Form WVUC-L-19)   |                   |
| WVUC-B-59                          | Notice to Employees – Unemployment Benefits (regarding unemployment compensation rights) | Post in place of business at once                                     | Poster that employer is required by law to post in a conspicuous place to notify workers of their rights under Unemployment Compensation Law                                     | 9                 |
| WVUC-B-206                         | Reimbursement Employer's Quarterly Statement of Benefits Paid to Former Employees        | Amount due should be remitted promptly                                | Notifies reimbursing employer of amount of reimbursement due for benefit payments itemized on Form WVUC-MR-6   | 22                |
| WVUC-B-210                         | Notice of Hearing Before Deputy  | Employer is asked to notify local office deputy if unable to attend   | Notifies employer and claimant of a pre-determination hearing scheduled by Deputy  | 30                |
| WV-BPC-16                          | Request for Wage Verification Form   | Promptly after receipt of request                                     | To verify claimant's daily/weekly wages during a random audit  | 24                |
| WV-BPC-41                          | Claims Audit Form  | Promptly after receipt of request from UC Division                    | To verify claimant's wages during an audit quarter   | 33                |
| WVUC-BR-5 (form is also automated) | Request for Appeal   | Within eight days from the date that the Deputy's decision was mailed | Used in notifying the Board of Review of an appeal from a decision of local office Deputy or Administrative Law Judge; mail to the local claims office or to the Board of Review | 31                |

| Number of form | Title of form   | When due  | Purpose of form – action required  | Reference on page |
|----------------|---|---|--|-------------------|
| WVUC-BR-7      | Notice of Hearing   |   | Used to notify interested parties of hearing when appeal has been filed from Deputy's Decision; indicates which party appealed, shows date of hearing, and gives appeal procedures | 31                |
| WVUC-BR-15     | Notice of Hearing Before the Board of Review                  |   | To notify parties of a hearing by the Board of Review when an appeal has been filed from the decision of the Appeal Tribunal   | 31                |
| WVUC-CD-1      | Application for Benefits and Registration with Job Service    |   | Filed in local claims office by unemployed worker after separation from employment   | 23, 32            |
| WVUC-D-107     | Your Right of Appeal  |   | To notify all parties of appeal process and what it involves   |                   |
| WVUC-L-17      | Tentative and Final Findings of Fact and Conclusions          |   | Decision regarding relief from benefit charges issued by the Legal Division  |                   |
| WVUC-L-19      | Application for Review and Redetermination of Benefit Charges | Promptly after relief from charges has not been granted | Used to request a hearing with the Legal Division when a request for relief from benefit charges has been disallowed   | 20                |
| WVUC-MR-6      | Statement of Charges to Employer's Experience Rating Account  |   | Notifies the employer of charges (and credits) made to employer's account in connection with benefits paid or adjustments made during the quarter                                  | 19, 22, 33        |

| Number of form | Title of form                                      | When due   | Purpose of form – action required  | Reference on page |
|----------------|--|--|--|-------------------|
| WVUC-MR-7      | Notice of Contribution Rate                        |  | Notifies the employer of contribution rate for the following calendar year; if the employer wishes to appeal the rate, that employer has 60 days in which to do so | 18                |
| WVUC-T5        | Employer Notice of Relief of Charges               |  | Informs base period employers that their account will be relieved from charges for benefits paid to certain individuals  |                   |
| WVUC-T-6       | Employer Notice of Commencement of Benefit Charges | Within 14 days from the date of the notice       | Notice to employers that were previously relieved of charging for benefits paid to claimants that charging will now begin or resume                                |                   |
| WVUC-WR-19     | Request to Employer for Wage Information           | Within 4 days from the date the form is received | Notice to employers to obtain most recent completed calendar quarter of wages for an alternative base period claim   |                   |



### Informational publications available to the employer

- ♦ **West Virginia Unemployment Compensation Law** – a complete text of the law with annotations and index. Or, the WV UC Law (Code 21-A) is available on our website at <http://www.workforcewv.org/UC/Employers.asp> by clicking on “U.C. State Code”.
- ♦ **Regulations of the Commissioner** – regulations issued by the Commissioner of WorkForce West Virginia under authority of the law, covering such subjects as contributions, interest, records, reports, definitions, joint accounts, submittal of separation information, etc.
- ♦ **Annual Report to the Governor** – a report covering activities of WorkForce West Virginia by narrative and tables, for each fiscal year ending June 30.
- ♦ **Notice to Employees — Unemployment Benefits (WVUC-B-59)** – a poster describing workers’ rights and duties under the Unemployment Compensation Law and explaining how and where to file claims. The employer is required to display this poster in each establishment.
- ♦ **Unemployment Compensation for West Virginians** – a pamphlet explaining the claimant’s rights and duties under the Unemployment Compensation Law.

### Employers may also visit our website on the Internet

We are continually adding new information to our website, regarding jobs and job training programs, labor market information, services for employers, in addition to Unemployment Compensation. Visit us on the Internet at:

<http://www.workforcewv.org/>

or find us through the State of West Virginia home page at:

<http://www.state.wv.us>





WorkForce West Virginia  
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**Visit the West Virginia home page on the Internet at**  
**[www.wv.gov](http://www.wv.gov)**  
**and WorkForce West Virginia's site at**  
**[www.wv.gov](http://www.wv.gov) under Agencies**

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