Wisconsin Unemployment Insurance Handbook for Employers

This handbook is intended to assist employers in meeting their obligations under current Wisconsin Unemployment Insurance (UI) law, Chapter 108, Wisconsin Statutes. This handbook is not a substitute for legal advice. For legal disclaimer see Section 7.

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Hours of Operation and Telephone Numbers: http://dwd.wisconsin.gov/ui201/phone201.htm
UI Calendars: http://dwd.wisconsin.gov/uiben/calendars.htm
UI Legal Resources: http://dwd.wisconsin.gov/uibola

http://dwd.wisconsin.gov/ui201

Chapter 108
Wisconsin Statutes

INTRODUCTION

What is the UI Program?

Unemployment Insurance (UI) laws are intended to provide a source of income to those temporarily unemployed through no fault of their own. The UI program provides weekly benefits to eligible unemployed workers. These benefits provide economic stability to workers and their families during temporary periods of unemployment and help lessen the effect of unemployment on the local economy.

How is the UI Program Financed?

The UI program is jointly financed through federal and state employer payroll taxes. The Federal Unemployment Tax (FUTA) is used, in part, to finance the administrative expenses of each state's unemployment insurance program and certain federal costs related to extended benefits. Employer payroll taxes collected under the Wisconsin Unemployment Insurance law and all other state unemployment insurance laws are used **only** to pay benefits to unemployed workers. The program is financed solely through employer contributions (taxes). The UI program is not operated as a part of the Federal Social Security system, the state Worker's Compensation program or any federal or state welfare program.

Wisconsin UI law requires each covered employer to fund an account with the unemployment reserve fund based on a payroll tax formula. UI benefits paid to a former employee are generally charged to the employer's reserve fund account.

Who Administers the UI Program?

The UI program is administered by the Unemployment Insurance Division of the Department of Workforce Development (DWD). DWD does not discriminate on the basis of disability in the provision of services or in employment. If you need this material interpreted or in a different form or if you need assistance in using this service, please contact us by calling 414-438-7705 or 608-232-0633.

General Circumstances Regarding Eligibility

Unemployment benefits are typically available to employees with sufficient work history whose employment was terminated through no fault of their own. A list of eligibility issues is located in Section 1, Part 7. The two most common reasons for benefit disqualification are discharge for misconduct and voluntary termination. In addition to misconduct and voluntary termination of work, an employee may be ineligible due to a discharge for substantial fault.

SECTION 1 - BENEFITS

PART 1 - Important Definitions

NOTE: Familiarity with the following terms will help you understand the information in this handbook and will make it easier to complete the benefit reports required by the department.

Administrative Account

An account in which the federal moneys apportioned to the state for the administration of Chapter 108 are deposited. In addition, it is funded by employers through penalty charges, tardy filing fees and interest on delinquent payments. In certain limited cases, benefits based upon work performed for reimbursable employers are paid from this account.

Balancing Account

A segregated account within the Unemployment Reserve Fund financed by employers' contributions and other means specified by law to pay benefits which, by statute, cannot be charged directly to a contributing employer's account.

Base Period

The first four of the last five completed calendar quarters prior to the week in which a new initial claim application for unemployment benefits is filed. Wages paid during the base period are used to determine if a claimant has been paid enough wages to qualify for an unemployment claim. Wages paid during the base period are also used to compute the amount of unemployment benefits that can be paid during the claim (maximum benefit amount). If a claimant does not have enough wages to qualify for a claim using the base period defined above, an alternate base period will be used. The alternate base period will be the four most recently completed calendar quarters prior to the week the initial claim application for the new benefit year is filed.

Benefit Year

The 52-week period that begins with the week a new initial claim application is filed. The maximum benefit amount computed from wages paid during the base period can be paid to the claimant for weeks in which the claimant is totally or partially unemployed during the benefit year. If the maximum benefit amount is all paid to the claimant before the benefit year ends, the claimant is not eligible for regular unemployment benefits for any remaining weeks of total and partial unemployment in the benefit year.

Calendar Quarter - four calendar quarters

- January 1 through March 31
- April 1 through June 30
- July 1 through September 30
- October 1 through December 31

Contributing Employer

An employer that is subject to the UI law and who finances its UI liability by submitting a quarterly tax to the Department.

Covered Employment

Work that is subject to and taxable under the unemployment law. Only wages earned in covered employment can be used to compute a claimant's entitlement for unemployment benefits.

"DWD" or "the Department"

Department of Workforce Development (formerly DILHR or the Department of Industry, Labor and Human Relations.)

Excluded Employment

Work that is not subject to the unemployment tax and/or is specified by the unemployment law as not covered for benefit entitlement computation purposes.

Full-time Employment

Work performed for at least 32 hours per week.

High Quarter

The calendar quarter in a claimant's base period during which the claimant was paid the highest amount of wages from all covered employment. Wages paid in the high quarter are used to compute the claimant's weekly benefit rate.

Initial Claim Application

An application made to start a new unemployment benefit year or to resume/reopen an existing unemployment benefit year. This application must be filed in the week that the claimant wants the claim to begin.

"Job Service"

A bureau within the DWD - Division of Employment and Training which provides employment assistance and job placement services to employers and applicants.

Lag Period

The period between the end of the base period and the start of the benefit year. It varies between 13 and 26 weeks in length, depending upon when the new initial claim application is filed. Wages paid during the lag period are not used to compute the claimant's entitlement.

Maximum Benefit Amount

The total amount of unemployment benefits potentially payable to a claimant during a given benefit year. Wages paid during the base period are used to compute this amount.

Maximum Weekly Earnings Amount

The highest amount of gross wages that a claimant can earn in a week and still qualify for the minimum UI payment of $5.00. Effective 10/21/12, no benefits are payable for any week in which a claimant has earnings and/or holiday, vacation, dismissal/termination or sick pay that exceeds $500.

Partial Unemployment

An employee is "partially unemployed" in any week in which (s)he earns wages that do not exceed his/her maximum weekly earnings amount.

Qualifying Wages

Wages from covered employment paid in the base period which equal or exceed the amounts required to establish a benefit year. See Part 3 for details about these requirements.

Reimbursable Employer

A government unit or non-profit organization that uses the reimbursement financing method. The reimbursable employer does not submit a quarterly tax. Rather, it is billed monthly for its UI liability.

Required Benefit Report

A mailed request for information which the employer, where specified, is legally obligated to file with the Department. The required benefit reports include: Form UCB-16, Separation Notice, Form UCB-23, Wage Verification/Eligibility Report, Form UCB-719 Urgent Request for Wages and the Quarterly Wage Report.

Total Unemployment

An employee is "totally unemployed in any week in which (s)he earns no wages.

"UI"

Unemployment Insurance. The Unemployment Insurance Division is the division of DWD which is assigned administrative responsibility for the unemployment insurance law.

Wages

Every form of remuneration payable to an individual for personal services. This includes salaries, tips, commissions, bonuses, the reasonable value of room and board, payments-in-kind and any other similar benefit received from the employing unit. Base period wages also include holiday pay, vacation pay, dismissal/severance pay, worker's compensation, and under certain circumstances, sick pay. For weekly claiming purposes, holiday pay, vacation pay, dismissal/severance pay, worker's compensation and sick pay

must meet certain conditions to be treated as wages (see Part 6 for detailed information about base period and benefit year wages.)

Waiting Week

Effective 01/01/12 Wisconsin has a waiting week for Unemployment Insurance benefits. For every new benefit year, no benefits are payable for the first week a claimant would otherwise be eligible for benefits.

Week

A calendar week beginning on a given Sunday and ending at midnight on the following Saturday. Current UI weekly calendars are available online at http://dwd.wisconsin.gov/uiben/calendars.htm.

Weekly Claim Certification

A claim filed to receive an unemployment payment for a specific calendar week. A weekly claim certification cannot be filed until the week for which a payment is requested has ended, i.e. the claimant must wait until the Sunday following the week being claimed.

Weekly Benefit Rate

The weekly amount payable to the claimant for a week of total unemployment, equal to 4% of the total wages paid to the claimant in the high quarter, but not greater than the maximum weekly benefit rate set by the statutes.

PART 2 – Required Posters and Notices

Notice to Employees about Applying for Wisconsin Unemployment Benefits Form UCB-7-P

All employers covered by Wisconsin's Unemployment Insurance law are required to prominently display a poster in each work place. Posters are available in English, Spanish and Hmong along with abbreviated instructions in seven other languages. Please print the online posters.

- **Printable Posters:** http://dwd.wisconsin.gov/dwd/publications/ui/notice.htm

Posters should be permanently posted in a sufficient number of locations at each work site, such as on bulletin boards or near time clocks, so that all employees will have the opportunity to read them. Posters should always be clearly visible and not covered up by other items. One central location will not usually satisfy this requirement unless it is a location which all employees normally use to reach their work stations, to obtain their pay or to eat. If only one location is chosen when several are available, you must notify your workers that the chosen location will be the posting place for all official notices.

If you do not have a permanent work site regularly accessed by your employees, an individual copy is to be provided to each employee.

If you are not able to print the online posters, call 414-438-7705 or 608-232-0633 to request copies.

Other Special Notices

Chapter DWD 120 also requires that the following special notices be given to certain employees.

- Employers who have been designated by the Department as seasonal employers must notify employees that wages earned in seasonal employment may be excluded when determining his or her eligibility for UI benefits. For this exclusion to apply, the notice must be provided on Form UCB-9381-P or an equivalent **before** the employee starts working.

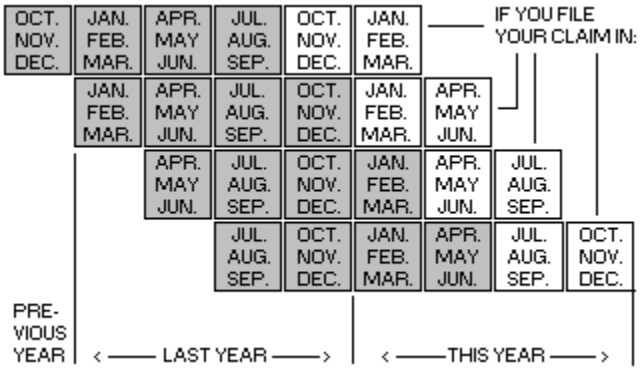
PART 3 - Determining if a Person Qualifies for Benefits and Calculating How Much Can Be Paid to the Worker Who Does Qualify

A. Qualifying Wage Requirements

Base Period. Only wages paid during the base period are used to determine if a claimant has qualifying wages to start an unemployment benefit year. Therefore, the first step is to identify the claimant's base period.

The base period is the first four of the five most recently completed calendar quarters, counting from the quarter in which the claim is filed, not the quarter in which the claimant became unemployed.

The chart below illustrates which quarters would be in the base period (shaded) for a claim filed in the specified quarter.



If a claimant does not have enough wages to qualify for a claim using the base period defined above, an "alternate base period" will be used. The alternate base period will be the four most recently completed calendar quarters prior to the week the initial claim application for the new benefit year is filed.

Weekly Benefit Rate. The second step in determining whether a claimant has qualifying wages is to compute the potential weekly benefit rate. The base period quarter in which (s)he was paid the highest total amount of covered wages from all employers (the "high quarter") is used to compute the weekly benefit rate. The weekly benefit rate is equal to 4% of the covered wages paid by all employers in the high quarter, rounded down to the next whole dollar.

The maximum and minimum benefit rates are determined by UI law. Currently, the **minimum weekly benefit rate is $54**, requiring high quarter earnings of $1,350; and the **maximum rate is $370**, requiring high quarter earnings of $9,250.

Base Period Wages. Once the potential weekly benefit rate is computed, base period wages are reviewed to determine if the claimant meets the last two requirements, which are:

- total base period wages must equal at least 35 times the weekly benefit rate; and
- wages outside the high quarter must equal at least 4 times the weekly benefit rate.

(See Part 6 for detailed information about base period wages.)

Additional Requirement for Some Claims. If the claimant was paid benefits in a prior benefit year which has ended, (s)he must also have worked since the beginning of that benefit year and earned at least 8 times the weekly benefit rate of that claim.

B. Other Qualifying Requirements

In addition to having sufficient wages in the base period, the claimant must meet the following requirements to be eligible for benefits:

- **Able and Available for Work.** An individual who is totally unemployed must be able to work and available for work while filing for unemployment benefits. If the claimant has a restriction that prevents or restricts his/her ability or availability for work, the issue may affect the individual's eligibility for benefits. See Part 7 for more information about this eligibility issue.

- **Work Search for Suitable Work.** A claimant must conduct four work search actions in each week unless the work search requirement is specifically waived by the department. Some of the reasons that permit waiving the requirement include:
    - A reasonable expectation that the claimant will return to work for a former employer within 8 weeks.
    - A new job to start within 4 weeks of the claim for benefits.
    - Routinely getting work through membership in a trade union if currently on its out-of-work list.

- Working full-time (32 or more hours/week) during the week in question.
- Working part-time for an employer for whom the claimant works on more than a temporary basis. (Work that will last 4 weeks or less is considered temporary.)

If a claimant fails to conduct work search actions when required to do so, (s)he will not be eligible for benefits for the week(s) in question. See Part 7 for more information about this eligibility issue.

C. How a Claimant's Entitlement is Calculated

The maximum amount of benefits payable during a benefit year is **the lesser of:**

- 26 times the weekly benefit rate; **or**
- 40% of the base period wages, rounded down to the next whole dollar.

The maximum benefit amount is treated much like a checking account balance. As the claimant is paid unemployment benefits during the benefit year, the amount paid is subtracted from the balance until it reaches -0-. If the claimant is paid the full amount before the benefit year ends, no benefits can be paid to the claimant for the remainder of the benefit year, even if (s)he remains unemployed. Once the benefit year ends, any remaining entitlement from that benefit year can no longer be paid to the claimant. However, if the claimant is still unemployed, (s)he can attempt to start a new benefit year based on wages paid during the base period for that new claim.

Example

If a claimant's very first initial claim application is filed on 04/14/14:

- the **base period** begins 01/06/13 and ends 01/04/14; and
- the **benefit year** begins 04/13/14 and ends 04/11/15

If the weekly benefit rate is $160 and the total base period wages are $10,000, the maximum benefit amount is **the lesser of**:

- 26 times $160 ($4,160); **or**
- 40% of $10,000 **($4,000).**

The claimant has the entire 52-week benefit year to collect the $4,000 maximum benefit amount. If the claimant returns to work in June of 2014 and stops filing for weekly benefits, the wages that are paid for this work will neither increase the weekly benefit rate nor will they increase the maximum benefit amount for the current benefit year. If the claimant is laid off again before 04/12/15 and has not been paid all of the $4,000 maximum benefit amount, (s)he can file another initial claim application to reactivate the benefit year and start filing for weekly benefits again.

If the claimant is still partially or totally unemployed in the week ending 04/11/15, (s)he can apply to start a new benefit year that week. Wages paid in the new base period, which begins 01/05/14 and ends 01/03/15, will be used to compute a new weekly benefit rate and a new maximum earnings amount if the claimant was paid enough wages in the new base period to qualify **and** (s)he has earned at least 8 times the old weekly benefit rate since the week the last benefit year was started.

Note: The last week of the base period ends on the Saturday prior to the first Sunday beginning in January, April, July or October.

PART 4 - Calculating your Liability for a Benefit Claim

Proportional Charging

If you are the only employer who paid the claimant wages for covered employment in his/her base period, you are the only employer with potential liability for benefits paid on the claim.

However, if the claimant was paid wages for covered employment by more than one employer in his/her base period, the liability for benefit payments is prorated. Each employer is then responsible for a percentage of each payment, which is equal to the percentage of the total base period wages paid to the claimant by that employer.

Example

Total base period wages = $10,000

Covered base period wages paid by Employer A = $5,000 (50%)
Covered base period wages paid by Employer B = $2,500 (25%)
Covered base period wages paid by Employer C = $2,500 (25%)

If the claimant receives unemployment benefits in the amount of $200, the employers' charges would be:

Employer A = $100 (50%)
Employer B = $50 (25%)
Employer C = $50 (25%)

Notice of Liability and Charges

- **Form UCB-701, Computation of Unemployment Insurance Benefits** (See Part 9). This form is sent to you weekly and will list all claimants for whom benefit computations were made during the report period if you are potentially liable for some or all of the benefits in the computation. This is not a report of benefits paid nor charges made to your account. Actual payment of benefits may depend on investigation of other eligibility issues. The form simply lets you know your potential liability based on the proportional charging of employers in the base period.

- **Form UCT-14384, Reserve Fund Balance Statement** (See Section 2, Part 4). This form is generated 4 times each month to notify you of benefits charged to your account or any adjustments made to benefits charged.

Review both of the above forms carefully for errors and contact one of the Unemployment Benefit Centers if you disagree with any of the information on them.

IMPORTANT POINT TO REMEMBER

Because we pay benefits for up to 1 year (benefit year) based on wages paid up to 1-1/2 years before a claim was filed (base period wages), you may still be liable for benefits as much as 2-1/2 years after the claimant stops working for you.

(In some cases, contributing employers are relieved of charges for the second benefit year. See the second bullet point below.)

Situations When Liable Employers are Relieved of Charges

- If you paid less than 5% of the covered base period wages for a claim, you usually are not liable for any portion of the benefits paid. Whether a contributing or reimbursable employer, your share of the liability is redistributed to the other base period employers. However, if the liable base period employers include either an out-of-state employer, federal civilian employer, or federal military service, this provision is not applicable.

- When a claimant's benefit year ends, (s)he can immediately start a second successive benefit year if (s)he is still unemployed and meets all of the qualifying wage requirements (see Part 3 for an explanation of the qualifying wage requirements and an example that illustrates successive benefit years.) If you paid wages to the claimant in both base periods, your account will not be charged for your share of the benefits paid in the second benefit year if the wages are for the same period of employment. Any work the claimant performed for you after starting the second benefit year is considered a new period of employment. This provision only applies to contributing employers. It does not apply to reimbursable employers.

- If you are a contributing or reimbursable Wisconsin employer and a claimant worked for you in a week for which partial unemployment benefits are payable, you will not be liable for your share of the benefits paid for that week if the gross wages the claimant earned from you during that week are equal to or greater than 6.4% of the wages you paid him/her in the same calendar quarter of the previous year. This provision

only applies when there is more than one base period employer.

The 6.4% amount is computed for each quarter of the prior calendar year and is approximately 80% of the average weekly wage paid during that quarter. For any week that the claimant earns gross wages that equal the 6.4% amount calculated for the comparable quarter in the prior calendar year, you are relieved of your share of the benefits paid for that week. For any week that the claimant does not earn gross wages that equal this 6.4% amount, you are not relieved of your liability.

This "part-time noncharge" provision is applied on a weekly basis **after** a benefit payment has been paid. This means that your account is initially charged for your share of each benefit payment when it is paid. Then, if you are not liable for the benefits paid based on the 6.4% provision, your account is automatically credited for the benefits that were charged. The charge and credit may or may not appear on the same UCB-7074 UI Benefit Charges and Adjustments Report (See Part 9, for more information about this report.)

- The following example illustrates how this provision is applied.

> ***Example***
>
> Gross wages you paid to the claimant in the 1st calendar quarter of 2012 = $2,000
> 6.4% amount for this quarter = $128
> In the **week ending 02/16/13**, gross wages claimant earned from you = $150
> In the **week ending 03/16/13**, gross wages claimant earned from you = $120
>
> - You **will receive a credit** for benefits charged to your account for the **week ending 02/16/13**
> - You will NOT receive a credit for benefits charged to your account for the **week ending 03/16/13** because the wages the claimant earned from you in that week do not equal or exceed the 6.4% amount ($128) calculated for the same calendar quarter of the previous year (1st quarter of 2012).

- If you paid at least 80% of a claimant's base period wages, **and** the claimant worked, was paid or could have been paid for a total of 35 or more hours by you for a week for which benefits are being claimed, (s)he is not eligible for any benefits for that week. See Part 6 and also Part 7 for more information about this eligibility issue.
- There are other special provisions and eligibility issues that may relieve an employer of charges (i.e., Quits and Refused Work). These provisions are explained in Part 7.

PART 5 - Benefit Reports Required by the Department

Employers are required to provide information to the department to determine the validity of unemployment insurance claims and to establish the correct amount of base period wages paid to the claimant.
Any person who knowingly makes a false statement or misrepresentation in connection with a required report may be subject to prosecution. (See Part 8 of this section.)

The **four required benefit reports** are:

1. Form UCB-16 Separation Notice
2. Form UCB-23 Wage Verification/Eligibility Report
3. Form UCB-719 Urgent Request for Wages
4. Quarterly Wage Report

Erroneously Paid Benefits

If any of these benefit reports are not returned as required, are received late, or contain incorrect/incomplete information, **your account will be charged for all benefits erroneously paid** as the result of the missing, late or incorrect/incomplete report, including erroneously paid benefits that were originally charged to other employers' accounts.

Forms and Reports:

Form UCB-16:

This form is sent to every employer for whom the claimant reported working since the start of his/her base period or since the last claim for UI benefits was filed. The purpose of this report is:

- to notify the employer that an initial claim application for unemployment benefits has been filed by the claimant;
- to verify the reason the claimant is no longer working for them;
- to verify that the claimant expects to return to work for them (if applicable); and
- to give the employer an opportunity to provide any other information that might affect the claimant's eligibility for UI benefits.

Form UCB-23:

This form is sent to an employer whenever a claimant reports working for them during a week that is being claimed or after one week of not reporting wages, vacation, holiday or dismissal pay if the claimant had previously reported pay with that employer.

The purpose of this report is:

- to confirm that the claimant did work for the UI account identified on the report during the week being claimed;
- to verify the gross amount of wages earned in and other types of income assigned to the specified calendar week;
- to verify the number of hours and minutes for each type of income in the specified calendar week;
- to determine if there was additional work that the claimant could have performed in that week; and
- to give the employer the opportunity to provide any other information that might affect the claimant's eligibility for UI benefits.

Form UCB-719:

This form is sent to an employer when a claimant files an initial claim application for unemployment benefits and indicates that (s)he was paid by the employer in one or more base period quarters but no wages were previously reported by the employer for the quarters in question. The purpose of the report is:

- to confirm that the claimant was paid by the employer during the base period quarters in dispute;
- to verify that the wages are reportable to the UI account number listed; and
- to obtain the amount of wages paid in each quarter.

Quarterly Wage Report:

This report must be submitted by all employers to provide the amount of gross wages paid to each employee during the previous calendar quarter.

Part 9 of this section includes detailed instructions for completion and return of Forms UCB-16, UCB-23 and UCB-719.

Section 4 includes information and detailed instructions for completing and submitting quarterly wage reports.

PART 6 - Wages and Other Kinds of Income

A. Definition of Wages

The definition and treatment of wages and other kinds of income can vary, depending on whether they apply to the base period or the benefit year.

Base Period Wages

Base period wages are the wages for covered employment **paid** during the claimant's base period that are used to determine whether a claimant qualifies for unemployment benefits. If the claimant does qualify, these wages are also used to determine how much the claimant is entitled to receive during his/her benefit year. (See Part 3 for more information about base period wages.)

Benefit Year Wages

Benefit year wages are the wages that a claimant earns during his or her benefit year while filing claims for partial unemployment benefits. They include wages for both covered and excluded employment.

Reporting Wages

When the claimant files a weekly claim certification for a benefit payment, (s)he must report the gross amount of wages **earned** from all employers for all work performed in that week. The wages must be reported when earned; it is immaterial when or if the wages are paid.

In addition to wages earned for work performed, claimants must also report any holiday, vacation and/or dismissal/severance pay assigned to the week being claimed. These payments, as well as other types of income, are treated as wages when specific requirements are met. The requirements for each type of payment are listed in the chart below.

Taxable Wages

Taxable wages are wages for covered employment that must be reported to the Department and on which UI taxes must be paid. See Section 2, Part 3 for more information about taxable wages.

B. Treatment of Wages and Other Types of Income in the Base Period and the Benefit Year

The following chart provides a detailed explanation of what types of income/payments constitute wages for both the base period and the benefit year.

Type of Pay	When Treated as Base Period Wages	When Treated as Benefit Year Wages
Wages for Work Performed	If **PAID** in the base period, includes: ▪ Tips ▪ Incentives ▪ Overtime ▪ Commissions ▪ Value of "payment in kind" (goods or services in lieu of wages) ▪ "Reasonable value" of services performed by an officer of an S Corporation if a lesser amount was actually paid. Base period wages also include those wages that **legally should have been paid in the base period** but which were not paid as the result of a controversy, insolvency proceeding under Chapter 128 or a bankruptcy proceeding under 11 USC 101.	If **EARNED** in a week being claimed, includes: ▪ Tips ▪ Incentives ▪ Overtime ▪ Commissions Value of "payment in kind" (goods or services in lieu of wages) ▪ "Reasonable value" of services performed by an officer of an S Corporation if a lesser amount was actually paid.
Bonuses **i.e. for productivity, attendance, length of service, profit sharing, etc.**	Always included if paid in the base period.	Always treated as wages and reportable in the week in which it is paid. The week it is paid is the week the check is dated, the date the payment is direct deposited, if the direct deposit is utilized, or on the date that the bonus or payment is received by the

Type of Pay	When Treated as Base Period Wages	When Treated as Benefit Year Wages
		employee if any other method of payment is used.
Apprenticeship Pay	Always included if paid in the base period.	Always treated as wages and reportable in the week the wages were earned. If the employee is paid his/her regular hourly rate of pay for time attending training, the wages are earned the week(s) of training. If the employee receives an increased hourly rate of pay for hours of actual work as a means to pay the employee for training ("add-on" wages), the wages are earned in the week the employee works, not the week(s) the employee is in training. If the "add-on" wages are only payable if the employee completes the training, the wages are earned the last week of training.
Back Pay	Retroactive wage adjustments for work performed are included as base period wages **in the quarter in which they were paid**. However, a back payment of wages awarded for a period in which no work was performed is included as base period wages in the **quarter in which they would have been paid during the base period**, but **only if**: ▪ the back pay was awarded under state law, federal law or under a collective bargaining agreement; **and** ▪ the payment for the back pay is made within 104 weeks after the start of the earliest week in the settlement or award. A settlement in lieu of back pay or an award that is for punitive damages or damages other than loss of pay, having no clear or direct relationship to the work and wages that would have been earned during the period in question is not considered back pay wages.	Retroactive wage adjustments for work performed are reportable wages for the week in which they were earned. However, a back payment of wages awarded for a period in which no work was performed is treated as wages for the week the work would have been performed, but only if: ▪ the back pay was awarded under state or federal law, or under a collective bargaining agreement; **and** ▪ the payment for the back pay is made within 104 weeks after the start of the earliest week in the settlement or award. A settlement in lieu of back pay or an award that is for punitive damages or damages other than loss of pay, having no clear or direct relationship to the work and wages that would have been earned during the period in question is not considered back pay wages.

Type of Pay	When Treated as Base Period Wages	When Treated as Benefit Year Wages
Cafeteria Plans under S.125(b)	Cash options always included if paid in the base period. Pre-tax salary deductions and payments are not reportable for tax purposes but can be included as base period wages upon request from the claimant, so employers must keep an accurate record of these deductions/payments. Note: For new claims filed 09/29/13 and later pre-tax salary deductions and payments are no longer considered base period wages and employers are no longer required to keep record of these deductions/payments. Cash options and monies withheld under a 401(k) plan are taxable and should be reported.	Always treated as wages and reportable in the week the wages were earned from which the deductions were made.
Elected and Appointed Officials Pay (Government Units and Indian Tribes)	Not included as base period wages.	Always treated as wages and reportable in the week the wages were earned. If paid a **monthly** salary: ▪ Multiply the monthly amount by .2308 to determine the amount to report each week. If paid a **yearly** salary: ▪ Divide the yearly amount by 52 to determine the amount to report each week.
401K Payroll Deductions	Always included if deducted from wages paid in the base period.	Always treated as wages and reportable in the week the wages were earned from which the deductions were made.
401K Pension Payments	See Pension Payments	
Holiday Pay	Always included if paid in the base period.	Treated as wages for a given week only if it is "definitely payable" no later than Wednesday of the week following the holiday, except for holidays that fall during the week that includes Christmas Day. For holidays that fall in the week that includes Christmas Day, the holiday pay is treated as wages only if it is definitely payable within 9 days of the week that includes the holiday. "Definitely payable" means that

Type of Pay	When Treated as Base Period Wages	When Treated as Benefit Year Wages
		the claimant's right to such pay is final. Holiday pay includes pay for individual or personal holidays, in addition to recognized legal holidays.
On-Call and Show-up Pay	Always included if paid in the base period.	Always treated as wages and reportable in the week the wages were earned.
Pension Payments (Including 401K Pension Payments)	Not included as base period wages.	Never treated as wages. However, benefits can be reduced as the result of a pension payment. See Part 7 for more information about this eligibility issue.
Room and Board	Treated as base period wages unless provided by the employer because it is more convenient and efficient for the claimant to live on-site.	Treated as wages for a given week unless provided by the employer because it is more convenient and efficient for the claimant to live on-site.
Self-Employment Income	Not included as base period wages.	Not reportable as wages. However, self-employment can raise an eligibility issue. See Part 7 for more information about this eligibility issue.
Sick Pay	Treated as **base period wages** only if: ▪ it is paid directly by the employer to the claimant, not by an insurance carrier; and ▪ it is paid at the claimant's usual rate of pay.	Treated as **wages** only if: ▪ it is paid directly by the employer to the claimant, not by an insurance carrier; and ▪ it is paid at the claimant's usual rate of pay.
Social Security	Not included as base period wages.	Never treated as wages and do not reduce benefits. See Part 7 for more information.
Vacation and Dismissal (Severance) Pay	Always included if paid in the base period.	Treated as wages for a given week if: ▪ the pay was definitely allocated or assigned to a particular week and definitely payable (so that nothing could prevent payment) by the close of that week; and ▪ the pay was assigned at the claimant's approximate weekly wage rate or at a rate set forth by union agreement or by a company practice which has been consistently used; and

Type of Pay	When Treated as Base Period Wages	When Treated as Benefit Year Wages
		▪ the claimant had due notice of the allocation (i.e., by letter, posted notice, union agreement, etc.) by the close of the week.
Worker's Compensation	**Wages that would have been paid in the base period** but were not paid due to a work-related injury which resulted in the payment of **temporary total or temporary partial disability payments** under Wisconsin or federal law are included as base period wages. (**Note**: Permanent total or permanent partial disability worker's compensation payments **are not** included as base period wages.) If you are reporting a claimant's receipt of worker's compensation, please provide the period covered, along with the name of the insurance company responsible for the payment.	Worker's compensation payments made under Wisconsin or federal law have the following effect on a week being claimed for unemployment benefits: ▪ If the claimant receives a **temporary total disability or permanent total disability** worker's compensation payment for a **whole week**, the claimant is **not eligible** for any UI payment for that week. ▪ If the claimant receives a **temporary total disability, temporary partial disability, or permanent total disability** worker's compensation payment for **part of a week**, this payment is treated as wages. If you are reporting a claimant's receipt of worker's compensation, please provide the period covered, along with the name of the insurance company responsible for the payment.

C. Determining the Amount of Benefits to Pay When the Claimant Reports Wages and/or Other Income on a Weekly Claim for a Benefit Payment

The department must add all benefit year wages for a given **calendar week** together to determine the amount of unemployment benefits payable to the claimant for that week.

A **calendar week for UI purposes** always starts on Sunday and ends on Saturday. If a shift that is started on Saturday is not finished until Sunday, all wages earned during that shift are reportable to the calendar week that includes the Saturday.

- For any weeks ending October 20, 2012 and earlier:

  If the claimant **worked a total of 40 or more hours** for one or more employers in a given week, no benefits are payable for that week, regardless of the amount of wages earned. If the claimant **worked, was paid or could have been paid for a total of 35 hours by an employer who paid at least 80% of his/her base period wages**, no benefits are payable for that week, regardless of the amount that was or could have been paid.

- For any weeks ending October 27, 2012 and later:

  If the claimant worked, missed work and/or received or will receive holiday, vacation, dismissal or sick

pay, alone or in combination, totaling 32 or more hours from one or more employers in a given week, no benefits are payable for that week regardless of the amount of wages earned.

Any other claimant who reports wages and/or other types of income on a weekly claim for a benefit payment may be entitled to full, reduced or no benefits for that week, depending on the total amount of wages earned and other payments to be treated as wages for the week. The amount of benefits payable for a week of partial unemployment is computed by applying the following "**partial wage formula**":

1. Subtract $30 from the gross wages.
2. Multiply the remainder by .67 (67%).
3. Subtract the product (including cents) from the claimant's weekly benefit rate.
4. Round the remainder down to the nearest whole dollar. This is the amount of partial UI benefits payable for the week.

NOTE: The smallest UI benefit payment that we will pay is $5, so if the calculation results in an amount that is less than $5, no payment is made.

Example

Weekly Benefit Rate (WBR) = $200.00
Gross Wages = $250.00

Minus $30.00

Multiplied by .67 = $147.40
WBR minus $147.40 = $52.60
Round down to nearest dollar = $52.00

$52.00 is the amount of benefits payable for the week.

Maximum Weekly Earnings

The Maximum Weekly Earnings Chart shows the highest amount (gross earnings) a claimant can earn in a week and still qualify for a minimum UI payment ($5.00) using the formula explained above. This amount is called the "maximum weekly earnings" amount. The chart shows the maximum earnings amount for each potential benefit rate.

Effective weeks ending October 27, 2012 through January 4, 2014, no benefits are payable for any week in which a claimant earns wages and/or receives or will receive holiday, vacation, dismissal or sick pay exceeding $500 in the week.

For weeks ending January 11, 2014 and later, no benefits are payable for any week in which a claimant earns wages, misses wages by missing work, and/or receives or will receive holiday, vacation, dismissal, sick pay, bonus pay, back pay, or temporary total or temporary partial disability payments exceeding $500 in the week.

PART 7 - Eligibility Issues

The Social Security Act requires that unemployment insurance benefits be promptly paid to an individual when due, but it is the responsibility of the department to ensure that benefits are only paid to those claimants who are eligible. To meet this requirement, we must investigate all eligibility issues which could suspend, reduce or cancel benefits, obtaining and recording the information necessary to determine the claimant's eligibility regardless of its source.

Your Responsibility

The department is unaware of eligibility issues unless someone brings them to our attention. The claimant is asked questions that would alert us to eligibility issues when (s)he makes an initial claim application and when (s)he files a weekly certification for benefits. However, we rely heavily on employers to verify information from the claimant and to bring other eligibility issues to our attention. The most common method that employers use to notify us about eligibility issues is completing and returning a required report which includes information about the eligibility issue (see Part 5). However, you may call or write to us at any time to raise an eligibility

issue. The telephone numbers and addresses for our benefit centers are available online at http://dwd.wisconsin.gov/ui201/phone201.htm. **Be sure to include the claimant's social security number and your UI account number in any correspondence.**

It is important for you to bring eligibility issues to our attention in a timely manner, even when your account is not currently liable for benefits paid to the claimant. If you have submitted a required benefit report and neglected to raise an eligibility question on the report itself, you should contact the UI benefit center shown on the report as soon as you recognize your error. (If you did not keep a copy of the report, call one of the benefit centers.) Provide all supporting facts which pertain to the issue you are raising. If you take action to notify us immediately, you will reduce the likelihood of our paying benefits erroneously to the claimant. (See Part 5 for information about the effect of raising a late eligibility issue on your UI account.)

The Procedure

When an eligibility issue is raised, a fact-finding investigation is conducted and the claimant is always given an opportunity to give a statement about the issue. Usually we need additional information from employers to resolve the issue. If the issue being investigated is a discharge, we often send a letter to the employer before the claimant's interview to find out why the claimant was discharged, what prior incidents, if any, were also a factor, if progressive discipline was used, etc. The adjudicator may also follow-up the letter with a telephone call for clarification. The claimant can then respond to the specific allegations the employer has made when (s)he gives a statement.

If you are contacted for information about an eligibility issue, respond by the deadline you are given. **Your account will be charged for all benefits erroneously paid if you fail to provide correct and complete information requested during a fact-finding investigation, including erroneously paid benefits that were originally charged to other employers' accounts.**

Once all of the facts are gathered a written determination will be mailed to you if you are considered the party of interest. The employer party of interest is the employer whose interests may be adversely affected by an agency decision regarding the claimant's eligibility for benefits. It may be the employer who is a party to the issue or the currently liable employer.

A copy of a written determination can be found in Part 9 of this section. If you or the claimant feel the decision is incorrect, you both have the right to appeal the decision and request a hearing. (See Section 3 for details about the appeal process.)

The Issues

The following is an alphabetical listing of the most common eligibility issues that may result in a denial, suspension or reduction of benefits and the type of supporting facts needed for these issues. The appropriate statute section is cited. More than one eligibility issue may apply to a claimant. If so, when you are raising a question of eligibility, be sure to indicate all eligibility issues that apply and include supporting facts for each one.

32-Hour/80% Base Period Employer Provision (10/20/12 and earlier)	**Professional Athletes**
40-Hours of Work in a Claimed Week (10/20/12 and earlier)	**Quit** - Special Guidelines for Temporary Help Agencies
$500 Maximum Earnings (10/27/12 and later)	**Reduction in Hours at Employee's Request**
32 Hours of Pay in a Claimed Week (10/27/12 and later)	**Refused Work**
Discharge	**School Year Employees**
Employees of Educational Institutions	**Self-Employment**
Excluded Employment	**Social Security Disability Income (SSDI) Payments**
Family Controlled Employment	**Students**
Family Medical Leave	**Suspension for Good Cause**
Independent Contractor	**Unable/Unavailable for Work**

Labor Dispute	Wages and Other Income
Leave of Absence	Waiting Week
Located Outside the U.S. or Canada	Walking off the Job
Lost License	Work Available with Current Employer
Medical Leave	Work Search
Pension Payments	Work Search and Temporary Help Companies
Pre-Employment Drug Testing	

32-Hour/80% Base Period Employer Provision

(effective weeks ending October 20, 2012 and earlier)
Section 108.05(3)(b)

The claimant is ineligible for benefits for a given week if:

- you paid at least 80% of the claimant's base period wages;
- the claimant was employed by you in the week in question and **worked, was paid or could have been paid had (s)he performed all available work**, for a total of 32 or more hours in the week; **and**
- the claimant's base rate of pay (excluding bonuses, incentives, overtime or any other supplements) for these hours was the same or greater than the base rate of pay you paid the claimant in the high quarter of his/her base period.

40 Hours of Work in a Claimed Week

(effective weeks ending October 20, 2012 and earlier)
Section 108.05(3)(c)

The claimant is ineligible for benefits for any given week in which (s)he **works** a total of 40 or more hours for one or more employers.

$500 Maximum Earnings

(effective weeks ending October 27, 2012 and later)
Section 108.05(3)(dm)

For weeks ending October 27, 2013 through January 4, 2014, no benefits are payable in any week in which the claimant earns wages and/or receives or will receive holiday, vacation, dismissal, or sick pay exceeding $500 in the week.

For weeks ending January 11, 2014 and later, no benefits are payable for any week in which a claimant earns wages, misses wages by missing work, and/or receives or will receive holiday, vacation, dismissal, sick pay, bonus pay, back pay, or temporary total, permanent total, or temporary partial disability payments exceeding $500 in the week.

32 Hours of Pay in a Claimed Week

(effective weeks ending October 27, 2012 and later)
Section 108.05(3)(c)

A claimant is ineligible for benefits for any week in which (s)he worked, missed work and/or received or will receive holiday, vacation, dismissal or sick pay totaling 32 or more hours from one or more employers.

Discharge

Section 108.04(5) & 108.04(5g)

There are two law sections that address discharges: 108.04(5) which disqualifies employees who are discharged for misconduct connected with their employment and 108.04(5g) which disqualifies employees who are discharged for substantial fault connected with their employment.

Misconduct Discharges

An employee's behavior may be misconduct when it shows a willful and substantial disregard of the employer's interests or is not within the standards of behavior employers have a right to expect of all

employees. You may have valid reasons for discharging an employee, however, under UI law; the reason for the discharge may not be considered misconduct.

Misconduct

We consider several factors when deciding if a discharge was for misconduct:

- Was there unacceptable behavior?
- Was there or could there have been an adverse effect on the employer?
- Was the employee discharged as a result of the behavior?
- What efforts were made by the employer and employee to correct the problem?

The **burden for establishing misconduct** is on the employer.

Work Rules

Your work rules play an important part in a discharge investigation. Rules must be reasonable, known to the employee and consistently enforced. A violation of a reasonable work rule is not automatically misconduct. For example, it is not misconduct when an employee is discharged for violating the employer's attendance policy when the absences were with notice and for valid reasons such as illness.

Warnings

An employee must be made aware that (s)he is in danger of losing his/her job. Warnings should be given even if the rule violation is obvious, such as being late or absent. The employee should be told 1) what rule was broken, 2) how it was broken, 3) what to do to correct the problem and 4) most importantly, the consequences if there is no correction or for repeating the behavior.

Warnings may be written or verbal but should all be documented. **Detailed records of violations and warnings** should include:

- the date of each violation;
- the date and time each warning was given;
- who was present;
- what the employee was told; and
- how the employee responded.

If the employee refuses to sign a written warning saying (s)he acknowledges receiving the warning, have a witness document this refusal on the warning.

Progressive Discipline

If you have a progressive discipline policy you should adhere to it. If an employee is discharged when the next step in the disciplinary process should have been a written warning or suspension, it will be more difficult for you to show that the employee knew (s)he was going to lose his/her job for the next violation.

Disqualification for Misconduct Discharges

When an employee is discharged for misconduct, (s)he is not eligible to receive benefits until 7 weeks have elapsed after the week of the discharge and (s)he has earned wages in covered employment equal to at least 14 times the weekly benefit rate that would have been paid had the discharge not occurred.
In addition, wages earned from the discharging employer are permanently removed from the claim so you will not be liable for benefits even if the claimant requalifies.

Discharges for Substantial Fault (108.04(5g))

If it cannot be determined that the employee was discharged for misconduct, a disqualification under substantial fault will be considered. An employee's behavior may lead to a finding of substantial fault when the employee violates a requirement of the employer by acting or failing to act when the action or inaction was within the employee's control and the violation does not rise to the level of **misconduct**.

Substantial Fault

We consider several factors when deciding if a discharge was for substantial fault:

- Did the employee violate the employer's requirement by their action or inaction?
- Was the employee discharged as a result of the violation?
- Was the employee aware or should they have been aware of the requirement?
- Did the employee have control over the action or inaction?

The **burden for establishing substantial fault** is on the employer.

Circumstances that cannot be considered substantial fault include:

- Minor infractions of rules unless the infraction is repeated after the employer warns the employee about the infraction.
- Inadvertent errors.
- Failure of the employee to perform work because of insufficient skill, ability, or equipment.

Disqualification for Discharges for Substantial Fault – The employee is not eligible to receive benefits until 7 weeks have elapsed after the week of the discharge AND (s)he has earned wages equal to at least 14 times the weekly benefit rate that would have been paid had the discharge not occurred.

Once the claimant has requalified, (s)he is eligible to receive benefits based on the work performed prior to the discharge. A **contributing employer's** (paying a quarterly UI tax), account is not charged for benefits paid based on work performed prior to the discharge. A **reimbursable employer** (billed monthly for UI benefits paid rather than paying a quarterly UI tax), is liable for benefits paid based on work performed prior to the discharge.

Employees of Educational Institutions

Sections 108.02(10m), (22m) & 108.04(17)(a)-(k); DWD 132.04

Benefits are **not payable** to educational (school year) employees:

- Between academic years or terms or during customary vacation periods or holiday recesses **IF**
- The employee has reasonable assurance of similar work in the following term or during the period immediately following the vacation period or holiday recess.

School year employees are individuals who are **not hired** to work on a **year-round** basis AND who work for:

- Public and private educational institutions.
- Cooperative Educational Service Agencies.
- Government units, Indian tribes, and nonprofit organizations which provide services to or on behalf of educational institutions.

An **educational institution** is a school which provides education and/or training, maintains a regular faculty and curriculum and has a regular, organized body of students in attendance.

Reasonable assurance occurs if the terms and conditions of the work to be performed in the subsequent academic year or term, or in the period immediately following a vacation period or holiday recess, are reasonably similar to the terms and conditions of the work the employee performed in the prior academic year or term, or in the period immediately preceding a vacation period or holiday recess.

Work is **reasonably similar** if:

- The work is of a similar capacity (e.g., an individual who worked in a professional capacity will be working as a professional), when the break occurs between an academic year or term;
- The work is for the same type of employer (e.g., the only type of employer similar to an educational institution is another educational institution);
- The gross weekly wage is more than 80% of the weekly wage earned in the prior academic year or term;

- The number of hours the individual will be working is more than 80% of the average number of hours worked in the prior academic year or term; and
- The work involves substantially the same skill level and knowledge as the work performed in the prior academic year or term.

In addition, for customary vacation periods and holiday recesses, the individual must have worked during the period immediately prior to the vacation period or holiday recess and have reasonable assurance of performing similar work in the period immediately following the vacation period or holiday recess.

If the individual who has filed a claim for unemployment insurance worked for you as a school year employee, enter the phrase "school year employee" on Form UCB-16 or Form UCB-23.

If an individual who was not given reasonable assurance is provided assurance of similar work at a later date, notify the department when that assurance is given.

Be prepared to provide the following information:

- The type of work performed by the employee.
- The kind of work the employee will be performing in the next academic year, term, or following the vacation period or holiday recess.
- The terms and conditions of the work performed (e.g. rate of pay).
- If the individual has reasonable assurance of similar work in the next academic year, term or during the period immediately following a vacation or holiday recess.
- The date the prior academic year or term ended.
- The starting date of the next academic year or term.

A school year employee who does not have reasonable assurance will be advised to contact the department as soon as he/she receives reasonable assurance of similar work. If the individual is offered work and refuses it, contact the UI Division at the employer assistance telephone number available online at http://dwd.wisconsin.gov/ui201/phone201.htm.

Any benefits paid beyond the week in which reasonable assurance is obtained will be considered to have been erroneously paid. If you did not identify the individual as a school year employee, your account will be charged for any erroneously paid benefits.

Benefits are retroactively payable to any nonprofessional school year employee who was given reasonable assurance of similar work but then was not offered the opportunity to perform such work, if the individual is otherwise eligible.

Excluded Employment

Section 108.02(15)

Employment can be excluded for tax purposes and/or for benefit purposes. When work is excluded for tax purposes, it is also excluded for benefit purposes. However, there are some kinds of employment that are taxable yet excluded for benefit purposes. (See Section 2, Part 2 for more information about employment excluded for tax purposes.)

When employment is excluded for benefit purposes, the wages from such employment cannot be included as base period wages to determine if the claimant has met the qualifying requirements, nor can they be used to compute the claimant's benefit entitlement. However, claimants must report work and wages from excluded employment on their weekly claim certifications and the partial wage formula is applied to these wages when determining the amount of benefits payable for a week of unemployment.

Benefit exclusions are categorized by type of employer. Some apply only to governmental units, some apply only to private employers, others apply only to nonprofit employers, etc.
The following chart shows the types of employment that are potentially excluded for benefit purposes. In each case, certain conditions must be met before a finding can be made that the employment is excluded.

EMPLOYMENT THAT IS EXCLUDED FOR BENEFIT PURPOSES

ALL EMPLOYERS

(An asterisk indicates that the employment is taxable but excluded for benefit purposes. All types of employment without an asterisk are excluded for both tax and benefit purposes.)

Employment:

- As a work study student.
- As a student nurse in the employ of a hospital.
- As a medical intern in the employ of a hospital.
- As a patient in the employ of a hospital.
- For an organization tax exempt under Sec. 501(a) or 521 of the IRS Code if wages paid are less than $50 in a quarter.
- By a nonresident alien or the spouse or minor child of a nonresident alien temporarily present in the U.S. as a nonimmigrant under 8 USC 1101 (a)(15)(F), (J), (M), or (Q).
- By a participant in the AmeriCorps program other than a professional corps program or innovative educational award only program.

ALL EMPLOYERS EXCEPT GOVERNMENT UNITS AND NONPROFIT ORGANIZATIONS

Employment:

- That meets the definition of agricultural labor by section 108.02(2) and which is not covered for tax purposes.
- In domestic service that is not covered for tax purposes.
- As a caddy on a golf course.*
- As a news carrier, selling or distributing on the street or from house-to-house (if over 18 years of age*).
- For the railroad.* (taxable by the railroad, excluded for benefit purposes)
- As an insurance agent or solicitor paid solely by commission.
- As a licensed real estate agent or salesperson and 75% of all remuneration is directly related to sales other output, including the performance of services.
- As an unpaid corporate officer or an unpaid manager of a limited liability company.
- For a sole proprietorship that is owned by the claimant's spouse, child, or the claimant's parent if the claimant was under 18 years of age when the work was performed.
- As a court reporter paid on a per diem basis.*
- As a salesperson paid solely by commissions, overrides, bonuses or differentials related to the sales and who primarily conducts business in the customer's home.
- In maritime service excluded by FUTA.
- As a taxicab driver if (s)he has 1) leased the vehicle, 2) keeps all of the income from operating the taxicab, 3) receives no compensation from the owner, and 4) has a lease payment that is not affected by the amount of income made operating the taxicab.
- For a seasonal employer if the individual was employed for less than 90 days, has less than $500 of covered base period wages from other employers, and received written notice before starting, that work they perform may be excluded for UI purposes (also see Section 2, Part 2).*
- As a provider of private-duty or part-time intermittent nursing care, as a nurse practitioner, or as a provider of respiratory care to ventilator-dependent patients, if the individual has an independent practice, is not employed by a home health agency, is certified by the Department of Health Services, and medical assistance reimbursement is available as a covered service.*
- As a personal caregiver or companion to an ill or disabled family member who is the employing unit.
- As an inmate of a state or federal prison.
- As a corporate officer if the corporation has elected to exclude the wages of its officers for tax purposes (also see Section 2, Part 2).

GOVERNMENT UNITS, INDIAN TRIBES OR NON PROFIT ORGANIZATIONS ONLY

Employment:

- By an individual as part of a work relief or work training program financed in whole or part by the federal or state government.
- By an individual receiving rehabilitation or remunerative work in a sheltered workshop.

- By an inmate of a custodial or penal institution.

GOVERNMENT UNITS OR INDIAN TRIBES
Employment:
- As an elected official.
- As an official appointed to fill an elective office vacancy.
- As a member of a legislative body or judiciary.
- As member of the Wisconsin national guard.
- As an employee hired to assist with a specific emergency situations which can include fire-fighting, removal of storm debris, etc.. This exclusion does not include permanent employees who perform these tasks, nor volunteer employees upon whom the government unit normally relies for such assistance.
- In a major nontenured policymaking/advisory job or a policymaking/advisory job of 8 hours or less per week.

NONPROFIT ORGANIZATIONS ONLY
Employment:
- For a church or convention or association of churches.
- For an organization operated for religious purposes.
- As a minister or member of a religious order.

EDUCATIONAL INSTITUTIONS ONLY
Employment:
- By a student enrolled and regularly attending classes at the institution.
- By the spouse of a student at the institution working under a program to provide financial support to the student.

Family Controlled Employment

Section 108.04(1)(g) & (gm)

When an owner of a business or certain relatives of an owner file unemployment claims, the employer is required to report this information as an eligibility issue on Form UCB-16, Separation Notice, for each individual who files a claim. The following paragraphs explain how UI eligibility is determined for owners and specified family members employed by various types of family businesses.

Treatment of Limited Liability Companies (LLCs)

A single-member LLC will be treated as a sole proprietorship and a multimember LLC will be treated as a partnership. A LLC will be treated as a corporation only if: **1)** the LLC has filed an election with the federal Internal Revenue Service (IRS) to be treated as a corporation for federal tax purposes; **2)** the IRS has agreed to treat the LLC as a corporation; and **3)** the department receives proof (IRS Form 8832). For benefit purposes, the department will treat the LLC as a corporation for benefit years established on or after the date the IRS applies the treatment as long as that benefit year has not ended when the department first becomes aware of the eligibility issue related to treatment of the LLC.

Corporations or LLCs Treated as Corporations

Work performed for a family corporation, by either the claimant or the claimant's family members, is covered employment. However, base period wages from a family corporation cannot exceed 10 times the weekly benefit rate (WBR) based solely on that employment when calculating the maximum benefit amount whenever:

- 25% or more of the ownership interest was owned or controlled, directly or indirectly, by the claimant; and/or
- 50% or more of the ownership interest in the corporation was owned or controlled, directly or indirectly, by the claimant, the claimant's spouse, the claimant's parent if the claimant was under the age of 18 at the time the work was performed, or a combination of any of these.

Example 1

Claimant owns 30% of the corporation and was paid $20,000 in the base period, $5,000 in each quarter.

Claimant's weekly benefit rate is 4% of high quarter wages ($5000) = $200

Claimant's base period wages are reduced to $2000 (10XWBR).

Claimant's monetary entitlement (duration) is lesser of:
- $2000 X .40 = $800, or
- $200 X 26 = $5200

Example 2

Claimant's spouse owns 60% of the corporation and the claimant was paid $24,000 in the base period, $6000 in each quarter.

Claimant's weekly benefit rate is 4% of high quarter wages ($6000) = $240

Claimant's base period wages are reduced to $2400 (10XWBR)

Claimant's monetary entitlement (duration) is lesser of:
- $2400 X .40 = $960, or
- $240 X 26 = $6240

If the business involuntarily ceases operation, base period wages will not be reduced as long as one of the following actions have taken place before the claimant files an initial claim application for benefits:

- Family corporation is dissolved due to economic inviability;
- Family corporation has filed for bankruptcy;
- All owners have filed for personal bankruptcy; or
- Disposition of a total of 75% or more of the assets of the family corporation by one of the following methods:
    1. Assignment for the benefit of creditors.
    2. Surrender to one or more secured creditors or lienholders.
    3. Sale of the assets to a non-related party due to economic inviability.

Partnerships or LLCs Treated as Partnerships

- Partners are not considered employees of their businesses and no benefits are payable to such individuals based on services for the partnership.
- Work performed by the partners' families is covered employment. However, **if** 50% or more of the ownership interest in the partnership is/was owned or controlled, directly or indirectly, by the claimant's spouse, child or parent (if the claimant was under age 18), or by a combination of these relatives; **then** the claimant's base period wages from the partnership cannot exceed 10 times the weekly benefit rate based solely on that employment, when calculating his/her maximum benefit amount.

Sole Proprietorship or LLCs Treated as Sole Proprietorships

- Sole proprietors are not considered employees of their businesses and no benefits are payable to such individuals based on services for the sole proprietorship.
- Work performed for a sole proprietorship by the owner's spouse, parent or child (if work was performed while under the age of 18) is excluded employment and no benefits are payable based on such employment. (For more information about "excluded employer", see Excluded Employment in this part of Section 1 and also Part 2 of Section 2.)

Independent Contractor

See Part 2 of Section 2 (Tax) entitled "Covered and Excluded Employment"

Labor Dispute

Section 108.04(10)

An employee who is unemployed because of a strike or other bona fide labor dispute in the establishment in which (s)he is employed is not eligible for unemployment benefits based on wages for work performed before the labor dispute began. Benefits can be paid based on work performed after the start of labor dispute if the claimant meets the qualifying wage requirements based on wages for that work alone.

If a labor dispute occurs in your establishment, call one of the benefit center employer assistance numbers available at http://dwd.wisconsin.gov/ui201/phone201.htm as soon as possible. We will need to know:

- the date on which the dispute started;
- the nature of the dispute;
- the establishment(s) directly involved;
- the number of employees in such establishment(s);
- the number of employees who may become unemployed because of the dispute; and
- the first week during which each claimant was out of work because of the dispute.

Leave of Absence

Sections 108.04(1)(b)

See Unable/Unavailable for work.

Located Outside the U.S. or Canada

Section 108.04(2)(ae)

A claimant is not available for work in any week in which he/she is located in a country other than the U.S. or Canada for more than 48 hours.

Lost License

Section 108.04(1)(f)

Some employees must possess a valid license issued by the government to perform their jobs. If this license is suspended, revoked or not renewed and the employee is at fault for losing the license, (s)he may not be eligible for unemployment benefits if you suspend or terminate the employee because (s)he can no longer perform his/her customary work for you due to the lost license.

When all of the required conditions exist for applying this section of law, the claimant is not eligible for any benefits as of the week in which the suspension/termination occurred. The disqualification continues for the next 5 weeks **or** until the license is reinstated or renewed, **whichever occurs first**.

If the claimant's license is not reinstated or renewed before the 5-week disqualification period ends, the claimant can start receiving unemployment benefits only if (s)he has remaining entitlement from wages paid by other liable employers. Your pro-rated share of these benefits is charged to the fund's balancing account.

Your account will not be charged for benefits paid to the claimant until the license is restored.

As of determinations issued 01/05/14 and later, your account will not be charged for benefits paid to the claimant even after the license is restored, benefits will be charged to the fund's balancing account. However, if the employee returns to work after the license is renewed/reinstated your account may be charged in the future.

Pension Payments

Section 108.05(7)

Pension payments include periodic and lump sum payments from retirement accounts, pensions, annuities, some 401(k)s and railroad retirement payments. When certain criteria are met, weekly benefits are reduced by the percentage of the pension financed by the employer.

Pension payments result in a dollar-for-dollar reduction of the amount of benefits payable to the claimant for a given week. Pension payments are not treated the same as wages (see Part 6 for the treatment of "wages").

Social Security Benefits [Retirement and Supplemental Security Income (SSI)] and disability payments from the Veterans' Administration do not reduce UI benefits.

Pre-Employment Drug Testing

108.04(8)(b), 108.133, DWD 131 and 108.04(9)(b)

An employing unit may submit to the department information that an individual has either tested positive or refused to submit to a test for the presence of controlled substances as a conditional offer of employment:

Positive Drug Test

- If the offer of employment required the individual to submit to a drug test for the presence of controlled substances.
- The individual was notified prior to testing that the test results may be reported to the department.
- The individual does not have a valid prescription(s) for the substances he/she tested positive for.
- The test was conducted or confirmed by a laboratory certified by the substance abuse and mental health services administration of the United States department of health and human services (DHHS).

The information must be submitted on form UCB-18103-E, Pre-Employment Drug Testing - Employer Reported Positive Result, http://dwd.wisconsin.gov/dwd/forms/ui/ucb_18103_e.htm, to the department within 3 business days of the employing unit receiving a positive test result for a controlled substance for which the individual did not have a valid prescription.

Form UCB-18103-E must be fully completed, signed, required documentation attached and then mailed or faxed to the department. **Forms submitted without complete information and required attachments will not be given consideration.**

Refusal to Submit to a Drug Test

- If the offer of employment required the individual to submit to a drug test for the presence of controlled substances.
- The individual was notified prior to testing that the refusal to be tested may be reported to the department.

The information must be submitted on form UCB-18102-E, Pre-Employment Drug Testing - Employer Reported Refusal to Submit, http://dwd.wisconsin.gov/dwd/forms/ui/ucb_18102_e.htm, within 3 business days from the date the individual declined to submit to the test for the presence of a controlled substance.

Form UCB-18102-E must be fully completed, signed, required documentation attached and then mailed or faxed to the department. **Forms submitted without complete information and required attachments will not be given consideration.**

If it is determined that a claimant declined to take a drug test or tested positive for a drug test and the offer was rescinded, the department will presume that the claimant refused suitable work without good cause and benefits will be denied. The claimant may rebut the presumption that (s)he refused suitable work without good cause by, among other things, proving that the work was substantially less favorable to the claimant. The claimant is ineligible as of the week the job was to begin and until (s)he has earned wages in covered employment after the week of the refusal equal to at least 6 times the weekly benefit rate that would have been paid had the claimant not been disqualified. Once the claimant requalifies, (s)he is again eligible to receive benefits, but if you are a contributing (taxable) employer, your account is not charged for benefits paid that are based on work performed prior to the work refusal. A claimant who fails a pre-employment drug test may remain eligible for benefits if the claimant enrolls in and complies with a drug treatment program and completes a job skills assessment.

Professional Athletes

Section 108.04(19)

Benefits are not payable to a claimant who was paid a substantial portion of the base period wages for work performed as a professional athlete, if the claimant has reasonable assurance of work as a professional athlete in the next sports season.

If this provision applies, enter the phrase "professional athlete - between seasons" on the benefit report. Indicate the ending date of the last season and the estimated beginning date of the next season. Explain how

the claimant has reasonable assurance for work in the next season. Reasonable assurance generally requires a contract for the next season.

Quit

Section 108.04(7)

If the claimant's reason for quitting is "not within any of the exceptions" (s)he is not eligible to receive benefits until (s)he has earned wages in covered employment equal to at least 6 times the weekly benefit rate that would have paid had the quit not occurred.

Once the claimant has requalified, (s)he is eligible to receive benefits based on the work performed prior to the quit. However, if you are a contributing employer (paying a quarterly UI tax), your account is not charged for benefits paid based on work performed for you before the claimant quit. If you are a reimbursable employer (billed monthly for UI benefits paid rather than paying a quarterly UI tax), you are liable for your portion of the benefits paid after the claimant requalifies.

Notice of Benefit Charging, Form UCB-29

Often, a claimant has already satisfied the work requalification requirement for quitting a job with you before an unemployment claim is filed. When this happens, you are sent this notice to let you know 1) that we are aware that the claimant quit, 2) that (s)he has satisfied the work requalification requirement and 3) whether or not you will be charged for benefits based on work performed before the quit. See Part 9 for more information about this form.

(**NOTE:** Even if you are not charged for the benefits being paid to a claimant, you will continue to receive correspondence about the claim if benefits are being paid based on work performed for you. This correspondence does not mean that you are now going to be charged for benefits.)

Exceptions

There are a number of reasons for quitting for which benefits can be paid without imposing the standard disqualification. Each exception requires certain conditions be met before it can be applied. The exceptions permit the immediate payment of benefits. You will be contacted before a decision is issued that applies an exception to the standard quit disqualification.

Many of the exceptions relieve contributing employers of liability for benefits paid based on work performed before the quit. However, this relief of liability does not apply to reimbursable employers.

The following chart includes a brief description of all of the current exceptions, whether the exception imposes any disqualification and whether contributing employers will be charged for benefits.

EXCEPTIONS TO THE STANDARD QUIT DISQUALIFICATION		
Conditions Required to Apply Each Exception	**If the Exception Applies, is there Any Disqualification?**	**If the Exception Applies, are Contributing Employers Relieved of Charges?**
Accepting a layoff: ▪ In lieu of another employee.	No	No
Quitting with good cause attributable to the employer. ▪ "Good cause" is interpreted as a valid, substantial reason for which the employer is responsible and which leaves the employee with no reasonable alternative but to quit. ▪ "Good cause" includes a request, suggestion or directive by the employer that the employee violate federal or state law.	No	No

▪ "Good Cause" includes established acts of sexual harassment by the employer, the employer's agent or by a co-worker if the employer knew or should have known but failed to take timely and appropriate corrective action. (Refer to the paragraph at the end of this chart for an explanation of what is considered sexual harassment.)		
Quitting because: ▪ The employee's health left the employee with no reasonable alternative but to quit.	No	Yes
Quitting because: ▪ The health of a member of the employee's immediate family. ▪ Left the employee with no reasonable alternative but to quit.	No	Yes
Quitting because: ▪ the employer required that the employee transfer to a different shift than (s)he was hired to work; ▪ the new shift results in a lack of child care for his/her minor children; and ▪ (s)he is able to work full-time on the shift that (s)he last worked for the employer.	No	No
Quitting a job: ▪ Within the first 30 calendar days. ▪ Which the employee could have refused with good cause or which does not meet labor standards with regards to wages, hours or other conditions.	No	Yes
Quitting to take another job that: ▪ offers at least the same average weekly wage; ▪ offers at least the same hours of work; ▪ offers significantly longer term work; **or** ▪ offers work significantly closer to the employee's home; and ▪ is covered employment for unemployment purposes.	No, there is no required wage that must be earned with the new job	Yes
Quitting a job: ▪ Held concurrently while serving in the military. ▪ If the quitting was the result of an honorable discharge from active military duty.	No	Yes
Quitting a job: ▪ Due to domestic abuse, concerns about personal safety or harassment or personal safety or harassment of family members who reside with him/her or of other household members. ▪ If a temporary restraining order or injunction was obtained prior to quitting and is reasonably likely to be violated.	No	Yes
Quitting a job: To relocate with a spouse ▪ Employee's spouse is a member of U.S. armed	No	Yes

forces on active duty. ▪ Employee's spouse was required by U.S. armed forces to relocate to a place impractical for the employee to commute. ▪ Employee terminated his/her work to accompany the spouse to that place.		

Sexual Harassment
as it relates to Quitting with "Good Cause Attributable" to the Employer

For unemployment insurance purposes the meaning of sexual harassment is not limited to the definition under the Wisconsin Fair Employment Law [111.32(13) and 111.36(1)(b), Wis. Stats.].

Sexual harassment may be either direct or indirect.

Direct sexual harassment includes but is not limited to:
- unwelcome sexual advance or contact; and
- verbal or physical sexual conduct such as displaying sexually graphic materials or making sexual gesture or comments.

Indirect sexual harassment:
- can occur by allowing sexual harassment to occur;
- by not responding to complaints of sexual harassment; or
- by allowing an intimidating, hostile, or offensive work environment to develop or continue.

Voluntary Reduction of Hours

If an employee requests to reduce his/her hours of work, this reduction may be considered a quit. If so, the wages that the employee earns from you while working the reduced hours cannot be used to satisfy the requalification for quitting as long as you **notify the employee in writing** that this may be the result of such a request **before you grant the request**. If after receiving this written notification the employee decides not to reduce his/her hours, the employee will not be considered to have quit, even if you do not allow him/her to continue working the original number of hours.

The following is suggested wording for the written notification to be given to employees who voluntarily request a reduction in hours:

> *"Because you have requested a voluntary reduction in the number of hours you are working, you are notified that for Wisconsin Unemployment Insurance purposes, your reduction in hours may be considered a quit. Any wages that you earn while you are working the reduced hours may not be used to satisfy the quit requalification provision."*

Special Guidelines for Temporary Help Agencies

The employment relationship in the temporary help industry is different from the employment relationship that exists in most other industries. In the temporary help industry, employees are generally assigned to a series of short-term assignments. Commonly, when an assignment ends, there will be a short delay before the next assignment begins. Because both parties acknowledge and accept this as a condition of the employment relationship, the short break between assignments may not terminate the employment relationship. The rules for the continuation of an employment relationship are found in the Administrative Code DWD 133.

For a temporary help employer, as would be true with any other employer, if at the time an assignment ends the employer does not have an additional assignment for the employee, the employment relationship ends. If the employer does have another assignment for the employee within the conditions of the written application, the employment relationship continues to exist, and an employee who refuses the assignment is then considered to have voluntarily quit. If the assignment is outside of the conditions under which the employee offered to work on the written application, the employment relationship ends and if refused, the issue is resolved as a failure to accept a new offer of work.

Due to the unique nature of the temporary help industry, the following guidelines are applied:

- If the employee fails to contact the temporary help employer by the end of the second full business day after the assignment has ended, and the employer has a known policy requiring the employee to do so and was not aware the assignment had ended, the employee has quit the employment relationship.
- If the employer is aware the assignment ended within the timeframe and does not contact the employee within the timeframe the employment relationship ends due to an employer separation.
- When at the time an assignment ends, the temporary help agency does not have an immediate assignment for the employee, but is able to assure the employee that it will have an assignment within seven days, the employment relationship continues to exist. If for some reason the expected assignment does not materialize within the seven days, but the employer notifies the employee that it will have an assignment within another seven days, the employment relationship is extended for those seven days. An employee who refuses the subsequent assignment is likely to be considered to have voluntarily quit.
- An employee who leaves an assignment before it is completed is generally considered to have quit.
- When an assignment ends and the employer is unable to provide another assignment or assure the employee of another assignment within seven days, the employment relationship is terminated due to lack of work. Likewise, if the temporary help employer is initially able to assure the employee of an assignment within seven days, but is later unable to provide such an assignment, the employment relationship also ends due to a lack of work. Once an employment relationship has ended, any later offer of work by the employer would be considered a "new offer of work" and failure to accept such an assignment is regarded as a failure to accept an offer of new work (See "Refused Work").

Be prepared to provide the following information:

- Dates of employment
- If the claimant worked on more than one assignment, when the claimant returned to work did she fill out a new application or agree to work under the same conditions as a prior application.
- The type of work performed by the employee, rates of pay, start and end times, number of hours worked and location of the job including zip code for relevant assignments
- Dates/type of communication between assignments
- Copy of the appropriate handbook policy
- Signed acknowledgement of the handbook

Work Search and Temporary Help Companies

Reduction in Hours at Employee's Request

See "Quit: Voluntary Reduction of Hours"

Refused Work

Section 108.04(8) & (9)(b)

This section applies when a claimant fails to accept an offer of work which is made by a prospective employer. It also may apply when a claimant is recalled to work by a former employer but does not receive the notice of recall.

The job offer must be a bona fide attempt to secure the claimant's services. In most cases, it is an unconditional offer of work that the claimant has the opportunity to accept or reject and all the specifics of the job (wages, hours, duties and other conditions) must be explained or available to the claimant simply by requesting them of you.

Benefits, by law, cannot be denied for refusing new work if the wages, hours or other conditions are less favorable than those prevailing for similar work in the locality. **New work is:**

- an offer of work to someone with whom you have never had a contract of employment; or
- an offer of re-employment to someone you do not have a contract of employment with at the time you offer the work; or
- an offer of continued employment to a present employee but with different duties or conditions of work than those you both agreed to in the existing contract of employment.

(**Note:** See application of "new work" to offers made by temporary help agencies.)

The claimant may have "good cause" for refusing a job. If so, and the claimant is able to work and available for suitable work in his/her labor market, benefits would be allowed.

If a claimant refuses an offer of work from you or fails to return to work for you after being duly recalled, **notify the department immediately, providing:**

- the claimant's name and social security number;
-]the type of work offered;
- the rate of pay, the hours (or shift);
- the date on which the refusal occurred;
- the date on which the claimant could have begun work; and
- the reason the claimant gave, if any, for refusing the work offered.

If it is determined that a claimant refused a bona fide offer of suitable work from you without good cause and the wages, hours and other conditions of the job were not substantially less favorable than those prevailing for similar work in the locality, benefits will be denied. The claimant is ineligible as of the week the job was to begin and (s)he has earned wages in covered employment after the week of the refusal equal to at least 6 times the weekly benefit rate that would have been paid had the claimant not been disqualified. Once the claimant has requalified, (s)he is again eligible to receive benefits, but if you are a contributing (taxable) employer, your account is not charged for benefits paid that are based on work performed prior to the work refusal.

School Year Employees

See "Employees of Educational Institutions"

Self-Employment

Section 108.02(12)

Self-employment is defined as the formation, development or operation of a trade, a business, an enterprise or a profession for the purpose of producing income. It generally takes the form of a sole proprietorship or a partnership.

Benefits are not payable to a self-employed individual if the self-employment activities substantially limit his/her availability for work with other employers.

All individuals claiming UI benefits, including self-employed claimants, must search for work unless specifically excused. (See Part 3.)

Self-employment income is not treated as wages which would reduce benefits paid for a week of unemployment nor is the self-employment income used as base period wages.

Social Security Disability Income (SSDI) Payments

Section 108.04 (2)(h); 108.04(12)(f)

A claimant is required to report that s/he is receiving Social Security Disability Income payments on Initial Claims and Weekly Claim Certifications.

A claimant cannot receive Social Security Disability Income payments and Unemployment Insurance benefits concurrently.

Students

See "Unable/Unavailable for Work"

Suspension for Good Cause

Section 108.04(6)

If an employee is placed on a suspension for **good cause**, benefits will not be paid for the week that the suspension began and the following 3 weeks **OR** for the duration of the suspension, **whichever is shorter**.

Good Cause

A suspension is usually considered **good cause** when it is a reasonable response to inappropriate behavior or a rule violation. Your action is considered reasonable when you can establish that the inappropriate behavior was within the employee's ability to control or that the employee was responsible for the work rule violation. Generally, if another employer would suspend under the same circumstances and the behavior leading to the suspension was directly connected to the employee's work, the suspension is considered reasonable and for good cause.

You must be prepared to provide:

- the dates of the suspension;
- the reason for the suspension; and the
- dates of prior infractions and warnings.

It is important to **notify the department if**:

- a suspension is changed to a discharge;
- if the employee fails to return to work at the end of the suspension; or
- the suspension ends because the employee is discharged.

Unable/Unavailable for Work

Sections 108.04(2)(a), 108.04(1)(b) & (bm) & DWD 128

An individual who is totally unemployed must be able to work and available for work while filing for unemployment benefits. If the claimant has a restriction that prevents or restricts his/her ability or availability for work, the issue may affect his/her eligibility for benefits. A person filing for benefits makes a weekly certification and one of the questions asked is: "Were you able to work full-time and available for full-time work?" The individual is expected to answer this question "no" if his/her availability is restricted in any way.

- A person is **available** for work if the individual is ready and willing to accept full-time suitable work and maintains an attachment to the labor market. Examples of availability restrictions: transportation, school attendance, child care, etc.
- A person is **able** to work if the individual is physically or psychologically able to perform suitable work.

When a claimant has a work restriction and does not meet the above requirements, (s)he is not eligible to receive unemployment benefits until the able and available requirements are again met.

This disqualification is applicable when there is no employment relationship currently affected, but the claimant's availability for potential employment is reduced by the work restrictions.

This disqualification is also applicable when a claimant’s work is suspended or terminated because of work restrictions, or when a claimant is on a leave of absence. However, a partial benefit payment may be payable in the first week of a leave or the week the termination or suspension occurred if the employee misses 16 hours of work or less in that week. Be prepared to provide the starting and ending dates of the suspension, termination or leave, the date the claimant returned to work (if applicable), the amount of wages that could have been earned and the number of hours missed in the first week had the separation not occurred, and the amount of wages or other types of remuneration earned and the number of hours worked or paid in the first week of the suspension, termination or leave.

If the employee is able to work and available for work on the general labor market, there is no disqualification even though the employee can no longer work for you.

Note: If you have an individual working for you who misses work during a given week, the issue is usually resolved under the "work available" statute. See work available provision

Students

A student is generally considered unavailable for work while attending school, however there can be exceptions. A student attending a night course who is still available for full-time day shift work would normally be able and available for work. The law also makes an exception for someone who is in "approved training" [Section 108.04(16)]. Approved training is training through a vocational school or a school offering vocational

training that has been approved by the department. Attendance at a college or university is not normally considered approved training.

Wages and Other Income

Section 108.05(3)(a), (4) & (5)

When it is not clear or there is a dispute as to whether a payment should be considered benefit year wages, or when wages or other types of income are not reported by the claimant on a weekly certification for a benefit payment, an investigation is conducted. The department will issue a determination to establish whether or not the payment is to be considered wages and if so, what effect the wages have on the amount of benefits payable. (See Part 6 for detailed information about the definition of benefit year wages.)

If the investigation involves the claimant's failure to report the wages or payment, an investigation as to whether or not the claimant concealed the wages/pay is also conducted. (See Part 8 for more information about Fraudulent Claims.)

Waiting Week

Effective 01/01/12 Wisconsin has a waiting week for Unemployment Insurance benefits. For every new benefit year, no benefits are payable for the first week a claimant would otherwise be eligible for benefits.

Walking off the Job

See "Quit"

Work Available with Current Employer

Section 108.04(1)(a)

Work available generally applies to the claimant who is filing claims for partial unemployment benefits while working for an employer and who misses work during a week (for example, absence during the week due to illness or personal business).

For this provision to be applied, the claimant must have received actual or implied notice of the work that could have been performed. An employee with a regular work schedule has sufficient notice of available work. "Due notice" for an employee whose schedule changes from week to week may or may not be satisfied, depending on when the schedule is received and the circumstances involved for the absence.

When a decision is made that the claimant had due notice of additional work in a week, the additional gross wages the claimant could have earned are added to actual gross wages earned and other pay received for the week when determining the amount of partial unemployment benefits payable for the week.

Effective weeks ending October 27, 2012 through January 4, 2014, no benefits are payable when the combination of hours the claimant worked, hours the claimant missed and hours for which the claimant received or will receive holiday, vacation, dismissal or sick pay equals or exceeds 32 hours.

For weeks ending January 11, 2014 and later, no benefits are payable for any week in which a claimant earns wages, misses wages by missing work, and/or receives or will receive holiday, vacation, dismissal, sick pay, bonus pay, back pay or temporary total or temporary partial disability payments exceeding $500 in the week.

Work Search

Section 108.04(2)(a) & DWD 127

Some claimants are not required to look for work because one of the waiver provisions applies to their claim. The most common waiver provisions are listed in Part 3.

A claimant must conduct **four** work search actions each week to satisfy the work search requirements.

A claimant required to look for work is asked to certify each week on the weekly certification for a payment. (S)he must answer a question regarding whether (s)he performed at least four work search actions in the week. If the claimant did not look for work in that week, (s)he is expected to answer "no" to this question. When a claimant answers "no" to this question, the department conducts an investigation.

The department can initiate an investigation regarding the claimant's work search efforts at any time.

A claimant who is required to conduct work search actions but fails to do so is ineligible for benefits for the week(s) in which such failure occurred.

Work Search and Temporary Help Companies

Section 104.04(2)(i)

If a claimant worked for a temporary help company, (s)he may be required to contact the company for an assignment as one of the required four work search actions each week to satisfy the work search requirements.

The department will initiate an investigation regarding the claimant's failure to contact a temporary help company for an assignment if the temporary help company notifies the department of the issue, in writing, within 10 days after the week in which the claimant failed to contact it for an assignment.

A claimant who is required to contact a temporary help company for an assignment as part of his or her work search requirement but fails to do so is ineligible for benefits for the week(s) in which such failure occurred.

PART 8 - Benefit Overpayment Collection & Fraudulent Claims/Penalties

Maintaining the integrity of the unemployment insurance program is an important function which helps ensure benefits are paid only to those who qualify for benefits under the law.

Employers and claimants are educated through informational pamphlets, periodic educational seminars/clinics, one-on-one communications and the internet to explain the unemployment insurance program.

Benefit Overpayment Collection

If benefits are paid erroneously, a claimant will receive a written overpayment decision. This document is a legal document. The appeal period is limited. See Section 3 for appeals information.

The amount of the overpayment may be deducted from benefits that the individual would otherwise be eligible to receive. If the overpayment is not deducted from benefits, and the claimant does not respond to collection letters, the Department is authorized to take legal actions including:

- Levy (seizure) of the employee's wages and bank accounts to the extent allowed by law.
- Issue a civil warrant which becomes a judgment lien against real estate and other property. Like judgments, warrants are public record and may affect credit scores.
- Intercept a state or federal tax refund.

Fraudulent Claims/Penalties

The Department uses various procedures and techniques to detect fraud and abuse. A few methods include routine audits of employer payroll records, crossmatching employer payroll records with benefit payments within Wisconsin and with other states, the exchange of information with other agencies, and the investigation of complaints and tips from various sources.

Wisconsin's law provides for penalties and/or criminal prosecution for fraudulent unemployment insurance claims.

- A claimant is assessed a benefit forfeiture/benefit reduction of future payable benefits (administrative penalty) for the intentional concealment of information affecting benefit eligibility.

  A benefit forfeiture/benefit reduction is the withholding of future payable benefits for intentionally concealing information affecting unemployment eligibility. This can be in addition to any overpayment which must be repaid.

- Concealment occurred week ending October 20, 2012 or earlier:
  - A claimant is assessed forfeitures for the intentional concealment of information affecting benefit eligibility.
  - A forfeiture can range from one, three, or five times a claimant's weekly benefit rate for each act of concealment.

- Concealment occurred week ending October 27, 2012 and later:
  - A claimant shall receive a benefit reduction of two, four or eight times the weekly benefit rate for each week of fraud or concealment.

In addition, the claimant will also be assessed a penalty which he/she is required to pay out of pocket. Fraud overpayments established prior to 10/4/15 will have a 15% penalty. Fraud overpayments established 10/4/15 and later will have a 40% penalty. Benefit forfeitures/benefit reductions remain in effect for six years or until satisfied, whichever occurs first.

- An employer determined to have aided and abetted a claimant in committing an act of concealment or misrepresentation is assessed an administrative penalty.

  The penalty assessed is also called a forfeiture. The penalty equals the amount of the claimant overpayment.

  Examples of aiding and abetting are the banking of hours and/or the falsification of required reports which allows a claimant to fraudulently receive unemployment benefits.
  Improperly paid benefits are charged against the employer found guilty of aiding and abetting even if the improperly paid benefits are recovered.

  - $500 for each act of concealment that occurred before the first determination issued as of April 6, 2008.
  - $1,000 for each act of concealment that occurred after the first $500 level determination.
  - $1,500 for each act of concealment that occurred after the first $1,000 level determination.

- Any individual who makes a false statement or a misrepresentation in order to obtain benefits that are payable to another person may be required to repay the improperly obtained benefits. The offender may also be required to pay an additional administrative assessment equal to but not more than 50% of the amount of the benefits obtained.

- In addition to administrative forfeitures, criminal penalties (such as fines from $100 to $500 and imprisonment up to 90 days, or both) for each offense can be applied to any person(s) found guilty of:

  1. Making false statements or representations to obtain unemployment benefits either for himself/herself or any other person.
  2. Making a false statement or representation in connection with any report or any information duly required by the Department,
  3. Refusing or failing to keep any records or to furnish any report duly required by the Department.

The unemployment insurance program is a partnership among employers, claimants and the department. All parties must do their part to deter fraud and abuse. Report suspected or known violations to one of our Benefit Centers.

References: 108.04(11) and 108.24(1) and (2) of the Wisconsin Statutes.

PART 9 - Benefit Reports and Forms Sent to Employers

Your help is needed to maintain the integrity of the unemployment insurance system. One way we solicit your assistance is by sending you reports that either ask for verification of information provided by the claimant, ask for additional information, or provide information to you about the status of the claim.

As mentioned in Part 5 - Benefit Reports Required by the Department, there are four required UI benefit reports. In addition to the four required reports, there are a number of other forms that you may receive.

When you receive one of our forms, please review it promptly. Complete and return all those that you are required to return or that ask for information. The reverse side of most forms will include an explanation of the report, instructions for completion, and/or telephone numbers to call for more information. If you find an error on any of the informational reports, notify us as soon as you can so that we can investigate the discrepancy and correct the record.

Remember that your account will be charged for all erroneously paid benefits as the result of a missing, late or incorrect/incomplete **required report and if you fail to provide correct and complete information requested during a fact-finding investigation**, including erroneously paid benefits that were charged to other employers' accounts.

Required Reports		
A.	Form UCB-16	Separation Notice
B.	Form UCB-23	Wage Verification/Eligibility Report
C.	Form UCB-719	Urgent Request for Wages
D.	Quarterly Wage Report	Instructions for completing Quarter Wage Reports are in Section 4

Sample Reports		
E.	Form UCB-20	Written Determination
F.	Form UCB-29	Notice of Benefit Charging
G	Form UCF-350	Weekly Earnings Report
H.	Form UCB-701	Computation of Unemployment Insurance Benefits
I.	Form UCB-708	Notice of Changed Liability for Unemployment Insurance Benefits
J.	Form UCF-17275	Wage/Earnings Audit

SCANNING OF UI FORMS

As part of the UI Division's re-engineering project Form UCB-16 Separation Notice and Form UCB-23 Wage Verification/Eligibility Report, have been redesigned for automated scanner processing. These are the first "benefits" forms that are being changed for this purpose. Automated scanner processing is quick, accurate and will help save administrative time and expense.

Please use the following **guidelines when completing these new forms**:

- Use blue or black ink;
- Mark all check boxes with an X;
- Print numbers clearly;
- Stay inside the designated boxes;
- The scanner cannot read information outside the boxes. If you need to provide additional information, please attach a separate piece of paper.

A. FORM UCB-16, SEPARATION NOTICE

If **all of the information** on Form UCB-16 **is correct** and there are **no eligibility issues or non-work payments** that apply to the claim, the report **does not** have to be returned.

If **any information** on Form UCB-16 **is incorrect** or **there is any eligibility issue or non-work payment** that applies to the claim, provide detailed information regarding the eligibility issue or non-work payment and **return this report by the due date**.

EXAMPLE FORM: Example of UCB-16 Separation Notice

1 & 2 Employer's UI Account Number

- Your UI account number should be printed here. If it is missing or incorrect, enter the correct number in the box provided.
- If you do not have an account number, enter "no number assigned" in the box provided.
- If the claimant did not work for you, place an "X" in the box provided.

3 Date Last Worked and Expected Recall

- The date shown on the form is the Saturday date of the calendar week during which the claimant reported last working for you. If the correct last day of work falls in a different calendar week (Sunday through Saturday), please show the correct actual last day of work in the box provided.
- The second paragraph will only appear if the claimant reported that (s)he expects to return to work for you by the Saturday week ending date printed on the form. If this is incorrect, place an "X" in the box provided.

4 Reason for Separation

- The reason for separation provided by the claimant when (s)he filed this claim for benefits is shown here. If the reason shown is incorrect, indicate the correct reason for separation in the box provided. Provide detailed information regarding the separation. Attach a separate piece of paper for any supporting details and/or documentation and return by the due date. If you choose not to provide details regarding the separation, X the box on the bottom of the form and return it immediately.

5 Other Eligibility Issues

- If there are any other eligibility questions that apply to the claim, report them in the box provided. Some common eligibility issues are listed on the reverse of Form UCB-16 under the explanation of this item. Also refer to Part 7 for a brief explanation of several common eligibility issues.
- Provide details about the eligibility issue being reported in the box provided. Attach a separate piece of paper for any supporting documentation you want considered.

6 Vacation, Dismissal or Holiday Pay for Days/Weeks after the Last Day of Work

- If vacation, dismissal or holiday pay has been assigned to days or weeks after the claimant's last day of work, this pay should be reported here. See Part 6 for more information about when these types of pay can be treated as wages and should be reported.
- Show the type of pay, the week ending date(s) that the pay is assigned to, the gross amount of the pay and the hours and minutes for each week in the boxes provided.
- When reporting holiday pay, show both the holiday and the date; i.e.
  Christmas - December 25
  Personal holiday - May 15

7 Signature, Date and Telephone Number

- Sign and date the form.
- Provide the name and telephone number (including area codes) of a person who can be contacted during regular business hours if additional information is needed.

8 Date Report is Due

- Every Form UCB-16 will have a due date, however the report only needs to be returned if the reason for separation given by the claimant or any other information on the report is incorrect, or if there is any other eligibility issue or non-work payment that applies to the claim. Return the report as soon as possible to prevent erroneous payments. The report **must be received by the department by the due date** to be considered timely.

9 Where to Return the Report

- If the report must be returned, **either** send it to the address or FAX it to the number shown on the report. **Please do not do both.**

B. FORM UCB-23, WAGE VERIFICATION/ELIGIBILITY REPORT

If **all of the information** on Form UCB-23 **is correct** and there are **no eligibility issues** that apply to the claim, the report **does not** have to be returned.

If **any information** on Form UCB-23 **is incorrect** or **there is any eligibility issue** that applies to the claim, provide detailed information regarding the eligibility issue and **return this report by the due date**. Refer to the following instructions for completion of a Form UCB-23 that must be returned.

EXAMPLE FORM: Example of UCB-23 Wage Verification Eligibility Report

1 & 2 UI Account Number, Name, & Address

- If the UI account number, name or address listed for your company is incorrect, write in the correct information in the box provided.
- If no account number is printed on the report, enter your account number or write "no number assigned" in the box provided.
- If the claimant did not work for you, place an "x" in the box provided.

3 Wages and Other Income for the Week

- Review the wages and/or pay the claimant reported for the specified calendar week.
- If any amount of wages or other income is incorrect, the form must be returned with the correct amount(s). You must return the report to correct the wages/pay even if the difference appears to be insignificant. Even a small difference between the wages reported by the claimant and the amount actually earned can affect the amount of benefits payable for the week.
- Be sure to report **all** types of wages/pay for the week in the spaces provided, **even for those that the claimant reported correctly**. If one of the spaces is left blank, we will assume that the claimant did not receive the wage or income identified by that space.
- See Part 6 for the definition of benefit year wages and when other types of income can be treated as benefit year wages.

4 Hours and Minutes for the Week

- Review information reported by the claimant about hours/minutes for each pay type in the specified calendar week.
- If the claimant's information is incorrect, the form must be returned with the correct amount of hours and minutes You must return the report to give us the correct hours/minutes even if the difference appears to be insignificant.
- Include only hours/minutes of **actual work**.

5 Additional Work Available

- If the claimant was asked or scheduled to work more hours than (s)he did work place an "X" in the box provided.
- If no, do not complete the rest of this section.
- If yes, enter the number of additional hours available, the rate of pay that would have been paid for such work, the date(s) when the work was available and the total amount of additional wages the claimant could have earned in the boxes provided.

6 Eligibility Issues

- **Other Eligibility Issues:** Place an "X" the appropriate box if any listed or unlisted eligibility issue applies to the claim and you have not yet received a determination regarding the issue.
  - Enter the last date the claimant worked for you in the box provided.
  - If the claimant refused an offer of work, also enter the date the work would have started.

- For unlisted eligibility issues, place an "X" in the box that says "other" and provide details about the eligibility issue in the box provided. Attach a separate piece of paper for any supporting documentation you wish to be considered. (Refer to Part 7 for a brief explanation of several common eligibility issues.)

7 Signature, Date and Telephone Number

- Sign and date the form.
- Provide the name and telephone number (including area code) of a person who can be contacted during regular business hours if additional information is needed.

8 Date Due

- Form UCB-23 must be received by the Department by the due date shown on the report to be considered timely.

9 Where to Return the Report

- If your report must be returned, either send it to the address or FAX it to the number shown on the report. **Please do not do both.**

C. FORM UCB-719, URGENT REQUEST FOR WAGES

Form UCB-719 **must always be returned**, even if the claimant did not work for you or you believe that the claimant is not eligible.

EXAMPLE FORM: Example of UCB-719 Urgent Request for Wages

1 Due Date

- This is the date your report is due. The same wage information requested by this report is also requested from the claimant. If your report is not received by the Department by the due date, benefits will be paid based on the claimant's records.

2 UI Account Number

- This is the UI account number identified as the employer for whom the claimant worked and for which wages are missing. Refer to the instructions for completing the quarterly wage chart when the claimant's wages were or should have been reported to a different UI account number.

3 Quarterly Wage Chart

- For quarters where some wages have already been reported to Wisconsin for this UI account #, the wages have already been entered in the "GROSS WAGES PAID" column. If these amounts are incorrect, please show the correct amount.
- For quarters where no wages have previously been reported, make the following entries:
  - Enter the **total gross wages** paid in each quarter.
  - If the claimant was your employee but was not paid wages in the quarter, write **"no wages paid"**.
  - If the wages you paid the claimant in the quarter were for work performed in excluded employment, enter the wages and write **"excluded"** after the wage entry.
  - If the wages you paid the claimant in the quarter were reported to a different state, enter the wages and write **"reported to (state)"** after the wage entry.
  - If the wages you paid the claimant in the quarter were reported to a different UI Account # than the one shown on the report, write **"wages reported to (correct UI Account #)"**.
  - If payments were made to the claimant but you considered him/her to be an independent contractor or self-employed, enter the amount paid and write **"independent contractor"** after the entry.
  - If the claimant did not work for or with you in any capacity, write **"not our employee"**.
  - If you are a successor in a business transfer, **do not duplicate wages already reported by your predecessor** for this UI account #.

4 Claimant's First and Last Days of Work

- Enter the month/day/year of the claimant's first day of work and last day of work for you in the base period.
- The quarters printed in the quarterly wage chart are the quarters that are included in the claimant's base period.

5 Space for Messages

- This space is used to give you any unique information or instructions that you may need to complete a particular Form UCB-719.
- If you are a successor in a business transfer involving this UI account, a message will be printed in this area to remind you not to duplicate wages already reported for the claimant by your business predecessor.

6 Signature, Date and Telephone Number

- Sign and date the form.
- Provide the name and telephone number (including area code) of a person who can be contacted during regular business hours if additional information is needed.

D. QUARTERLY WAGE REPORT

See Section 4 Wage Reporting

E. FORM UCB-20, WRITTEN DETERMINATION

Form UCB-20 is used to notify claimants and employers of the results of a fact-finding investigation conducted to resolve issues of benefit eligibility and/or entitlement. See Part 7 for detailed information about common eligibility issues and the investigative procedure.

If you receive one of these determinations, you are considered the employer party of interest. The employer party of interest is the employer whose interests may be adversely affected by the decision.

Review the findings and effect of the decision. If you believe the facts are wrong or that the deputy has improperly applied the law, you may request a hearing. The request for a hearing (appeal) must be received or postmarked by the department by the date specified on the determination. See Section 3 for more information about the appeal process.

EXAMPLE FORM: Example of UCB-20 Initial Determination

1 Claimant Name, Address and social Security Number

- The name and social security number of the claimant who is affected by the determination are shown here.
- The determination is mailed to the most current address on file for the claimant.

2 UI Account Number

- This is the employer UI Account number of the employer party of interest to the determination being made.
- If the number is incorrect, call one of our benefit centers immediately so that we can correct the record.

3 Employer Name and Address

- The determination is mailed to the most current official name and address of record for the UI Account number listed.

4 Issue Week and Week Ending

- The earliest UI calendar week affected by the determination is printed in this area. (Note: UI calendars have the UI week numbers printed next to each calendar week, see http://dwd.wisconsin.gov/uiben/calendars.htm.)
- All UI weeks end on Saturday. This is the Saturday of the UI week number identified above.

5 Applicable Wisconsin Law

- The statute of the unemployment law and/or administrative rule upon which the determination is based is printed here.

6 Findings and Determination of the Deputy

- The legal conclusion reached by the department deputy is printed first.
- A brief statement of the facts which support the legal conclusion follow.
- The actual impact on the UI claim and the employer UI account is summarized under the "Effect".
- The effect will indicate whether benefits are payable, or will ever be payable, from the UI account shown on the determination.
- The effect also specifies periods of disqualification, whether erroneous benefits have been paid as a result of the determination and if so, who is at fault for the erroneous payments.

7 Deputy

- The code number used to identify who investigated the issue and made the determination.

8 Date Mailed

- The date the determination was delivered to the U.S. Post Office for delivery.

9 Appeal Date

- The date by which a timely appeal must be postmarked if mailed or received if faxed.

How and Where to File an Appeal

Information about filing an appeal is **printed on the back of the determination**. If you want to request a hearing, send your appeal to the UI hearings office listed there. The hearings office will process your appeal and can answer any questions you have about the hearing. Use this address and fax number for appeals only.

Who to Contact for More Information

If you would like more information about the determination or have other questions about the benefit claim, contact one of our benefit centers. The addresses, fax numbers and telephone numbers for our benefit centers are **printed on the back of the determination**. Do not send your request for a hearing to the benefit centers.

F. FORM UCB-29, NOTICE OF BENEFIT CHARGING

This notice is sent to you whenever the claimant indicates that (s)he quit working for you and the subsequent work requalification requirement was satisfied before the application

EXAMPLE FORM: Example of UCB-29 Notice of Benefit Charging

1 UI Office

- The address of the benefit center which is handling the claim and the telephone number to call if you have questions about the notice.

2 UI Account Number

- The account number of the employing unit identified as the employer from whom the claimant quit.

3 Employer Name and Address

- The official name and address of record for the UI account number listed are printed directly below the number.

4 Claimant's Name and Social Security Number

- The name and social security number of the claimant affected by the notice.

5 Week in which the Claimant Quit

- The quit is assumed to have occurred during the week that includes the last day of work reported by the claimant. The week ending date that includes the claimant's last day of work is printed here, along with the corresponding UI calendar week number. (Note: UI Calendars have the UI week numbers printed next to each calendar week, see http://dwd.wisconsin.gov/uiben/calendars.htm.)
- If the claimant quit in a different week, notify the Department immediately.

6 Notice of Benefit Charging

- This section informs you whether or not the UI Account identified will be liable for benefits based on work performed prior to the quit.
- The accounts of "contributing or taxable" employers are not charged for such benefits.
- "Reimbursable" employers, federal employers and out-of-state employers are billed for such benefits.

G. FORM UCF-350, WEEKLY EARNINGS REPORT

Form UCF-350 is used to obtain the employer's certification of gross wages earned. All wages reported must be gross wages, hours and minutes for each pay type. Wages includes all non-work payments (bonuses, tips, incentives, overtime, sick pay or any other supplements). Report each type of pay in its own column. While used as part of our fraud control initiatives, our requesting this information does not necessarily imply that the claimant failed to report work or wages properly.

EXAMPLE FORM: Example of UCF-350 Weekly Earnings Report

1 The top section of the report includes the following claim information:

- Address, phone number and fax number of the UI location requesting the information.
- Official name and address of record of the employer for whom the claimant may have worked or is working.
- Date report was mailed to you.
- Name and social security number of the employee for whom wages are being verified.
- The UI account number of the employer listed.

2 The letter includes:

- Instructions for completing the report.
- Date by which the department is requesting the completed report be returned.
- Name of the department deputy sending the report.
- Any special instructions or information that may help you complete the report.

3 Completing the Report:

- Please complete the entire bottom portion of the form.
- Provide all of the information requested in the top portion of the chart regarding the claimant's current or former status with your company.
- The beginning date (Sunday) and ending date (Saturday) of each calendar week for which wages are being verified, as well as the corresponding UI calendar week number, will be printed on the bottom portion of the chart. You are asked to report the gross earnings for each week listed and the date they were paid. You are asked to report gross earnings, hours and minutes for each week listed.
- Be sure to include wages for all work performed in the week, as well as any other wages assigned to the week, such as vacation, holiday or dismissal pay.
- If your company does not use a Sunday through Saturday calendar week payroll, **you must adjust your figures to the calendar week dates shown.**
- Enter "NONE" in the space for each week in which there were no wages earned and/or for which no pay was assigned.

5 Remarks:

- Enter any remarks in this space that you feel may be helpful.

6 Certification:

- Be sure to sign and date the report and provide a telephone number where we can reach you during regular business hours if additional information or clarification is needed.

H. FORM UCB-701, COMPUTATION OF UNEMPLOYMENT INSURANCE BENEFITS

Form UCB-701 lists employees who have established claims based on work with you.

The information entered on the front of the form is obtained from the wage data you submitted quarterly. If you did not file a quarterly report, either your Form UCB-719, Urgent Request for Wages, or the claimant's affidavit of earnings was used to determine the claimant's potential entitlement.

EXAMPLE FORM: Example of UCB-701 Computation of Unemployment Insurance Benefits

1 UI Account Number

- This is the UI account that is potentially liable for unemployment payments based on the claims established during the report period.

2 Report Period

- This is the time period that the report covers. All claims established during this period, for which the UI account listed on the report is potentially liable, are included on the report.

3 Employee/SS Number

- The names and social security numbers for each claim established during the report period are printed in this column.

4 Liability Information

- **Total Maximum** - This is the maximum amount of regular benefits potentially payable tot he employee, and it is the maximum amount that may be charged to your account. In some situations, such as a voluntary quitting or a discharge for misconduct, these benefits may be charged to the balancing account or to the administrative account and not to your UI reserve account. You will receive a written determination if these situations apply.
- **Weekly Maximum** - The amount shown is the weekly maximum that could be charged to your account. If the employee had other employers in the base period, the amount shown is your proportional share of each week paid. The proportion potentially chargeable to you is based on the percentage of base period wages paid by you in relation to base period wages paid by all other employers.
- **Liable Until** - The date the employee's benefit year ends is shown here. Benefits based on this computation cannot be carried over to a later benefit year.

5 Quarterly Gross Wages

- The liability information in the prior column is based on the wages paid by you in the base period quarters of the claim. The gross wages paid by this UI account in each quarter of the employee's base period are shown.

6 Eligibility Pending

- If there are eligibility issues yet to be resolved against your account, there will be an asterisk in this column. Actual payment of benefits will not be made until the investigations for such eligibility issues have been completed and you have been mailed written determinations (Form UCB-20) resolving the issues.

I. FORM UCB-708, NOTICE OF CHANGED LIABILITY FOR UI BENEFITS

Form UCB-708 notifies employers of reduced liability when the resolution of a benefit year issue changes the claimant's remaining entitlement.

EXAMPLE FORM: Example of UCB-708 Notice of Changed Liability for UI Benefits

1 UI Account Number

- This is the UI account whose liability for listed claims has been changed by decisions issued during the report period.

2 Report Period

- This is the time period that the report covers. All claimants whose entitlement from the listed UI account is changed by a decision issued during this period are included on the report.

3 Employee's Name/Social Security Number

- The names and social security numbers of all claimants whose entitlement from the UI account shown was changed by a decision issued during the report period are printed in this column.

4 Liability Remaining

- The first column lists the total potential entitlement remaining against the UI account number shown on the report before the decision was issued that changed the claimant's entitlement
- The second column shows the total potential entitlement remaining from the UI account shown on the report after the decision that changed the claimant's entitlement was issued.

J. FORM UCF-17275, WAGE/EARNINGS AUDIT

Form UCF-17275 is used to audit the wages earned by certain claimants during a quarter in which they claimed and were paid UI benefits. It is used to prevent fraud and abuse by ensuring that the payments made to the claimant were proper.

Instructions for completing this report are identical to those for completing Form UCF-350 Weekly Earnings Report.

EXAMPLE FORM: Example of UCF-17275 Wage/Earnings Audit

SECTION 2 – TAX

PART 1 - Establishing Coverage

As an employer of one or more individuals in Wisconsin, you are required to **maintain employment records** that will permit an accurate determination of your Unemployment Insurance (UI) tax liability. If requested, you must **submit reports** to establish if you are a covered employer and/or your contribution liability.

You are required to pay UI contributions on your payroll after you've met the statutory coverage liability. Not all employers are "covered" employers. Those that do not meet the coverage requirements or maintain only excluded employment are not subject to the UI law.

A. Determining Coverage Liability

As an employer, you become "covered" and incur tax liability if you meet any one of the following conditions:

1. Conditions Exclusive to Qualified Settlement Fund (QSF):
    - Qualified Settlement Funds (QSF) cannot be employers. No services are performed by any employees involved in the settlement for the QSF and the settlement fund cannot be considered the employer.
    - Settlement wages must be allocated to and reported by the appropriate employer(s) involved in the settlement.
    - Do not register the QSF as an employer under New Employer Registration.

2. Conditions Exclusive to Commercial Employers:
    - You paid wages of $1,500 or more in a quarter in any calendar year or;
    - You employed one or more individuals in employment for some part of a day in 20 or more weeks in any calendar year. The weeks need not be consecutive and part-time employees must be included in the employee count.

3. Conditions Exclusive to Agricultural Employers:
    - You paid cash wages for agricultural labor of $20,000 or more in a quarter in any calendar year or;
    - You employed ten or more individuals in agricultural labor for some part of a day in 20 or more weeks of any calendar year.

4. Conditions Exclusive to Domestic Employers:
    - You paid cash wages of $1,000 or more in a quarter for domestic service in any calendar year.

5. Conditions Exclusive to Nonprofit Employers:
    - You are a nonprofit organization described in Section 501(c)(3) of the Internal Revenue Code and you employed four or more individuals on a day in 20 or more weeks in any calendar year.
    - Other nonprofit organizations (i.e., non 501(c)(3)) fall under the commercial employer's conditions for liability (see Conditions Exclusive to Commercial Employers above).

6. Conditions Exclusive to Government Employers:
    - Government employers have mandatory coverage.

7. General Conditions Under Which ANY Employer Will Be Liable for UI Taxes:
    - You've paid any wages for Wisconsin employment and you have a liability for that year under the Federal Unemployment Tax Act (FUTA) or;
    - You've taken over part or all of the business of an employer already covered under the law (see Part 6: Business Transfers and Taking over a UI Account) or;
    - You have no liability by law, but you voluntarily elected to become a covered employer (with the Department's approval).

B. How to Establish Compliance

If you think you meet the above conditions or you expect to in the near future, you can **complete a new employer registration form on-line**:

1. Go to http://dwd.wisconsin.gov/uitax.
2. Click "New Employer Registration" link.

C. Reimbursement Financing

Governmental units, certain nonprofit organizations, and Indian Tribes can choose between the tax and reimbursement methods of financing unemployment benefit costs. (Only nonprofit organizations with a ruling of an IRS Code 501(c)(3) status can elect reimbursement financing.)

Tax financing employers pay a quarterly unemployment tax on the wages paid to their employees. Reimbursement financing employers do not pay a quarterly tax, although they must still file the quarterly tax and wage reports. Instead, they reimburse the department for 100% of the unemployment benefits charged to their account.

Form UCT-14384-1-E "Benefit Charges and Adjustments" is sent at the end of each period in which there have been benefit payments and/or adjustments debited or credited to the reimbursable employer's account. Depending on the reimbursable employer's account activity you could receive up to 4 statements in a month. The first or last statement of the month could be for more or less than 7 days to insure that only 4 statements are sent each month. See Example of UCT-14384-1-E.

Monthly billing statements (UCT-14309-E "Reimbursable Employer Statement") are sent at the beginning of the following month showing the employer's balance at the end of the prior month and a summary of the "Benefit Charges and Adjustments" statements sent during the month. See Example of UCT-14309-E.

Accounts for nonprofit organizations and Indian tribes are normally set up on the tax financing method but reimbursement financing can be elected. Accounts for governmental units are initially set up on the reimbursement financing method but tax financing can be elected.

Nonprofit employers electing reimbursement financing must file an assurance of reimbursement with the department. The assurance can be in the form of a surety bond, letter of credit, certificate of deposit, or any other nonnegotiable instrument of fixed value.

The employer's original assurance has to cover the 5-year period starting from the beginning of the year in which the employer's reimbursement financing election takes effect. The amount of the assurance must be at least equal to 4% of the employer's taxable wages for the past calendar year or projected payroll if larger. The adequacy of the assurance amount is redetermined every other year. If the employer ceases business or converts to tax financing, the assurance must remain in effect for up to 2 1/2 years to cover the period of benefit claim liability. At the end of this period, the assurance is returned to the employer.

Certain non-profit employers electing reimbursement financing may be subject to an annual assessment for payment of uncollectible benefit reimbursements due from employers no longer in business. The assessment will only be made in years where the amount of uncollectible debts exceeds $5,000. The total assessment against all employers is limited to no more than $200,000 annually.

When a governmental unit, nonprofit organization or Indian Tribe chooses to convert to reimbursement financing, the positive or negative balance in their account remains in the Unemployment Reserve Fund and is transferred to the Fund's balancing account.

A government unit, nonprofit organization or Indian Tribe interested in obtaining further information about reimbursement financing should contact us at:

- Email: UIReimburseErs@dwd.wisconsin.gov
- Telephone: 608-266-9989
- Deaf, hearing or speech-impaired callers may reach us through WI TRS

PART 2 - Covered and Excluded Employment

A. Employee vs. Independent Contractor

Effective January 1, 2011, the definition of employee was amended for private sector employers other than nonprofits and trucking and logging operators. This definition is used to determine which individuals who provide services for them need to be included in the Unemployment insurance program. In other words, it determines when an individual's risk of unemployment belongs with an employing unit rather than with an individual who bears the risk of his or her own unemployment. The latter is known as an independent contractor. The amendment was made to clarify the test used to determine if an individual providing services is an employee or an independent contractor under the Unemployment Insurance Law. See the definitions of employee below for services performed both before and after January 1, 2011 under Other Private Sector Employers.

Wisconsin's Unemployment Insurance Law defines the term "employee" differently for individuals who provide services in the trucking or logging industry and individuals working for government units and nonprofit organizations from individuals working in other industries.

1. **TRUCKING, LOGGING, GOVERNMENT UNIT OR NONPROFIT ORGANIZATION.**
   An individual working as a logger or trucker or providing services to a government unit or nonprofit organization will be considered an employee unless:

   a. The individual is free from the employing unit's direction and control, not only under the terms of any written contract, but also in the day-to-day performance of such services. The individual must be free from your direction and control in regard to the details of when, where, and how their services are performed. In addition, although an employer can determine what the desired end results are, you cannot control the details of how the worker accomplishes those results. If you have the right to direct and control the logger or trucker, even if you never exercise that right, the individual is an employee and not an independent contractor.
   b. The services have been performed in an independently established trade, business or profession in which the individual is customarily engaged. Generally this means that the logger or trucker has an investment from which he/she may realize either a profit or a loss. In addition, the individual alone must have the right to sell or give away that business investment.
   c. See DWD 105 (Relationship Of Carriers And Contract Operators) and DWD 107 (Employment Relationships In The Logging Industry) for additional details.

   Unless both of the above conditions are met, the logger, trucker or individual providing services to a government unit or nonprofit organization is an employee and not an independent contractor.

2. **OTHER PRIVATE SECTOR EMPLOYERS.**
   This definition first applies with respect to **services performed after December 31, 2010.** The employing unit must satisfy the Department that the individual by contract and in fact performs services free from control or direction by the employing unit. In making this determination, the following nonexclusive factors may be considered:

   a. Whether the individual is required to comply with instructions concerning how to perform the services.
   b. Whether the individual receives training from the employing unit with respect to the services performed.
   c. Whether the individual is required personally to perform the services.
   d. Whether the services of the individual are required to be performed at times or in a particular order or sequence established by the employing unit.
   e. Whether the individual is required to make oral or written reports to the employing unit on a regular basis.

   In addition to providing services free from direction and control, the **individual must meet six or more** of the following conditions:

   a. The individual advertises or otherwise affirmatively holds himself or herself out as being in business.
   b. The individual maintains his or her own office or performs most of the services in a facility or location chosen by the individual, and uses his or her own equipment or materials in performing the services.

c. The individual operates under multiple contracts with one or more employing units to perform specific services.
d. The individual incurs the main expenses related to the services that he or she performs under contract.
e. The individual is obligated to redo unsatisfactory work for no additional compensation or is subject to a monetary penalty for unsatisfactory work.
f. The services performed by the individual do not directly relate to the activities conducted by the employing unit retaining the services.
g. The individual may realize a profit or suffer a loss under contracts to perform such services.
h. The individual has recurring business liabilities or obligations.
i. The individual is not economically dependent on a particular employing unit with respect to the services being performed.

The following definition applies with respect to **services performed prior to January 1, 2011.** An individual must **satisfy at least 7 of the following 10** criteria to be considered an independent contractor:

a. The individual must either have or have applied for a Federal Employer Identification Number (FEIN).
b. The individual must have filed federal self-employment or business tax returns in the previous year based on the type of service they are providing to the employing unit or, in the case of a new business, in the year in which such services were first performed.
c. The individual must maintain a separate business with his/her own office, equipment, materials and other facilities. Does the worker have what is needed or essential to do their job or are essentials provided by the employing unit? Consider the type of business when determining what business assets are reasonable to expect the individual to have. For instance, it would be reasonable to expect that a machinist would have tools and equipment and a facility other than his/her home from which to work. It would not be as likely that a computer consultant would have a facility other than an office in his/her home but a computer, modem, and fax would be essential.
d. The individual must operate under contracts to perform specific services for specific amounts of money and under which the individual controls the means and method of performing the services. An agreement between the worker and the employing unit is a contract, whether that agreement is oral, written, or limited to the practices followed.

   An employing unit may direct what should be done by an independent contractor, but the individual should determine how to accomplish the job.
e. The individual should incur the main expenses related to the services being performed. If expenses are reimbursed by the employing unit, it is unlikely that the individual will meet this criterion.
f. The individual is responsible for the satisfactory completion of the services and is liable for failure to satisfactorily complete the services. If rework is necessary, will the worker be required to perform the work at no additional cost to the employing unit? If the work is not completed according to contract, can the employing unit sue for breach of contract? An independent contractor is most likely responsible for completing the job to the satisfaction of the employing unit.
g. The individual receives compensation for services performed on a commission or per job or competitive bid basis and not on any other basis. An individual paid strictly by the hour would not meet this requirement unless the hourly rate is part of a bid or per job agreement.
h. The individual must be able to realize a profit or suffer a loss under contracts to perform services. If the worker has expenses that may exceed income, this criterion would be met. This would be true, for example, if an individual underbid and material costs exceeded money received for the job.
i. The individual has recurring business liabilities or obligations. If the worker has liabilities that continue whether or not he/she has customers, this item would be met. Some examples of liabilities are lease payments, insurance, advertising, professional fees, rent, and interest.
j. The success or failure of the individual's business depends on the relationship of business receipts to expenditures. If success or failure of the worker's business depends on something else, such as a single source supplier or a single employing unit's sales license, this requirement is not met.

Under current law, it is incumbent on the employing unit to satisfy the Department that the applicable conditions are met in order to consider the worker an independent contractor. The Department will work with both the employing unit and the individual to gather the necessary information. However, it is ultimately the employing unit's responsibility to respond to the Department.

If you have questions regarding the independent contractor provisions of the law:

- See also the Worker Classification website
- Email: taxnet@dwd.wisconsin.gov
- Telephone: 608-261-6700
- Deaf, hearing or speech-impaired callers may reach us through WI TRS.

B. Employment Excluded by Statute

Individuals who meet the statutory definition of employee but who perform certain types of services are specifically listed or designated as not performing covered employment. The result is that their wages are not reportable/taxable (unless they are taxable under FUTA*) nor will they be entitled to receive UI benefits based on those wages. The following excluded employment is grouped by types of employers that are entitled to the exclusion for UI tax purposes:

1. **FOR ALL EMPLOYERS:**

   a. Service performed by an individual who is enrolled at a nonprofit or public educational institution, which combines work experience with academic instruction in a full-time program for credit at the institution (work/study student);
   b. Service performed as a student nurse, medical intern or patient in the employ of a hospital; or
   c. Service performed in any calendar quarter in the employ of an organization exempt from federal income tax under section 501(a) of the Internal Revenue Code, other than an organization described in section 401(a) or 501(c)(3), or under section 521 if the payment for such service is less than $50.00 in a calendar quarter (e.g., officer of fraternal organization or labor union with wages of less than $50.00 in a calendar quarter).
   d. Service by a nonresident alien for the period he or she is temporarily present in the United States as a nonimmigrant if the nonresident alien has F, J, M or Q visas. The spouse and children of the nonresident aliens are also excluded.
   e. Services performed by certain AmeriCorps participants funded under certain special federal grants to governmental, nonprofit or educational entities.

2. **FOR ALL EMPLOYERS EXCEPT GOVERNMENT UNITS AND NONPROFIT ORGANIZATIONS:**

   a. Service performed by an individual in agricultural labor if the employer is not subject to the general agricultural coverage conditions (see Part 1: Establishing Coverage);
   b. Service as a domestic in the employ of an individual in that individual's private home if the employer is not subject to the general domestic coverage conditions (see Part 1: Establishing Coverage);
   c. Service as a caddy on a golf course (for Benefit purposes only);
   d. Service as an individual selling or distributing newspapers or magazines on the street or from house to house. (for Benefit purposes only - for Tax purposes only those under age 18);
   e. Service covered under the Federal Railroad Unemployment Insurance Act;
   f. Service as an insurance agent or real estate salesperson working solely on a commission basis;
      1. Effective October 1, 2016: Service of a real estate “licensee” if 75% or more of the worker’s remuneration is directly related to sales or other output. In order for this exclusion to apply, the individual must perform the services under a written contract that provides that the individual will not be treated as an employee with respect to the services for federal tax purposes.
   g. Service as an unpaid corporate or association officer;
   h. Service by an individual employed entirely outside Wisconsin;
   i. Service by a sole proprietor’s father, mother, spouse or by a son or daughter, or by a child or stepchild if legally adopted, under the age of 18 for his or her parents. This does not apply to a corporation and only applies to a partnership if the relationship of the exempt employee is excludable for all partners;
   j. Service as a court reporter paid on a per diem basis (for Benefit purposes only);
   k. Service performed, other than in a permanent retail establishment, by an individual engaged in the selling or soliciting the sale of consumer products for use, sale, or resale by the buyer if substantially

all of the remuneration is directly related to the sales or other output related to sales rather than to hours worked;

l. Maritime service excluded from coverage under the Federal Unemployment Tax Act; or

m. Service by an individual leasing a taxicab if:

   1. The individual retains the income earned through use of the taxicab under the lease;
   2. The individual receives no direct compensation from the lessor under the lease; and
   3. The amount of the lease payment is not contingent on the income generated by the use of the taxicab

n. * Personal care or companionship services performed for an ill or disabled family member who directly employs the individual providing services is excluded. For purposes of this exclusion, “family member” means a spouse, parent, child, grandparent, or grandchild of an individual, by blood or adoption, or an individual’s step parent, step child or domestic partner within the meaning of Chapter 770.01(1). (Excluded even though covered by FUTA).

o. Service performed after 01/05/14 by an inmate of a state or a federal prison.

3. **FOR GOVERNMENT UNIT, INDIAN TRIBE AND NONPROFIT ORGANIZATIONS:**

a. Service by an individual under a work relief or work training project financed by state or federal funds, unless coverage is required as a condition in the state or federal program;

b. Service by an individual receiving rehabilitation through a rehabilitation program; or

c. Service by an inmate of a custodial or penal institution.

4. **FOR NONPROFIT ORGANIZATIONS ONLY:**

a. Service in the employ of a church or convention or association of churches;

b. Service in the employ of an organization operated primarily for religious purposes and operated, supervised, controlled or principally supported by a church or convention or association of churches; or

c. Service by a duly ordained, commissioned or licensed minister of a church in the exercise of such ministry or by a member of a religious order in the exercise of duties required by the order.

5. **FOR GOVERNMENTAL UNIT OR INDIAN TRIBE:**

a. Service of an official elected by vote of the public;

b. Service as an official appointed to fill part or all of the unexpired term of a vacant position normally filled by election;

c. Service as a member of a legislative body or judiciary of a state or political subdivision;

d. Service as a member of the Wisconsin National Guard in a military capacity;

e. Service solely on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency; or

f. Service in a position designated as a major nontenured policy or advisory job, or in a position designated as a policy or advisory position not normally requiring service of more than 8 hours per week.

6. **FOR EDUCATIONAL INSTITUTIONS ONLY:**

a. Service for an educational institution by a student enrolled and regularly attending classes at the institution; or

b. Service by the spouse of a student working under a program to provide financial assistance to the student if written notice is given at the start of employment that it is not covered for unemployment insurance.

C. Employment Excluded by Employer Election

The employment exclusions that follow are optional. You must make an election to exclude this employment and must meet the specified criteria before the election will be approved.

1. **CORPORATE OFFICER EXCLUSION**

Section 108.02(15)(L) allows small employers to elect to exclude the wages of all principal corporate officers provided that they have a direct or indirect ownership interest in the corporation.

The result is that you are not required to report the wages or pay state UI taxes on the wages of corporate officers who own or control 25% or more of the business. These excluded officers will not be entitled to draw UI benefits.

Criteria which must be met:

- The corporation must file an Election to Exclude All Principal Officers, Form UCT-7937. This must be filed by March 31 of the year you're requesting to elect out of coverage. In the case of new employers, it's due when the first quarterly report is due.
- The corporation must be a small employer. Annual taxable payroll must be $500,000 or less for the calendar year preceding the year of election.
- The principal officer(s) must have a direct or indirect substantial ownership interest in the corporation. An officer has direct or indirect substantial ownership if one-fourth (25%) of the ownership interest is owned or controlled by the officer.
- The department will issue an Initial Determination, approving or rejecting the election, based upon the criteria above. The election remains in effect as long as the conditions are met or until you reelect coverage of wages for the corporation's officers. Once you reelect coverage, you cannot again elect the Corporate Officer Exclusion.
- **It is not always beneficial to elect the Corporate Officer Exclusion. The Federal Unemployment Tax Act (FUTA) does not recognize this exclusion and therefore, since no state UI tax has been paid on the officers' wages, you pay the full 6.0% FUTA tax on the excluded officers' wages.**
- However, if other employees are on your payroll in addition to excluded corporate officers and their wages exceed $7,000, "credits" are generated which may offset the additional FUTA tax on the excluded officers.

To help determine if a savings will be realized, please use Form UCT-8055.

Employers who have elected to exclude their principal corporate officer wages can rescind the exclusion (reelect coverage) if they determine the exclusion no longer benefits them. Employers must notify the department before March 31 of the year they wish to reelect coverage of corporate officers using Form UCT-17927-E.

Wisconsin law allows employers to exclude principal officers and reelect coverage of those officers only once. Therefore, future elections to exclude principal officers will not be approved.

For further information, please contact us at:

- Email: taxnet@dwd.wisconsin.gov
- Telephone: 608-261-6700
- Deaf, hearing or speech-impaired callers may reach us through WI TRS

2. **SEASONAL EMPLOYER DESIGNATION**

Certain employers may elect to be designated as Seasonal Employers. Ultimately, this could result in a lower tax rate. Seasonal employees may not be eligible to collect UI benefits, but wages would still be reported and taxes would continue to be paid on these wages. As a seasonal employer, you would also pay an additional 2% solvency tax on all of your taxable payroll for the calendar year, to a limit of the maximum rate in effect for the calendar year.
Criteria which must be met:

- You must file an Election for Seasonal Employer Designation, Form UCT-9315**, by May 31 of the year prior to the year you're requesting your designation as a seasonal employer to begin.

- You must be in a tourism, recreational or tourist service, agricultural production, agricultural services, forestry, commercial fishing, hunting or trapping industry (DWD 147, Wis. Administrative Code).
- You must customarily operate during two calendar quarters within a year. These two quarters are regarded as the season.
- At least 75% of the wages you pay must be for work performed during the two seasonal quarters.
- You are not delinquent in making any UI reports/payments. We will examine the application and issue a determination by June 30 as to your seasonal status. We also examine each seasonal employer every year to determine if the above conditions continue to be met.

When designated as a **Seasonal Employer**:

The employment **IS** excluded (for benefit purposes) and no benefits are allowed **IF**:

1. The worker received written notice before performing any services that their work may be considered excluded employment for UI purposes;
2. You've employed the worker for less than 90 days during any season which includes a portion of the worker's base period; and
3. The worker has not earned $500 or more during his/her base period from another employer, which is covered by the UI law of any state or federal UI law.

Charging of UI Benefits:

1. Your account is charged if the worker worked for you 90 days or more (regardless of outside earnings).
2. Your account is not charged if the worker worked for you less than 90 days and had outside earnings of $500 or more.

**To obtain an election forms or for further information, please contact us at:

- Email: taxnet@dwd.wisconsin.gov
- Telephone: 608-261-6700
- Deaf, hearing or speech-impaired callers may reach us through WI TRS.

D. Tax vs. Benefit Exclusion

Work for an employer may be covered for UI tax purposes even though it is excluded for benefit purposes (e.g., work for designated seasonal employers). However, work excluded for tax purposes is generally excluded for benefit purposes. (Refer to the chart, Employment that is Excluded for Benefit Purposes, in Section 1, Part 7 for a summary comparison.)

PART 3 - Taxability of Wages

A. Definition of Wages

"Wages" means every form of payment directly or indirectly payable by an employing unit to an individual for personal services. This includes salaries, commissions, vacation pay, dismissal pay, bonuses, tips, certain fringe benefits, and payments in kind and any other similar advantage received from the employing unit, whether paid directly or indirectly. It may also include rent, housing and meals. Tips are only taxable to the extent declared in writing (accounted for) by the employee to the employer.

Wisconsin adopted the federal definition of wages for UI tax purposes as of 1/1/93 with two exceptions:

- To determine initial coverage of an agricultural entity, only cash wages are considered. However, once covered, the employer must include all cash and non-cash payments for agricultural labor as wages.
- The value of employee achievement awards (that is compensation for services) is included as wages.

Report wages in the calendar quarter in which they are paid or constructively paid. Constructive payment occurs when your employee has the option of receiving payment but instead chooses to defer payment.

Casual Labor

Casual labor is a common term used in the employer community to describe workers performing a variety of services, usually on a temporary or part-time basis.

Workers hired for an hour, a day, a week, or for part-time services are typically employees. There is no provision in the law that excludes a worker from employment solely because he or she works less than full-time. The following types of workers have been referred to as casual laborers and are reportable for unemployment insurance purposes.

- Part-time worker
- Short-term worker
- Day laborer
- Student (unless working for an educational institution in which they are enrolled, work study program employment, and non-resident aliens working for any employer under specific visa types)
- Nonresident Alien (unless working under specific visa types)
- A worker on probation
- A worker in training
- A retiree collecting social security benefits
- A worker without a social security number
- Workers paid in cash

B. Fringe Benefits

1. Deferred Compensation

Taxable:

- 401(k) Salary Reduction Agreement amount.
- Discretionary Contribution. When your employee has an option to take a portion of the employer-paid contribution in cash, that portion, whether taken in cash or left in the fund, is considered to be constructively received.
- Compensation deferred under Nonqualified Plans
- Payments from non-qualified plans are taxable as of the later of the date the services are performed, or the date there is no substantial risk of forfeiture of the rights to such amount. Generally the amount deferred will be taxable when paid, unless it can be shown that there is no longer a substantial risk of forfeiture (i.e., the employer has set the deferred amount aside in a separate account or fund established in the worker's name).

Not Taxable:

- Discretionary Contribution. This is an employer contribution to your employee's account out of company profits, when the amount is not available to your employee until separation.
- Payments made to a 401(a) qualified trust, except for payments made to or from a 401(a) trust which is administering the 401(k) plan.

2. Section 125(b) (Cafeteria Plans)

Taxable:

- Acceptance of cash payment (cash option) in lieu of participation in 125(b) plan is taxable.
- Unexpended amounts paid to employees at year-end are taxable.
- 401(k) Salary Reduction Agreement amount.

Not Taxable:

- Premium Only Plan. Your employee pays for particular benefits with pre-tax dollars through a salary reduction agreement. There is an option not to join the plan (cash option).
- Premium and Flexible Spending Account. You deduct pre-tax dollars through a salary reduction agreement to pay for employee selected benefits, based on your employee's estimate of charges. Any unexpended monies revert to you, the employer. There is an option not to join the plan (cash option).
- Cafeteria Plan. You provide your employee with a fixed amount to purchase benefits. Money expended for these benefits is treated as pre-tax. There is an option not to join (cash option).

3. Sickness or Disability Pay

- Sickness or accident disability payments may be made under a plan or system you established which makes provisions for your employees and their dependents generally or, perhaps less commonly, they may be made more informally or only to certain employees.

- Sickness or accident disability payments which are made to your employee or any of his/her dependents (directly or through a third-party payer) during the first six months starting after the last calendar month the employee worked for you, are reportable/taxable as wages for UI contribution purposes.
- Worker's Compensation payments made to your employee or any of his/her dependents are not taxable for UI contribution purposes.
- Sickness or accident disability payments provided by a third party insurer, but financed by employer and employee premiums, are taxable only for the portion financed by employer-paid premiums. (Employer payments on behalf of employees using employee pre-tax dollars are considered employer payments.)

4. Employee Portion of FICA Taxes

If the employer pays the employee portion of FICA taxes, it is taxable unless it's for domestic service in a private home or agricultural labor.

5. Payment in Kind

Compensation paid in any form is taxable wages (unless specifically excluded, such as expense reimbursements or employee moving expenses). Some common types of payment in kind are; housing, meals, merchandise discounts, transportation, employee contest prizes, personal use of a company car and club memberships. This list is not all-inclusive.

The tax status of the following types of payment in kind changed effective January 1, 1993.
Meals and lodging may be nontaxable, but the following criteria must be met:

1. It is furnished on behalf of the employer.
2. It is for the convenience of the employer.
3. It is on the employer's premises.
4. Your employee is required to accept it as a condition of employment (lodging only).

Despite this general rule, all **in-kind payments for agricultural labor** remain taxable.

6. Value of Room and Meals

DWD 101 states for purposes of s.108.02(26) (wages), the employer shall **value lodging and meals at the actual value** or, if the **actual value is not available**, the employer shall make a reasonable estimate of the value.

If the actual value or reasonable estimate is not available, the department shall value lodging and meals as follows:

If actual value or reasonable estimate is not available:

(1) Lodging	$105.00 per week	or $15.00 per day;	
(2) Meals	$86.00 per week,	$12.30 per day or	$4.10 per meal.

PART 4 - Account Reporting

A. Filing a Quarterly Report

Report all wages on a calendar quarter basis. The first $14,000 in wages paid to each employee in calendar year 2013 and beyond is taxed. Wages paid to each employee above the $14,000 limit are reported as wages but excluded from taxation.

If you are subject to the Wisconsin UI Law you must file a quarterly report even if you didn't have payroll in the quarter.

Contribution reports are due by the close of the month following the end of the calendar quarter.

Quarterly Due Dates

The quarterly due dates are:

1st quarter	(Jan., Feb., Mar.)	due April 30
2nd quarter	(Apr., May, June)	due July 31
3rd quarter	(July, Aug., Sept.)	due October 31
4th quarter	(Oct., Nov., Dec.)	due January 31

If your contribution report and/or payment is **not received by the due date**, interest accrues on the unpaid tax at a rate of 0.75% per month starting on 08/01/2012.

If the amount due is for a **period prior to 07/31/2012**, interest is assessed at 1% per month from the due date of the report through July 2012 and then at 0.75% per month from August 2012 through the current date. The interest rate can change annually.

Please refer to the **Interest Assessment Guide** for additional information regarding interest rates and calculations.

Deferral Option

Employers with a **first quarter tax liability** of $1,000.00 or more can defer paying up to 60% of the total liability to future quarters. To avoid assessment of interest on the deferred amount, employers must comply with the following requirements.

- The employer must not have any prior quarter outstanding amounts due on April 30. This includes interest, penalties, or other fees.
- The first quarter contribution/wage report and at least 40% of the first quarter tax liability must be received by the April 30 due date.
- The next 30% of the first quarter and all second quarter tax liability must be paid by July 31.
- The next 20% of the first quarter and all third quarter tax liability must be paid by October 31.
- The remaining 10% of the first quarter and all fourth quarter tax liability must be paid by January 31 of the next year.

Interest will not be assessed on the deferred amounts as long as the installment payments and subsequent quarter tax payments are made by the specified due dates. If there are any other amounts due on each of the specified due dates including interest and/or penalties, interest on the deferral amount will be assessed retroactive to April 30. All quarterly contribution/wage reports for quarters subsequent to the first quarter must be filed by the appropriate due dates.

Please note that any deferral amount not paid prior to July 31 will not be included in your account balance for purposes of computing your tax rate for the next calendar year. This could result in being assigned a higher rate.

File Deferral Option Electronically

To **take advantage of this deferral option**, you must file the election electronically between 2/15 and 4/30 of the year you want to take the deferral. The website address is http://dwd.wisconsin.gov/uitax click on "Employer UI Account Information," the First Quarter Deferral Election can be found under "**Reports > Reporting Functions > First Quarter Deferral Election**."

A new election must be filed each year you wish to defer your first quarter tax liability. **Tax and wage reports must be filed electronically for all calendar quarters of the year elected for deferral**.

Questions?

If you have any questions, please call an **employer service representative** at 608-261-6700.

B. Internet Tax and Wage Reporting

There is a web site available for employers to file their Wisconsin Unemployment Insurance tax and wage report. A payment coupon will be provided to submit with the tax due or payment can be made through ETF. The web site address is http://dwd.wisconsin.gov/uitax and click on "File Tax and Wage Reports".

One **advantage** of entering the wage and tax reports online is the system will calculate the wage base exclusion for you.

Online Filing Requirement

Unless an employer uses an employer agent to prepare their report, employers with 25 or more employees are required to file their tax report using online. This requirement took effect beginning with the report for 3rd quarter 2008. Continued filing on paper will result in a $25 penalty.

C. Employer Agent Reporting

Employer agents who prepare UI reports, must file reports electronically. A $25 penalty may be assessed for each employer report not filed electronically.

D. How Your Tax Rate is Determined

As a **newly subject employer**, you are assigned a standard fixed rate for the first three calendar years. Newly subject employers in the construction industry pay at the average rate for all other experience-rated construction industry employers.

New employer rates can be found at http://dwd.wisconsin.gov/ui/employers/taxrates.htm.

New employer tax rates apply to a calendar year and not to the first four or eight calendar quarters during which an employer has payroll. After the first three calendar years, you will be assigned an annually determined "experience" rate based upon the activity in your account.

An **account balance** is maintained for each individual employer covered under the UI Law. The balance is maintained for tax rating purposes only. **The taxes paid are similar to insurance premiums and, therefore, in the event an employer goes out of business, no money in the account is returned to the employer**. The balance increases with each tax payment made by the employer and decreases with every unemployment benefit payment made to their laid off workers.

After the initial new employer tax rating period, 3 years, we determine your **experience rate as follows**:

1. Your account balance as of June 30, which includes tax payments made through July 31 and benefit payments made through June 30, is one factor used to compute your rate.

   Another factor is your fiscal year taxable payroll as reported on your quarterly reports for the fiscal year ending on June 30 of the current year. In simple terms, the quarters would always be the last two quarters of the previous year and the first 2 quarters of the current year.

   Your account balance is divided by the fiscal year taxable payroll to determine your "reserve percentage" which in turn determines your tax rate for the next year.

2. The "reserve percentage" is then applied to the rate schedule. The rate schedule shows a basic rate and a solvency rate total rate.

   - The **basic rate portion** of each tax payment is credited to your account balance.
   - The **solvency rate portion** of each tax payment is credited to a shared risk account called the balancing account.
   - Your **total rate** is the sum of your basic rate and your solvency rate and is the rate shown on your quarterly tax report.

This total rate applies to all quarters for the following calendar year.

You will normally receive your notice of rate in mid-October for the next calendar year. **Form UCT-100B is the rate notice**.

Rate Schedules

The **rate schedules can change from year to year** depending on the overall condition of Wisconsin's Unemployment Reserve Fund.

- The cash balance in the Reserve Fund on June 30 each year determines which of the 4 statutory rate schedules is in effect for the following calendar year.
- The rate schedules is in effect for the following calendar year.
- The rate schedule differs if you are considered a small or a large employer.

Large Employer

If **taxable payroll is $500,000.00 or more**, the employer would be considered a **large employer**.

E. Lowering Your Tax Rate

Each year employers have the option of making an **extra contribution**, which is credited directly to their June 30 account balance and is used for the purpose of lowering their UI rate for the following year by one rate bracket on the rate schedule.

This extra payment is called a "voluntary contribution".

Voluntary Contribution

A "voluntary contribution" is a payment over and above your required quarterly contributions and directly affects the account balance used to determine your next year's rate. You may submit a voluntary contribution to obtain a lower rate for the upcoming year **only from mid-October through November each year**. These payments must be received by November 30.

It is not always advantageous to submit a voluntary payment as this payment might be more than the savings you realize.

To determine the dollar amount needed to lower your rate:

1. Take the "reserve percentage" from your rate notice and locate that number on the rate schedule.
2. Look at the minimum "reserve percentage" for the next lower tax rate on the schedule. This minimum percentage is what will be required for you to get the next lowest rate.
3. Multiply the "reserve percentage" of the lower rate by your fiscal year payroll as shown on the rate notice. This figure represents the account balance needed to qualify for the lower rate.
4. Subtract your actual June 30 balance on your rate notice to obtain the amount of voluntary contribution needed. To determine if you are going to realize a savings in taxes payable for next year, multiply the difference in the tax rates by the fiscal year payroll from the rate notice. If this figure is more than the amount of the voluntary contribution needed, you are realizing a savings. If not, paying at the original rate will cost you less. Remember, **other circumstances** such as an increase in payroll may alter your decision.

Resources

- Access your account and use the online Voluntary Contribution Calculator.
- Manually calculate using Form UCT-15393, Voluntary Contribution Worksheet,

Help

We will be glad to help you compute your voluntary contribution and determine if you are likely to realize a savings.

- Call 608-261-6700 for help.
- See Employer Resources for more information about online access and services.

A **voluntary payment once submitted is irrevocably paid**. The amount of any voluntary contribution in excess of the amount necessary to lower your rate one bracket will be set up as a credit and will be refunded at your request.

F. Filing an Adjustment Report

How to File an Adjustment Report to Correct any Reporting Errors in your Account

The adjustment should include a quarterly breakdown of the changes to be made.

- Use a Form UCT-7842-E, Contribution Adjustment Report (http://dwd.wisconsin.gov/dwd/forms/ui/uct_7842_e.htm)
- Or write us a **letter** to correct any reporting errors in your account.

Mail adjustment forms or letters to:

Bureau of Tax & Accounting
Division of Unemployment Insurance
P.O. Box 7942
Madison, WI 53707

If you have **over-reported your taxable wages**, you may request a refund. You must apply for it within three years after the close of the calendar year in which the payment based on the over-reported amount was made.

If the adjustment is for **underreported wages**, follow the same procedure in notifying the department. Submit any additional taxes due at the tax rate assigned for the year underpaid.

We will **refund your overpaid taxes if** you have no outstanding UI liabilities and your credit is greater than your estimated UI taxes for the next two quarters.

Refunds are not made during the tax collection months of January, April, July and October.

G. Reserve Fund Balance Statement

Form UCT-14384, Reserve Fund Balance Statement, is an informational statement showing your current account balance and is generated at the end of each period in which there has been some activity in your account. **THIS IS NOT A BILL**. See Example of UCT-14384.

All Reserve Fund Balance Statements can be viewed online through our secure employer portal. Starting June 2016, Reserve Fund Statements will only be mailed when there are benefit charges or benefit adjustments posted to your account.

The statement shows your balance at the beginning of the period, tax payments and various amounts credited or debited to your account, voluntary contributions credited, 10% write-offs credited, benefit charges and adjustments debited or credited, and the balance at the end of the period. Your account balance as of June 30 (including any tax payments made during July) each year is used to determine your tax rate for the next calendar year.

Contributions to the UI Reserve Fund are considered a tax and, as such, are not refundable. Contributions are split into two categories in accordance with Chapter 108.18. They are:

1. Reserve Fund: An employer's quarterly tax payment posted to their account generated by the "basic" portion of the employer's tax rate.
2. Solvency: An employer's quarterly tax payment posted directly to the state solvency (balancing) account generated by the "solvency" portion of the employer's tax rate.

Only the portion of your payment credited to your account balance is shown on this statement. The other parts of your payment may be applied to administrative fees, interest, penalties, or collection costs and do not show up on this statement. Both basic and solvency payments represent taxes paid and are not refundable should you go out of business. The balance in your account, along with all other experience, may be transferable under certain conditions should your business be sold (see Part 6: "Business Transfers and Taking Over a UI Account").

H. FUTA Crossmatch Program

Generally, if you are subject to **Wisconsin's UI Law** you will also be subject to the **Federal Unemployment Tax Act** (FUTA). Compliance with the federal law is established by filing U.S. Treasury Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return. Government units and statutory nonprofit organizations are exempt from taxation under FUTA.

You must file a Form 940 with the Internal Revenue Service (IRS) by January 31 of the following year.
For more information on deadlines, see Employment Tax Due Dates.
Certain employers are required to make advance **quarterly deposits**.

The FUTA tax is 6.0% with a corresponding offset credit of 5.4% if state UI taxes have been paid timely. The net FUTA tax is 0.6%.

Certifying Wages & Taxes Listed on Form 940

Each year the federal government asks us to certify that the wages and tax payments you listed on Form 940 as having been paid to Wisconsin are correct and were paid timely.

This certification is done by a **computer cross match** utilizing your Federal Employer Identification Number (FEIN). To properly certify your offset credit, it is important that we have your correct FEIN on our records and that it matches the FEIN shown on your Form 940.

Important: When completing your **Form 940**, be sure to use your **State Unemployment Account number** when asked for your "State reporting number".

Discrepancies

When discrepancies occur between state and federal reports, the IRS will send you a notice of the discrepancy and a bill for any additional tax that may be due.

Help with WI UI Taxes
If you need to request a certification of your Wisconsin UI taxes paid or have any related questions, contact us at:

- Email: taxnet@dwd.wisconsin.gov
- Telephone: 608-261-6700
- Deaf, hearing or speech-impaired callers may reach us through WI TRS.

Help with Form 940

Contact any IRS office for more information and/or to request Form 940.

I. Payment of Taxes Via Electronic Funds Transfer

You can make your quarterly tax payments via electronic funds transfer (EFT). Various Electronic Payment Options are available (http://dwd.wisconsin.gov/uitax/eft).

EFT ACH DEBIT Payment Option

EFT ACH debit allows you to **pay your Unemployment Insurance (UI) taxes online** on the Internet by instructing the State to electronically debit your bank account for a specific payment amount on a day of your choosing. There is **no cost to the taxpayer** for this type of payment transaction.

In order to make EFT debit payments you must have access online to your Unemployment Insurance (UI) account. If you already are filing your Unemployment Insurance tax report online you already have access to your UI Account and can make EFT debit payments immediately.

How to Get Online Access

Request that we mail you the SUITES Portal Access Letter. The letter will come with instructions and an access code telling you how to set up access online to your UI account.
If you do not have online access to your UI account and want to make EFT debit payments please **contact us**:

- Unemployment Insurance at 608-261-6700, Monday through Friday, 8:00 AM - 4:00 PM
- Email us at taxnet@dwd.wisconsin.gov
- Request that we mail you the SUITES Portal Access Letter

Blocking Electronic Funds Transfer (EFT) payments from coming out of your bank account.

If you want to make Unemployment Insurance (UI) EFT debit payments and you have your financial institution place an EFT debit filter block on your bank account to prevent unauthorized EFT debit payments from being deducted from your bank account you need to make sure that your financial institution will allow the UI payment you make to be deducted from your bank account. Your financial institution may ask you for UI's Company Identification number and Company Name.

Company Identification Number & Company Name
The Company Identification number is 1369006449 and the Company Name is Wisconsin UI Tax. Please provide this information to your financial institution if you have debit filter block on your bank account and wish to make UI payments electronically.

EFT ACH Credit Payment Option

The ACH credit method allows you to pay your UI Taxes by instructing your financial institution to debit your account and credit the state's bank account. No authorization form or registration is required by Unemployment Insurance to start making EFT credit payments. Financial institutions may charge you a fee for making ACH credit payments. Please contact your financial institution to see if they offer this payment method. ACH Credit payments must be initiated at least one business day prior to the tax due date to insure that they are received on time.

If you do not have an amount due for the quarter do not initiate a zero dollar payment.

Important Points to follow when making an ACH Credit Payment

1. The **bank routing number** to send your UI payment to is 075000022.
2. The **bank account number** to send your UI payment to is 182845580
3. Make sure to have your financial institution include the 10 DIGIT UI ACCOUNT NUMBER the payment is for in the Taxpayer Identification field of the Addenda Record.

Detailed Instructions for Financial Institutions

A list of detailed instructions financial institutions must follow when making ACH Credit payments can be found at Electronic Payment Options for Employers - EFT ACH Credit Instructions for Financial Institutions (http://dwd.wisconsin.gov/uitax/eft/creditinstruct.htm).

Deaf, hearing or speech impaired callers may reach us through WI TRS.

J. Delinquent Tax Collection

If an employer has been found to owe additional taxes, fees or penalties, a written determination will be issued. This document is a legal document. The appeal period is limited. See Section 3 for appeals information.

If an employer becomes delinquent in paying any amount determined to be due under the unemployment insurance law, and does not respond to collection letters, the Department is authorized to take legal actions including:

- Levy (seizure) of the employer's bank accounts, property, inventory, accounts receivable, and/or any other asset.
- Issue a civil warrant which becomes a judgment lien against real estate and other property. Like judgments, warrants are public record and may affect credit scores.
- Revoke professional or business licenses issued by Wisconsin.

K. Closing Your Account

If you **no longer have employment** or if you are **closing your business**, let us know so we can stop sending you quarterly tax and wage reports.

We will notify you if your account is **eligible to be closed**, and after three years, we will issue an Initial Determination that closes your account. **This applies to tax employers only.** Reimbursement employers' accounts remain open because of the potential for benefit charges that must be repaid by the reimbursable employer.

If your account is closed, your **positive or negative account balance** will be transferred to the balancing account. If you go into business again, your payroll will be taxed at the new employer tax rate in effect at that time.

To **obtain information on closing your UI account**:

- Contact us at email: taxnet@dwd.wisconsin.gov
- Include your Unemployment Account Number and the last date of employment
- Complete Account Change Information Form UCT-6491
- If you have online access, under view/update account, select Update Functions > Close My UI Account

PART 5 - Unique Reporting Situations

A. Temporary Help Company

1. **DEFINITION**

A "**Temporary Help Company**" is defined as a leasing company or temporary help service which contracts with clients or customers to supply individuals to perform services for the client or customer and which both **under contract and in fact**:

- Negotiates with clients or customers for such matters as time, place, type of work, working conditions, quality and price of the services;
- Determines assignments or reassignments of individuals to its clients or customers, even if the individuals retain the right to refuse specific assignments;
- Sets the rate of pay of the individuals, whether or not through negotiation;
- Pays the individuals from its account or accounts; and
- Hires and terminates individuals who perform services for the clients or customers.

2. **DETERMINING EMPLOYER LIABILITY**

- **A Temporary Help Company is** the employer of the individual who the company engages in employment to perform service for a client or customer of the company.

- **Officers of a client corporation cannot be employees of the Temporary Help Company**. They must be reported separately under the client's own UI accounts.

B. Professional Employer Organization

1. **DEFINITION**

"Professional employer organization" means any person who is currently registered as a professional employer organization with the Department of Financial Institutions in accordance with chapter 202, who contracts to provide the non-temporary, ongoing employee workforce of more than one client under a written leasing contract, the majority of whose clients are not under the same ownership, management, or control as the person other than through the terms of the contract, and who under contract and in fact:

- Has the right to hire and terminate the employees who perform services for the client and to reassign the employees to other clients;
- Sets the rate of pay of the employees, whether or not through negotiations and whether or not the responsibility to set the rate of pay is shared with the client;

- Has the obligation to and pays the employees from its own accounts;
- Has the general right of direction and control over the employees, including corporate officers, which right may be shared with the client to the degree necessary to allow the client to conduct its business, meet any fiduciary responsibility, or comply with any applicable regulatory or statutory requirements;
- Assumes responsibility for the unemployment insurance coverage of the employees, files all required reports, pays all required contributions or reimbursements due on the wages of the employees, and otherwise complies with all of the provisions of this chapter that are applicable to employers on behalf of the client;
- Has the obligation to establish, fund and administer employee benefit plans for the employees; and
- Provides notice of the employee leasing arrangement to the employees

2. **ADDITIONAL REPORTING REQUIREMENTS**

- Employers meeting all of these requirements **entering into an employee leasing agreement** with a client must submit to the department a report disclosing the identity of the client no later than the due date for the contribution report for that quarter.
- An employer meeting all of these requirements **terminating an employee leasing agreement** with a client must notify the department within 10 days of the termination.

C. Common Paymaster

1. **DEFINITIONS**

Common Paymaster

A common paymaster of a group of related corporations is any member thereof that pays concurrent employees of itself and one or more of the related corporations and is responsible for keeping the payroll records with respect to those concurrently employed individuals.

Concurrent Employment

Concurrent employment means the existence of an employment relationship between an individual and two or more corporations at the same time.

Related Corporations

Corporations are related for the entire calendar quarter if, at any time in that quarter, they **satisfy any of the following four tests**:

1. The corporations are members of a controlled group of corporations.

2. If the corporations do not issue stock, either 50% or more of one corporation's governing body are members of the other corporation's governing body, or holders of 50% or more of the voting power to select such members are concurrently the holders of more than 50% of that power in respect to the other corporation.

3. Fifty percent or more of one corporation's officers are concurrently officers of the other corporation.

4. Thirty percent or more of one corporation's employees are concurrently employees of the other corporation.

Payrolling

Payrolling is the practice of one entity reporting the wages and paying the UI tax on employees, who are directed and controlled by another entity. This practice is not allowed under the Wisconsin Unemployment Insurance Law.

2. QUALIFYING REQUIREMENTS

Employers paying any wages through a common paymaster should report those wages through the common paymaster.

To qualify as a common paymaster the following requirements must be met:

- The corporations must be related, and
- There must be concurrent employment of one or more employees by the paymaster and one or more of the related corporations; and the paymaster corporation is responsible for keeping the payroll records with respect to concurrently employed individuals.

Any of the concurrently employing related corporations could be designated as the common paymaster. The common paymaster reports the wages of the employees that work concurrently with it and one or more of the other related corporations.

If any of the above conditions are not met, then each employing unit (separate corporation) must report their own employment under their own UI account.

D. Multi-State Employment

When your employee performs services in Wisconsin and some other state, the employee will be covered and reportable to Wisconsin if one of four tests specified in Section 108.02(15) of the statutes applies.

The four tests used by Wisconsin are:

1. LOCALIZATION

Your employee's services are in covered employment and "localized" in Wisconsin if all of the services are performed in this state with only isolated, incidental or temporary services performed outside of Wisconsin.

2. BASE OF OPERATIONS

If the first test does not apply, your employee's total services are covered employment in Wisconsin if some of their services are performed in this state and their "base of operations" is in Wisconsin. (Base of operations is interpreted as the place of more or less permanent nature from which your employee starts work, to which your employee customarily returns and to which you may direct instructions to your employee. It may be a branch office or the employee's residence.) Not everyone has a base of operations.

3. PLACE OF DIRECTION AND CONTROL

If the first two tests do not apply, your employee's total services are covered employment in Wisconsin if some of their services are performed in Wisconsin and the place from which you exercise general direction and control over the employee is in Wisconsin.

4. RESIDENCE OF EMPLOYEE

If the first three tests do not apply, your employee's total services are covered employment in Wisconsin if some of their services are performed in this state and their residence is in Wisconsin.

If, after applying all these tests you find a particular individual's services not covered in Wisconsin, you may elect to cover them in Wisconsin by filing a reciprocal agreement between Wisconsin and the other state involved. Certain states will not approve such an election if the individual has residence in that state and provides some services in that state.

Similar tests appear in the unemployment insurance laws of a majority of the states in an effort to avoid conflicts and overlapping coverage between states. However, differences in interpretation do exist among a few states.

Certain employment of United States citizens working for American employers in foreign lands (except Canada) may also be reportable for unemployment purposes to this state. Also, aliens working in Wisconsin are reportable for Unemployment Insurance purposes.

See Circuit Court Case decisions for Gary R Gilbert v. LIRC and Broyhill Furniture v. LIRC.

E. LLC Electing to be Treated as a Corporation

If your business legal entity is an LLC and you have elected to file as a corporation with the IRS, you must inform this department of that and provide written documentation showing that election.

Remember, by making this election, you must report and pay unemployment tax on all wages, including the LLC members. This is critical to avoid any certification problems between your State and Federal unemployment taxes.

If you have **questions regarding Unique Reporting Situations**, contact us at:

- Email: taxnet@dwd.wisconsin.gov
- Telephone: 608-261-6700
- Deaf, hearing or speech-impaired callers may reach us through WI TRS.

F. Determination of Employer

If there is more than one employer that has a relationship to an employee, the following should be considered in determining which of the employers is the employer:

(a) An employers right by contract and in fact to:

1. Determine a prospective employee's qualifications to perform the services in question and to hire or discharge the employee.
2. Determine the details of the employee's pay including the amount of, method of, and frequency of changes in pay.
3. Train the employee and exercise direction and control over the performance of services by the employee and when and how they are to be performed.
4. Impose discipline upon the employee for rule or policy infractions or unsatisfactory performance.
5. Remove the employee from one job or assign the employee to a different job.
6. Require oral or written reports from the employee.
7. Evaluate the quantity and quality of the services provided by the employee.
8. Assign a substitute employee to perform the services of an employee if the employee is unavailable for work or is terminated from work.
9. Assign alternative work to the employee if the employee is removed from a particular job.

(b) Which employer:

1. Benefits directly or indirectly from the services performed by the employee.
2. Maintains a pool of workers who are available to perform the services in question.
3. Is responsible for employee compliance with applicable regulatory laws and for enforcement of such compliance.

There is an exception for certain employers providing home health care and personal care services funded by medical assistance allowing them to elect to be the employer of employees providing the services. To qualify for an election, the employer must meet these requirements:

1. The employer must notify the recipient of the services of its election in writing.
2. The employer must be treated by the IRS as the employer for FUTA tax purposes.

PART 6 - Business Transfers and Taking Over a UI Account

A. Transfer of Business

A transfer of business occurs any time a business activity or business asset is transferred outside of the normal course of doing business.

The usual way that a business is transferred is through a sale, lease, reorganization, merger or consolidation. However, a business can also be transferred through foreclosures, inheritances and bankruptcy.

In any transfer, the transferor is the seller or former owner/operator of the business being transferred and the transferee is the buyer or new owner/operator of the business.

It is not necessary for a transfer to occur directly between the former owner/operator and the new owner/operator. Third parties such as landlords, financial institutions and the courts are often intermediaries for transfers.

Some common situations **that ARE NOT a transfer of business**:

- Sale of corporate stock.
- Corporate name change.
- Sale of assets in the ordinary course of business.
- Transfer of employees only or transfer of payroll function only.
- A corporation changing from or to Subchapter S status.

Possible Consequences of a Transfer

A transfer of business may have important consequences for **your business's UI tax rate and reserve account**.

1. The impact can be **positive** if you take over the UI account of a business with a low rate.
2. The impact can be **negative** if you take over the account of a business with a high tax rate.

When You Transfer or Acquire a Business
When you transfer or acquire a business, you must **let us know within 30 days of the sale/acquisition**.

Notice can be done by:

- Telephone: 608-261-6700
- Completing a Report of Business Transfer, Form UCT-115
- Written notice with information about the transfer

B. Taking Over a UI Account

Successorship occurs when all or a portion of the former owner's UI account is transferred to the new owner due to a transfer of all or a portion of the business.

Successorship is:

- mandatory when related interests are involved
- optional for unrelated interests

See: When You Must Take Over the UI Account Experience of the Former Owner/Operator.

When successorship occurs, the employer who has taken over the former owner's/operator's account is referred to as the "**successor**".

The employer whose UI account (and business activity) was taken over is referred to as the "**predecessor**". The words successorship, successor and predecessor are used in the legal language of the UI law.

If you are acquiring an existing business, **you may have a choice as to whether or not you take over the UI experience** of the former owner/operator. The following sections give you more information regarding business transfers and taking over the former owner's/operator's UI account.

C. UCT-115, Report of Business Transfer Form

The Report of Business Transfer (http://dwd.wisconsin.gov/dwd/forms/ui/uct_115_e.htm) form is the primary form used by the department to obtain information on business transfer. The form is generally requested from both parties. The form can also be used by the new owner/operator to make a written application to take over the UI account of the former owner/operator.

The sections on the forms are numbered and labeled. Following is a **brief description of these sections**.

Former Owner/Operator

This information will identify the former owner/operator. It is important to list the current mailing address and telephone number, which may have changed since the transfer. When completing the form, if there is some information which you do not know, enter "unknown" in the space or leave it blank.

New Owner/Operator

This information identifies the new owner or operator who acquired the business. It is important to list the names and ownership percentages of the individuals who currently own or control the business.

When completing the form, if there is some information which you do not know enter "unknown" in the space or leave it blank.

Relationship Between Parties

It is necessary that you compare the former ownership with the current ownership and indicate if there are any common owners or any that are related through immediate family. See the examples identified in the questions.

If there is no relationship or common interest at all between the parties, then the new owner/operator should complete Section 5, Option of New Owner/Operator of the form. The new owner/operator can apply to take over the UI experience of the former owner/operator or can decide not to apply. While the application to take over the UI account does not necessarily have to be done when this form is completed, there is a deadline for making a timely application. The deadlines are shown in Section 5.

Effective Dates

Enter the effective or legal date when the new owner/operator has control over the business transferred.

This is known as the transfer date.

Option for New Owner/Operator

This section provides the new owner the option to acquire the UI experience of the previous owner, elect not to acquire the experience or to request additional information before making a decision.

Method of Transfer

Provides a checklist of the methods of selling/acquiring a business (sale, lease, reorganization, merger, etc.).

Assets Transferred

Provides a checklist of assets sold/acquired (real estate, inventories, accounts receivable, etc.).

Continuation of Business

This section asks whether the new owner/operator continued the business without interruption and in the same location. If there was a period of time when the business was not operated or there has been a change of business location, please provide additional information.

Number of Employees

Asks the question how many employees worked in the transferred business prior to the transfer and how many employees continued with the new owner/operator.

Identify Nature of Business Transferred

This could be information about the method of transfer (third party transfers, leases, reorganizations, foreclosures, estates and receiverships) or information about which assets were transferred and which were not, or information describing that two or more transfers took place and the dates of those transfers.

Total or Partial Transfer

Indicate whether the transfer was total or partial. If all the former owner's/operator's business activity has been transferred and they will no longer have payroll, the transfer is total. In a total transfer, the former

owner/operator must tell us if there will be payroll after the transfer date for closing of accounts and liquidation of assets.

If the former owner/operator will continue to operate some portion of business they operated before the transfer, the transfer is considered partial.

Required Signature

This form can be submitted on behalf of either the former or new owner/operator. In some cases the form can be submitted on behalf of both people. The form should be signed by the person submitting the form or their representative such as an attorney or an accountant.

D. When You Must Take Over the UI Account Experience of the Former Owner/Operator

If a transfer occurs between employers that are owned or controlled by similar interests or members of the same immediate family, taking over the UI account experience of the former owner/operator is mandatory. Some examples are:

- a sole proprietor incorporating his or her business,
- a subsidiary corporation merging with the parent,
- and a person transferring a business to a spouse, child or parent or a seller and a buyer who have common ownership or control.

If a transfer occurs between employers that are owned and controlled by unrelated interests, taking over the UI account experience of the former owner/operator is optional. To qualify for this option, the new owner/operator must file a written application by the contribution report deadline for the quarter following the quarter in which the transfer occurred.

Application Deadline:	
If date of change is	**You must apply by:**
January 1 to March 31	July 31
April 1 to June 30	October 31
July 1 to September 30	January 31
October 1 to December 31	April 30

Because of this application deadline, it is important that employers notify us immediately of transfers and acquisitions of business or assets. Beginning with transfers occurring after 12/31/13, UI will accept an application from an employer up to 90 days after its due date if the transferee satisfies UI that its application was late as a result of excusable neglect.

E. Effects of Taking Over a UI Account

- The former owner's/operator's (positive or negative) UI account balance is transferred to the new owner/operator;
- The former owner's/operator's tax rate(s) and rate factors are transferred to the new owner/operator;
- The former owner/operator's reported payroll for meeting the taxable wage base in the transfer year is transferred to the new owner/operator;
- Any future benefits based on employment with the former owner/operator are charged to the new owner/operator; and
- Both the former owner/operator and new owner/operator are responsible for any outstanding tax liability of the former owner/operator.

F. UI Tax Rates If You Take Over An Account

- A new owner/operator who takes over the UI account of the former owner/operator and is not already an employer under UI law, is assigned the tax rate and tax rate factors of the former owner/operator;
- A new owner/operator who is not already an employer under the UI law and who takes over two or more UI accounts at the same time, is assigned a tax rate based on the combined tax rate factors of each of the former owners/operators; and
- A new owner/operator who is already an employer under the UI law keeps the UI tax rate of its original business for the quarter in which the transfer took place. Beginning with the calendar year following the

year in which the transfer occurred, the tax rate will be based on the combined rate factors of both employers. This may require the assignment of a new UI account number for the combined business.

G. Becoming a Newly Covered Employer Without Taking Over the UI Account of the Former Owner/Operator

If you are a new owner/operator of a business but are **not** taking over the UI account of the former owner/operator, and are **not** already an employer under the UI law, you become an employer under the Wisconsin UI law as of the date of the transfer.

As a newly covered employer, you will have all other aspects of a new UI employer including:

- The tax rate for new employers for the first three years.
- The first UI tax report deadline, which is:
  - The deadline of the quarter following the quarter in which the employer became covered; or
  - January 31, for those employers who became covered in the fourth quarter of the year.

To obtain more information on business transfers and taking over the UI account of the former owner/operator, contact us at:

- Email: taxnet@dwd.wisconsin.gov or
- Telephone: 608-261-6700
  Deaf, hearing or speech-impaired callers may reach us through WI TRS.

PART 7 - Audits of Employer Records

A. Audit Selection

To assure that employers are reporting payroll properly, department auditors conduct routine periodic examinations of employer records. Records of nonsubject employing units also are examined to determine whether coverage is required.

Your business may be selected for an audit to determine compliance with UI reporting requirements. There may be specific audit objectives that could range from obtaining delinquent reports, to investigating alleged independent contractor issues or suspected UI benefit fraud. Your auditor can tell you the reason for the audit.

B. Statutory Authority for Audit

Every employer is required to keep records showing full name, address, social security number and wages/payments of individuals performing services for pay. Payroll records and all subsidiary records deemed necessary must be available for inspection by an auditor at any reasonable time. This also includes computer records in machine readable format (magnetic tape or electronic disk), of which a copy may be taken to another location for the purpose of data retrieval.

Wisconsin UI law permits the estimation of payroll when an employer's records are not complete or not made available to the auditor. There are penalties for refusing or failing to keep records required by the department, or knowingly making false statements or reports. We can subpoena records if they are not made available voluntarily.

C. What to Expect

Auditors routinely examine the accuracy of gross wages, exclusions and other reported information to verify that payroll is correctly reported for UI purposes. The auditor looks at a variety of documents and records that may contain payroll or payment for services type of information. Payments to any workers for providing services may be considered payroll for UI purposes. The auditor will make this determination based upon the Statutes.

Auditors also investigate wages involved in establishing benefit claims and investigate payments made to benefit claimants.

The length of time that the audit takes depends on the size of the employer, the condition of the records and the number of problems encountered. The field work of most audits will probably be completed in approximately one half day.

The auditor will discuss the results of the audit with you. A written audit report is generated from the auditor's computer and if your account is adjusted, you will be given a copy of "Proposed Audit Adjustments". This audit proposal is subject to review and processing before the actual "Initial Determination" or "ID" is mailed to you from Madison. The "ID" is an appealable document.

D. Your Right to Appeal

If you disagree with the audit findings, you can discuss your questions or concerns with the auditor. You can also discuss your case with an Audit Supervisor.

You have the right to appeal any Initial Determination issued by our department. To do so, mail your written appeal to the address listed on the ID within the 21-day appeal period. For more information see Section 3.

E. Auditor as a Resource

Auditors are available to assist you in understanding your obligations and reporting requirements under Wisconsin's UI law. They may also be able to answer your questions regarding UI benefits. To obtain more specific information about audits of employer records or to request our pamphlet, "Preparing For Your UI Audit" (UCT-8296-P), contact us at:

Audit Section
Bureau of Tax & Accounting
Division of Unemployment Insurance
P.O. Box 7942
Madison, WI 53707

Or

Telephone: 608-266-3180
FAX: 608-267-1400

Email: taxnet@dwd.wisconsin.gov

Deaf, hearing or speech-impaired callers may reach us through WI TRS.

SECTION 3 – APPEALS

PART 1A - Appeal Tribunal Hearings - Benefit Eligibility Cases

A. Benefit Eligibility Cases

1. Introduction

These cases involve a claimant's eligibility for unemployment insurance benefits and not an employer's tax liability or responsibility. A decision in one of these cases does NOT decide your UI tax status. It does not control what payroll and employees you must include in your quarterly contribution/wage reports. Tax status cases are covered in Part 1B.

There is **a statutory presumption that a claimant is eligible for benefits,** unless a specific disqualification applies.

2. Appeals

Right to appeal

If there is an eligibility issue relating to an individual's claim for benefits, the department will mail the interested parties a **determination**. If you disagree with the determination, you have the right to **appeal** by making a written request for a hearing.

Filing an appeal

An appeal must be **in writing**. To appeal, you should write to the hearing office listed on the back of the determination stating that you are appealing the determination. Attach a copy of the determination or identify the determination by its nine-digit number located in the upper left-hand corner of the page. Include the claimant's name and social security number, as well as the name of your business and actual worksite address. Also include dates and times when you, your witnesses, and representatives, if any, are unavailable for a hearing. The hearing office will attempt to schedule around unavailable dates and times, though this is not guaranteed. Finally, indicate any special needs such as an interpreter or other accommodations needed due to disability. You, your agent, or your attorney should **sign the appeal**.

The party appealing the determination is called the **appellant**. The party responding to the appeal is called the **respondent**.

Deadline to appeal

The appeal must be **postmarked or received within 14 days** of the date on which the determination was issued. The deadline is printed in the lower right-hand corner of the determination. The appeal should be mailed, faxed, or delivered during regular office hours, to the hearing office listed on the back of the determination under WHERE TO FILE AN APPEAL.

Late appeals

An appeal that is **received or postmarked after the deadline** specified on the determination is considered a **late appeal**. If an **Administrative Law Judge, or ALJ**, determines that the appellant's reasons for filing late, when construed most favorably to the appellant, do not constitute **a reason beyond the appellant's control**, the ALJ may dismiss the appeal without a hearing and issue a decision accordingly. The determination will remain the final disposition of the case.

If the ALJ does not dismiss the appeal, the hearing office will schedule a hearing to take testimony about why the appeal was late. The ALJ will determine if the appeal was late for a reason beyond the appellant's control. Work or personal obligations, being out of town, or misreading or misunderstanding the determination generally are not considered to be reasons beyond an appellant's control and the ALJ will dismiss the appeal. The determination will remain the final disposition of the case.

If the appellant proves that the reason for the late appeal was beyond his/her/its control, the ALJ will proceed to the merits of the case or order that a later hearing be scheduled on the merits of the case.

Withdrawals of appeal

The **appellant may withdraw** the appeal at any time before an appeal tribunal decision is issued on the merits. A withdrawal may be by telephone or in writing to the hearing office listed on the hearing notice.
If an appeal is withdrawn, no hearing will be held unless the other party has also filed an appeal. In that case, the issue appealed by that other party will remain the subject of a hearing and an **Appeal Tribunal Decision**. If all appeals are withdrawn, the determination will remain in effect.

A party who wants to ensure that there will be a hearing in a case is advised to file his/her/its own appeal, even if the other party has also filed one.

3. Scheduling Conflicts and Notice of Hearing

Scheduling conflicts

When you file an appeal (or are notified that the claimant has filed an appeal), c**ontact the hearing office immediately to notify it of scheduling conflicts** in the coming month, such as a pre-planned trip, convention, medical appointment, court date, etc., **for any intended witness or representative**. The hearing office cannot promise any specific date and time, but it may be able to schedule around the conflict or arrange to take testimony of witnesses by telephone.

Do not wait until the hearing notice is received to notify the hearing office of scheduling conflicts. Also, keep in mind that parties are expected to make the necessary arrangements to attend the hearing, including taking time off from work or school.

Once the hearing has been scheduled, **postponements** are granted **only for exceptional circumstances**. A postponement must be requested as soon as the need for the postponement becomes known.

Notice of Hearing

A hearing will be scheduled by one of the four regional UI hearing offices. (Hearing office addresses and telephone numbers may be found in Appendix A of this section.) A hearing is usually scheduled within a few weeks after an appeal has been filed.

The hearing office mails parties a **Hearing Notice** at least 6 days in advance of the scheduled hearing. This notice contains important information you will need to know about the scheduled hearing, including:

- the date, time, and location of the hearing;
- whether the parties will appear in person or by telephone;
- the issue(s) that will be addressed at the hearing.

To see sample hearing notices, see Appendix B.

PLEASE READ BOTH SIDES OF THE HEARING NOTICE CAREFULLY. Make sure that you understand the specified issue(s) and prepare your case with the issue(s) in mind.

4. Telephone Hearings

Decision made by hearing office

The hearing office may schedule one or both of the parties to attend a hearing by telephone. The hearing office will often schedule a telephone hearing when at least one of the parties is located 40 miles or more from the nearest hearing location. Telephone hearings may also be appropriate for some hearings involving only one party.

The parties may request in person or telephone participation, but **the hearing office makes the final decision**. To request a telephone hearing, the appellant should ask for one in the appeal. Alternatively, the respondent should request a telephone hearing immediately after receiving the Notice of Hearing.

Other information

Before you request a telephone hearing, you should consider that you must submit all your written evidence to the hearing office and send copies to your opposing party (employer or claimant) in advance of the hearing; and you will need suitable equipment, including a speakerphone or extensions if you have several witnesses.

As with “in person” hearings, the hearing office will mail you a notice of the date and time for a telephone hearing. The ALJ will call the telephone participants at the scheduled time. **Telephone participants must provide a correct phone number in advance.** The ALJ may conduct the hearing without a party or dismiss an appeal by a party who fails to provide a number or is unavailable when called.

If the hearing office schedules a telephone hearing:

- Arrange to take the ALJ’s call in a **setting free from distractions**, interruptions and noise.
- **Have all persons** on your side of the case **at the same telephone number** unless impractical. Make any request for the ALJ to connect additional participants at different telephone numbers at least three days before the hearing.
- **If the ALJ’s call is more than 10 minutes late**, call the hearing office immediately to learn if there is an unexpected problem or delay.
- **If you decide to come in person** instead of participating by telephone, tell the hearing office beforehand so that it can reserve a suitable room and the ALJ knows to expect you.

The hearing office will send copies of relevant documents in the hearing file to the parties before scheduling the phone hearing. **If you want to submit other evidence**, send it to the hearing office **and** to the other hearing participants in time for everyone to receive copies before the hearing. The ALJ may refuse to consider evidence that you did not send to all participants before the hearing.

5. Preparing for the Hearing

General information

All appeal levels above the hearing level use the record from the hearing (testimony and documents admitted) to make their decisions. As a result, **it is IMPORTANT to bring and present all relevant information at the hearing**. Because you may get only a few days’ notice that your hearing has been scheduled, it is very important to begin preparing the case right away. To attend a hearing to see what one is like, please contact the hearing office.

Representation

A party may choose to have an attorney or other representative assist at the hearing. If a party plans to have an attorney or representative at the hearing, the party must notify the hearing office as soon as possible of the name, address, and telephone number of the attorney or other representative. Include dates that the attorney or representative is unavailable for a hearing.

Preparing your case

Prior to the hearing, it is helpful to prepare notes of the facts involved in the case for reference during the hearing. Because notes are used only to refresh the memory of the note taker, individuals should not expect to read aloud from them as testimony, nor is it likely that any of these hearing preparation notes will be marked as exhibits by the ALJ. Each party should also write down questions for the other party and important points he or she wishes to make to the ALJ.

A party may review his/her/its UI Division file at the hearing office listed on the hearing notice. To make sure the file is available, please call the office in advance. A party may also receive a copy of the file through the mail. Please call the hearing office to request a copy.

Witnesses

Witnesses should consist of **individuals who** have actual personal knowledge of and **were present to see and hear the events** or facts to which they are testifying. **An affidavit or written statement (even if notarized) cannot substitute for the personal appearance of a witness.** Such a document is hearsay. The witness must appear for the hearing, testify under oath, and answer questions from the ALJ and the other party.

The ALJ cannot decide an issue solely on **hearsay** evidence, that is, **evidence not within a witness's own personal knowledge**. (An exception is that an ALJ may make a decision as to whether the employer failed to provide complete and correct information to the department during the fact-finding investigation based on department records.)

Example: If you want to present evidence that a worker hit another worker, you should have either the worker who was hit or an eyewitness to the event testify. Both the worker who was hit and the eyewitness have personal, firsthand knowledge of what happened ("Joe hit me." Or, "I saw Joe hit him."), rather than secondhand knowledge or hearsay from a supervisor or other witness ("The worker told me the next day that Joe hit him."). The ALJ will **limit, or exclude, repetitious testimony**. If several people witnessed a particular incident, you do not have to bring them all. Choose one or two with the best information.

The ALJ will not permit testimony from a witness that is not relevant or material to the issue(s) involved in the case. **Relevant evidence** is evidence that tends to make any important fact more probable than without the evidence.

If a witness seems reluctant to appear at the hearing voluntarily or if you wish to obtain specified documents, you may ask the hearing office to prepare a **subpoena** form for you. An attorney representing you may also issue a subpoena. A subpoena requires the witness to appear at the hearing or requires presentation of the requested documents at the hearing. You are responsible for serving the subpoena before the hearing and for providing the required witness fee and mileage payment to the witness. The hearing office will provide further information about serving the subpoena when giving you the form.

Additional witnesses who have knowledge of the case also may be called to testify, including department employees.

Exhibits

A party may wish to introduce documents or other materials such as payroll or attendance records, check stubs, letters, warnings, medical excuses, work rules, work schedules, reports, photographs, video or audio tapes, charts, objects, sample products, etc., to support a case. However, the ALJ may refuse to accept irrelevant evidence, that is, evidence that does not make an important fact more probable than without the evidence.

Photocopies may be submitted, but the original documents should be brought to the hearing to confirm the authenticity of the photocopies. Generally, the person responsible for creating or keeping the records should be present at the hearing to identify, authenticate, and testify about them.

If a video or audio recording is important to prove your case, **you must bring it to the hearing in a .mp4 (MP4) format** and submit the recording(s) as part of the record while the appeal is pending (after which it/they may be returned to you). Notify the hearing office prior to the hearing that you plan to play a video or audio recording at the hearing, so that additional time for the hearing may be provided.

Medical evidence

When the department needs to consider medical information in making a decision, it will send out a standard form **UCB-474 Medical Report** for completion by the claimant's doctor. A copy of the completed form is generally provided to both parties before the hearing.

A certified report by a qualified expert is considered evidence sufficient to establish the fact at issue unless contradicted and overcome by other evidence. Accordingly, **if** the doctor returns a **properly completed** UCB-474, then his or her presence at the hearing is not required.

An employer may wish to subpoena the doctor or present an alternate certified report by a qualified expert (or perhaps subpoena a company doctor who examined the claimant) to rebut what the claimant's doctor has said.

To see a sample UCB-474 form, see Appendix B.

Labor market evidence

In determining a claimant's availability for work or ability to work, the department may request labor market information from labor market analysts employed by the state. Labor market analysts are sometimes called as

witnesses at hearings. However, in most cases the labor market analysts are able to provide the necessary information on a standard form that can be considered evidence. This form, a **Certified Expert Report on Labor Market Conditions**, provided by Wisconsin's Conditions of Employment Database, is called a **COED** report. In such cases, the labor market analyst need not appear at the hearing.

A copy of the completed COED report may be available for review before the hearing, if time allows. If the report was not available for viewing before the hearing and you want to rebut the form, you may ask the ALJ at the hearing to continue the hearing to a later date. This provides a party with the opportunity to present other expert testimony about the information in the labor market analyst's report.

To see a sample of this COED report, see Appendix B.

Drug test evidence

In cases involving drug tests, the department may send out its own form for completion by the specimen collector and the drug testing laboratory. This certified report is considered sufficient evidence of the drug test result, that the result was valid, and that the drug test procedures met certain standards. **A mere copy of the drug test report received from the lab is not sufficient evidence.** If your case involves a drug test and you have not received the forms, please call the hearing office listed on the hearing notice immediately.

To see a sample of these drug collection and testing forms, see Appendix B.

Prior LIRC and court decisions

The LIRC website, **http://lirc.wisconsin.gov**, contains a digest, by topic, of recent LIRC decisions and court decisions.

These decisions can be quite helpful, but keep in mind that each case will be decided on its own unique set of facts.

6. Prehearing Conferences

ALJs may schedule prehearing conferences pursuant to DWD § 140.07. However, such conferences are scheduled in **only the most complex cases**. Following the conference, the ALJ will issue an order about such matters as stipulations of fact (both sides agreeing that certain facts are true), limitations on the number of witnesses, stipulations about evidentiary issues, and any other matters that might assist in the disposition of the appeal.

7. The Hearing

Introduction

Having a hearing is like "starting from scratch," as if the determination was never made. Parties present their cases before an **Administrative Law Judge**, or **ALJ**, who is an attorney. The ALJ conducts the hearing and makes sure that each side has the opportunity to present evidence and give testimony. The ALJ is responsible for controlling the hearing, making sure that the rules of evidence are followed, and protecting the due process rights of the parties.

Although the hearing is not a court trial, it is a formal proceeding. Hearings are open to the public, though it is very unusual for a person unrelated to your case to attend. To obtain a copy of the digital recording of your hearing, please call 608-266-3174.

Accessibility

The hearing locations throughout the state are accessible to persons with **physical disabilities**. If certain accommodations are necessary to meet your physical needs, you should contact the hearing office immediately so that the appropriate arrangements can be made.

If you need an **interpreter** to properly participate in the hearing or present your case, you should immediately contact the hearing office. Interpreters for numerous languages are available, but the hearing office requires advance notice and will provide additional time for the hearing.

Persons who are **deaf, hard of hearing, or speech-impaired** and who use a TTY (text telephone) or PC (personal computer) to communicate can contact the hearing office by first calling the WI TRS (Wisconsin Telecommunications Relay System) at 1-800-947-3529.

Attending the hearing

Generally, both the claimant and the employer should attend the hearing. However, an employer is not required to attend if the issue in dispute was raised by the department, such as why the claimant failed to follow required filing procedures or did not accept a valid job offer from a different employer. Contact the hearing office listed on the hearing notice if you have a question about the need to attend.

You must report in person if you are scheduled to appear in person. If you are scheduled to appear by telephone, you must be available at the telephone number you provide to the hearing office. **Follow the instructions on your hearing notice.**

Hearing procedure

A record is made of the hearing by digital recording. As such, it is important to speak loudly and clearly, not to rustle papers, and not to interrupt, argue or talk at the same time as someone else.
While the ALJ will follow administrative procedural rules on burden of proof and cross-examination, and will limit the use of hearsay evidence, statutory and common law rules of evidence are not controlling.

The ALJ will introduce himself or herself, identify the persons in the hearing room, explain the procedures, summarize the determination issued by the department, define the issue(s) involved in the case, and ask both parties for brief statements about their contentions. The **brief statement** is not intended to include all the details of your case. Rather, it should provide a quick description of what you are claiming. Two examples are the following: “I believe the claimant quit” or “I discharged the claimant for misconduct.”

The ALJ will determine the order in which the parties and any witnesses testify, swear them in, and question them. The ALJ is responsible for getting all the information necessary to understand the facts of your case and to obtain a sufficient record of testimony and other evidence presented in order to make a decision.

The ALJ may **exclude witnesses** (that is, order witnesses to remain outside the hearing room) so that the witnesses are not influenced by the testimony of others. Similarly, the ALJ may limit or exclude the testimony of witnesses if the testimony is repetitive, irrelevant, immaterial, or based solely on hearsay.

In addition to presenting his/her/its own testimony, a party will be given a chance to ask questions of the other party and his/her/its witnesses (called **cross-examination**). Cross-examining a witness involves asking questions about that person's testimony or asking him or her to provide additional information important to your case. It may be helpful to bring a pen and paper to take notes during the testimony.

Cross examination does not involve providing your own testimony about what happened (you will get your own chance to do that). For example, the claimant's witness might testify that he worked with the claimant on the same shift and did not see the claimant smoking. You can cross examine the witness by asking questions such as, “Were you with the claimant during the entire shift?", but you cannot argue with him (for example, by saying, “The supervisor told me he was smoking on the shop floor”).

You (or your representative) may object to certain questions or to the admission of certain evidence. Before ruling on the objection, the ALJ may ask the other party to respond to the objection.

After both parties have had the chance to present their cases and question the other party’s witnesses, the ALJ will end the hearing.

Burden of proof

The party with the **burden of proof**, that is, the party who has the duty of affirmatively proving its case, depends on the issue or issues involved at the hearing.

For example, if an employer **discharged** a claimant, then it is up to the employer to prove that the claimant is ineligible for benefits because, for instance, he or she was fired for misconduct or substantial fault. It is the **employer's burden** to prove that the reason(s) for the discharge disqualify the employee from receiving benefits.

However, when a claimant **quits** a job, the general rule is that the claimant is ineligible for benefits. In this case, the **claimant has the burden** of proving that he or she is eligible for the payment of benefits because one of the statutory exceptions applies or because he or she has met the requalification requirements.

The vast majority of cases involve proof **by a preponderance of the evidence**. This means that whoever has the burden of proof must show that it is more probable than not that the claim that the party is making is true. For example, if an employer is trying to prove that an employee was discharged for misconduct, the employer must convince the ALJ that it is more probable than not that the claimant engaged in the misconduct for which he or she was discharged.

If the employer claims that the person engaged in some criminal behavior (such as theft), then it must provide **clear and convincing evidence**. This level of proof is higher than by a preponderance of the evidence but is not as high as "beyond a reasonable doubt." It is a degree of proof that requires a firm belief or conviction in the mind of the ALJ that what the employer claims is correct.

Failure to appear at the hearing

If the **appellant** (whether claimant or employer) does not attend the hearing, then **the appeal is dismissed**. The determination remains in effect and becomes final (unless good cause for failing to appear is shown). The ALJ will wait 15 minutes before dismissing the appeal.

A **respondent** who does not attend the hearing gives up the chance to present evidence and testimony at the hearing (unless good cause for failing to appear is shown). The **ALJ will wait five minutes** before proceeding with the hearing without the respondent.

If a party fails to appear for a hearing but believes there was **good cause for failing to appear**, he/she/it may provide a written explanation of the reasons for not appearing. A party may submit the written explanation to the hearing office at any time before a decision is issued or within the 21-day appeal period after a decision is mailed. If, after review, the ALJ decides there was no good cause for failing to appear, the request for hearing will be denied. If the ALJ decides there was good cause for failing to appear, a hearing will be scheduled on the merits of the case.

A person's illness, an accident, or unexpected circumstances that would prevent a person from being able to attend a hearing may be good cause. Forgetting about the hearing, writing the wrong date on your calendar, getting lost, or getting stuck in traffic generally are not considered to be good cause.

8. After the Hearing

Appeal tribunal decision

After the hearing, the ALJ will review the testimony and the exhibits received at the hearing, decide how the unemployment insurance law applies to the facts, and issue a written decision. The ALJ's decision, also called an **Appeal Tribunal Decision** or **ATD**, will be **based solely on the evidence presented at the hearing**. The ALJ's decision can change the ruling made in the determination.

Ordinarily, in a benefits case, parties should receive a copy of the ALJ's decision within approximately two weeks of the hearing. **If you have not received a benefits decision within three weeks, please contact the hearing office.** This is important because, if the mail was misdirected, you could miss the deadline to appeal the ALJ's decision.

Parties are sometimes confused when they get a decision because it looks like the ALJ got the facts wrong. However, this may occur because the parties presented two different versions of events (that is, contradictory evidence) at the hearing. Deciding which version of the facts is more credible can prove difficult. The ALJ does his/her best to determine credibility and make the appropriate findings of fact.

REMINDER: A decision in a benefit case does not decide your UI tax status.

Example: A benefit decision is issued stating that a claimant was an employee and not an independent contractor. That decision will not automatically decide that issue for the employer's UI tax purposes. The issue involved in the benefit case is not whether you are liable for UI taxes; it is whether the claimant is eligible for benefits.

9. Further Appeals

The decision of the ALJ may be appealed to the **Labor and Industry Review Commission (LIRC)**, and LIRC's decision may be appealed to the courts. For detailed information on these further appeals, see Parts 2 and 3.

PART 1B - Appeal Tribunal Hearings - Tax or Status Cases

B. Tax or Status Cases

1. Introduction

These cases involve an employer's or individual's tax liability or responsibility. They may control what payroll and employees you must include in your quarterly contribution/wage reports. The department is a party to these proceedings.

2. Appeals

Right to appeal

The department will mail the interested parties a determination. If you disagree with the determination, you have the right to appeal by making a written request for a hearing.

Filing an appeal

An appeal must be **in writing**. To appeal, you must write to the department stating that you are appealing the determination. Attach a copy of the determination and include dates and times when you, your witnesses, and representatives, if any, are unavailable for a hearing. The department will attempt to schedule around unavailable dates and times, though this is not guaranteed. Indicate any special needs such as an interpreter or other accommodations needed due to disability. You, your agent, or your attorney should **sign the appeal**.

Mail appeal to: Appellate Section
Division of Unemployment Insurance
P.O. Box 7942
Madison, WI 53707

Fax: 608-267-1400

Email: taxnet@dwd.wisconsin.gov

The business appealing the determination is called the **appellant**. The department is called the **respondent**.

Deadline to appeal

The appeal must be **postmarked or received within 21 days** of the date on which the determination was issued. The deadline is printed on the determination.

Late appeals

An appeal that is **received or postmarked after the deadline** specified on the determination is considered a **late appeal**. If an Administrative Law Judge, or ALJ, determines that the appellant's reasons for filing late, when construed most favorably to the appellant, do not constitute **a reason beyond the appellant's control**, the ALJ may dismiss the appeal without a hearing and issue a decision accordingly. The determination will remain the final disposition of the case.

If the ALJ does not dismiss the appeal, the hearing office may schedule a hearing to take testimony about why the appeal was late. The ALJ will determine if the appeal was late for a reason beyond the appellant's control. Work or personal obligations, being out of town, or misreading or misunderstanding the determination generally are not considered to be reasons beyond an appellant's control and the ALJ will dismiss the appeal. The determination will remain the final disposition of the case.

If the appellant proves that the reason for the late appeal was beyond his/her/its control, the ALJ may proceed to the merits of the case or order that a later hearing be scheduled on the merits of the case.

Withdrawals of appeal

The **appellant may withdraw** the appeal at any time before an appeal tribunal decision is issued on the merits. A withdrawal may be **by telephone or in writing** to the UI Bureau of Legal Affairs or, if the Hearing Notice has been sent, to the hearing office or the department attorney listed on the Hearing Notice.

If an appeal is withdrawn, no hearing will be held unless another business is involved in the matter, the other party has also filed an appeal, and that party has not withdrawn its appeal. In that case, the issue appealed by that other party will remain the subject of a hearing and an appeal tribunal decision. If all appeals are withdrawn, the determination will remain in effect and become final without further appeal rights.

A party who wants to ensure that there will be a hearing in a case is advised to file his/her/its own appeal, even if another party has also filed one.

3. Scheduling Conflict and Notice of Hearing

Scheduling conflicts

As mentioned above, when you file an appeal, include any scheduling conflicts in your appeal letter. Include dates and times when you, your witnesses, and representatives, if any, are unavailable for a hearing.

Do not wait until the hearing notice is received to notify the hearing office of scheduling conflicts. Also, keep in mind that parties are expected to make the necessary arrangements to attend the hearing, including taking time off from work or school.

Once the hearing has been scheduled, **postponements** are granted **only for exceptional circumstances**. A postponement must be requested as soon as the need for the postponement becomes known. Exceptional circumstances do **NOT** include the retention of an attorney, accountant or other representative immediately prior to the scheduled hearing date.

Notice of Hearing

All hearings are scheduled by the Madison Hearing Office and held by one of the four regional UI hearing offices. The hearing office addresses and telephone numbers may be found in Appendix A.

The hearing office mails parties a **Hearing Notice** at least 6 days in advance of the scheduled hearing.

This notice contains important information you will need to know about the scheduled hearing, including:

- the date, time, and location of the hearing;
- whether the parties will appear in person or by telephone;
- the issue(s) that will be addressed at the hearing.

To see sample hearing notices, see Appendix B.

PLEASE READ BOTH SIDES OF THE HEARING NOTICE CAREFULLY. Make sure that you understand the specified issue(s) and prepare your case with the issue(s) in mind.

4. Telephone Hearings

Decision made by hearing office

A telephone hearing is one in which one or more parties appear by telephone.

Telephone hearings are **not typically scheduled in tax cases** because of the complexity of the cases and the number of exhibits usually involved.

The parties may request telephone participation, but **the hearing office makes the final decision**. To request a telephone hearing, the appellant should ask for one in the appeal. This will give the department advance notice to consider scheduling your hearing at a location with telephone connections.

Other information

If the hearing office grants a telephone hearing, the ALJ will call the telephone participants at the scheduled time. **Telephone participants must provide a correct phone number in advance.** The ALJ may conduct the hearing without a party or dismiss an appeal by a party who fails to provide a number or is unavailable when called.

Other considerations:

- Arrange to take the ALJ's call in **a setting free from distractions**, interruptions and noise.
- **Have all persons** on your side of the case **at the same telephone number** unless impractical. Make any request for the ALJ to connect additional participants at different telephone numbers at least three days before the hearing.
- **If the ALJ's call is more than 10 minutes late**, call the hearing office immediately to learn if there is an unexpected problem or delay.
- **If you decide to come in person** instead of participating by telephone, tell the hearing office beforehand so that it can reserve a suitable room and the ALJ knows to expect you.

The hearing office may send copies of relevant documents in the hearing file to the parties before scheduling the phone hearing. **If you want to submit other evidence**, send it to the hearing office **and** to the other hearing participants in time for everyone to receive copies before the hearing. The ALJ may refuse to consider evidence that you did not send to all participants before the hearing.

5. Preparing for the Hearing

General information

All appeal levels above the hearing level use the record from the hearing (testimony and documents admitted) to make their decisions. As a result, **it is important to bring and present all relevant information at the hearing**. Because you may get only a few days' notice that your hearing has been scheduled, it is very important to begin preparing the case right away.

If you have questions about the issue(s) before the hearing, contact the hearing office listed on the hearing notice.

Representation

A party may choose to have an attorney or other representative assist at the hearing. If a party plans to have an attorney or representative at the hearing, the party must notify the hearing office as soon as possible of the name, address, and telephone number of the attorney or other representative. Include dates that the attorney or representative is unavailable for a hearing.

Preparing your case

Prior to the hearing, it is helpful to prepare notes of the facts involved in the case for reference during the hearing. Because notes are used only to refresh the memory of the note taker, individuals should not expect to read aloud from them as testimony, nor is it likely that any of these hearing preparation notes will be marked as exhibits by the ALJ. Each party should also write down questions for the other party and important points he or she wishes to make to the ALJ.

A party may review his/her/its UI Division file at the hearing office listed on the hearing notice. To make sure the file is available, please call the office in advance. A party may also receive a copy of the file through the mail. Please call the hearing office to request a copy.

Witnesses

Witnesses should consist of **individuals who** have actual personal knowledge of and **were present to see and hear the events** or facts to which they are testifying. An affidavit or written statement (even if notarized) cannot substitute for the personal appearance of a witness. Such a document is hearsay. The witness must appear for the hearing, testify under oath, and answer questions from the ALJ and the other party. Witnesses may include department auditors or other UI Division staff.

The ALJ cannot decide an issue solely on **hearsay** evidence, that is, **evidence not within a witness's own personal knowledge**.

Example: If you want to present evidence that a worker you believe to be an independent contractor has applied for a federal employer identification number (FEIN), you need the worker who filed the application **or** an eyewitness to testify. Both the worker who filed the application and the eyewitness have direct, firsthand knowledge of what happened ("I took the application to the IRS office," and "I went with Joe to the IRS office and saw him give them the application." Either one can provide direct testimony that the IRS received the FEIN application. An example of hearsay or secondhand knowledge would be if a witness testified that "Joe told me that he filed the application.").

Example: If your case involves the question of whether six workers are "employees," bring witnesses who have firsthand knowledge about your business relationship with each worker or the business setup of each worker. **It is not enough** to bring one of the workers and then testify that the rest of the workers are in the same situation.

The ALJ will **limit, or exclude, repetitious testimony**. If several people witnessed a particular incident, you do not have to bring them all. Choose one or two with the best information. However, **be sure to bring sufficient witnesses to testify about each important part of your case**.

The ALJ will not permit testimony from a witness that is not relevant or material to the issue(s) involved in the case. **Relevant evidence** is evidence that tends to make any important fact more probable than without the evidence.

If a witness seems reluctant to appear at the hearing voluntarily or if you wish to obtain specified documents, you may ask the hearing office to prepare a **subpoena** form for you. An attorney representing you may also issue a subpoena. A subpoena requires the witness to appear at the hearing or requires presentation of the requested documents at the hearing. You are responsible for serving the subpoena before the hearing and for providing the required witness fee and mileage payment to the witness. The hearing office will provide further information about serving the subpoena when giving you the form.

Exhibits

A party may wish to introduce documents or other materials such as contracts or financial records, photographs, video or audio tapes, charts, objects, sample products, etc., to support a case. However, the ALJ may refuse to accept irrelevant evidence, that is, evidence that does not make an important fact more probable than without the evidence.

Photocopies may be submitted, but the original documents should be brought to the hearing to confirm the authenticity of the photocopies. Generally, the person responsible for creating or keeping the records should be present at the hearing to identify, authenticate, and testify about them.

If a video or audio recording is important to prove your case, **you must bring it to the hearing in a .mp4 (MP4) format** and submit the recording(s) as part of the record while the appeal is pending (after which it/they may be returned to you). Notify the hearing office prior to the hearing that you plan to play a video or audio recording at the hearing, so that additional time for the hearing may be provided.

Prior LIRC and court decisions

The LIRC website, **http://lirc.wisconsin.gov**, contains a digest, by topic, of recent LIRC decisions and court decisions. These decisions can be quite helpful, but keep in mind that each case will be decided on its own unique set of facts.

Settlements and compromises

Under very limited circumstances, the department may settle a pending case or compromise on the amount your business (or you individually) owe in taxes (or reimbursements, if you are a reimbursable employer), interest, penalties, and costs. Administrative rule DWD 113 discusses such agreements.

A copy of this administrative rule may be obtained at most public libraries, at the Legislature's web page, **http://docs.legis.wisconsin.gov/code/admin_code/dwd/100_150/113**, or by contacting the UI Bureau of Legal Affairs at 608-266-0399.

6. Pre-hearing Conferences

ALJs may schedule prehearing conferences pursuant to DWD 140.07. However, such conferences are scheduled in **only the most complex cases**. Following the conference, the ALJ will issue an order about such matters as stipulations of fact (both sides agreeing that certain facts are true), limitations on the number of witnesses, stipulations about evidentiary issues, and any other matters that might assist in the disposition of the appeal. A copy of this administrative rule may be obtained at most public libraries, at the Legislature's web page, **http://docs.legis.wisconsin.gov/code/admin_code/dwd/100_150/140**, or by contacting the UI Bureau of Legal Affairs at 608-266-0399.

7. The Hearing

Introduction

Having a hearing is like "starting from scratch," as if the determination was never made. Parties present their cases before an **Administrative Law Judge**, or **ALJ**, who is an attorney. The ALJ conducts the hearing and makes sure that both you and the department have the opportunity to present evidence and give testimony. The ALJ is responsible for controlling the hearing, making sure that the rules of evidence are followed, and protecting the due process rights of the parties.

The department will be represented by an attorney. However, the department's attorney has nothing to do with scheduling hearings, postponements, or other changes once the hearing has been scheduled.

Although the hearing is not a court trial, it is a formal proceeding. Hearings are open to the public, though it is very unusual for a person unrelated to your case to attend. To obtain a copy of the digital recording of your hearing, please call 608-266-3174. Be sure you let the person you contact know that you are interested in a **tax hearing**.

Accessibility

The hearing locations throughout the state are accessible to persons with **physical disabilities**. If certain accommodations are necessary to meet your physical needs, you should contact the hearing office immediately so that the appropriate arrangements can be made.

If you need an **interpreter** to properly participate in the hearing or present your case, you should immediately contact the hearing office. Interpreters for numerous languages are available, but the hearing office requires advance notice and will provide additional time for the hearing.

Persons who are **deaf, hard of hearing, or speech-impaired** and who use a TTY (text telephone) or PC (personal computer) to communicate can contact the hearing office by first calling the WI TRS (Wisconsin Telecommunications Relay System) at 1-800-947-3529.

Attending the hearing

In tax, or status, cases it is very important for you attend the hearing. These cases require detailed knowledge about your business that probably only you can provide.

You must report in person if you are scheduled to appear in person. If you are scheduled to appear by telephone, you must be available at the telephone number you provide to the hearing office. If you have been scheduled to appear by telephone but decide to appear in person, make sure that you notify the hearing office in advance of the hearing. **Follow the instructions on your hearing notice.**

Hearing procedure

A record is made of the hearing by digital recording. As such, it is important to speak loudly and clearly, not to rustle papers, and not to interrupt, argue or talk at the same time as someone else.

While the ALJ will follow administrative procedural rules on burden of proof and cross-examination, and will limit the use of hearsay evidence, statutory and common law rules of evidence are not controlling.

The ALJ will introduce himself or herself, identify the persons in the hearing room, explain the procedures, summarize the determination issued by the department, define the issue(s) involved in the case, and ask both parties for brief statements about their contentions. The **brief statement** is not intended to include all the

details of your case. Rather, it should provide a quick description of what you are claiming. An example would be: “I believe Paul Smith and Phil Jones are independent contractors and not employees.”

The ALJ will determine the order in which the parties and any witnesses testify, swear them in, and question them. The ALJ is responsible for getting all the information necessary to understand the facts of your case and to obtain a sufficient record of testimony and other evidence presented in order to make a decision.

The ALJ may **exclude witnesses** (that is, order witnesses to remain outside the hearing room) so that the witnesses are not influenced by the testimony of others. Similarly, the ALJ may limit or exclude the testimony of witnesses if the testimony is repetitive, irrelevant, immaterial, or based solely on hearsay.

In addition to presenting his/her/its own testimony, a party will be given a chance to ask questions of the other party and his/her/its witnesses (called **cross-examination**). Cross-examining a witness involves asking questions about that person's testimony or asking him or her to provide additional information important to your case. It may be helpful to bring a pen and paper to take notes during the testimony.

Cross examination does not involve providing your own testimony (you will get your own chance to do that). For example: Joe Smith testifies that you paid him $500 on March 21. You can ask questions about that, such as: “Did I pay you by check?”, but you cannot interrupt or argue with him or rebut what he said, such as: “But part of that was repaying a loan!”

You (or your representative) may object to certain questions or to the admission of certain evidence. Before ruling on the objection, the ALJ may ask the other party to respond to the objection.

After both parties have had the chance to present their cases and question the other party’s witnesses, the ALJ will end the hearing.

Burden of proof

The party with the **burden of proof**, that is, the party who has the duty of affirmatively proving its case, depends on the issue or issues involved at the hearing.

For example, **there is a presumption that a worker is an employee**, not an independent contractor, unless the business proves to the department that the worker is not an employee. Therefore, **it is the employer's burden to prove that the worker is not an employee**.

The vast majority of cases involve proof **by a preponderance of the evidence**. This means that whoever has the burden of proof must show that it is more probable than not that the claim that the party is making is true. For example, if you are trying to prove that certain wages should not be counted as wages for tax purposes because they were paid for agricultural labor, you must convince the ALJ that it is more probable than not that the work performed was agricultural labor.

Failure to appear at the hearing

If the **appellant** (the employer or business) does not attend the hearing, then **the appeal is dismissed**. The determination remains in effect and becomes final (unless good cause for failing to appear is shown). The ALJ will wait 15 minutes before dismissing the appeal.

If the **respondent**, the department, does not attend the hearing, it gives up the chance to present evidence and testimony at the hearing (unless good cause for failing to appear is shown). The **ALJ will wait five minutes** before proceeding with the hearing without the respondent.

If a party fails to appear for a hearing but believes there was **good cause for failing to appear**, he/she/it may provide a written explanation of the reasons for not appearing. A party may submit the written explanation to the hearing office at any time before a decision is issued or within the 21-day appeal period after a decision is mailed. If, after review, the ALJ decides there was no good cause for failing to appear, the request for hearing will be denied. If the ALJ decides there was good cause for failing to appear, a hearing will be scheduled on the merits of the case.

A person’s illness, an accident, or unexpected circumstances that would prevent a person from being able to attend a hearing may be good cause. Forgetting about the hearing, writing the wrong date on your calendar, getting lost, or getting stuck in traffic generally are not considered to be good cause.

8. After the Hearing

Appeal tribunal decision

After the hearing, the ALJ will review the testimony and the exhibits received at the hearing, decide how the unemployment insurance law applies to the facts, and issue a written decision. The ALJ's decision, also called an **Appeal Tribunal Decision** or **ATD**, will be **based solely on the evidence presented at the hearing**. The ALJ's decision can change the ruling made in the determination.

A copy of the ALJ's decision will be mailed to you or your representative. **If you haven't received a decision within 60 days, please contact the hearing office.** This is important because, if the mail was misdirected, you could miss the deadline to appeal the ALJ's decision.

REMINDER: A decision in a tax, or status, case does not decide a claimant's benefit eligibility.

> Example: A tax, or status, decision is issued stating that a claimant was an employee and not an independent contractor. That decision will not automatically decide that issue for the claimant's benefit eligibility. The issue involved in the benefit case is not whether you are liable for UI taxes; it is whether the claimant is eligible for benefits.

9. Further Appeals

The decision of the ALJ may be appealed to the Labor and Industry Review Commission (LIRC), and LIRC's decision may be appealed to the courts. For detailed information on these further appeals, see Parts 2 and 3.

10. Precedence in Tax Cases

In tax cases, when LIRC interprets a statute differently than the department, LIRC's interpretation generally must be followed by the department from then on. The department is considered to have "acquiesced" in (accepted and adopted) LIRC's interpretation. However, the department may decide not to appeal LIRC's decision but also to "non-acquiesce" in the decision. To do this, the department will send a notice of no acquiescence to be published in the Wisconsin Administrative Register. (A copy will also be sent to you and to LIRC, if the department takes this action.) The effect of this is that while LIRC's interpretation and decision is binding in that particular case, the department is not required to follow that interpretation in any other cases.

PART 2 - Appeals to the Labor and Industry Review Commission (LIRC)

If the employer, the claimant, or the department disagrees with a decision by the administrative law judge (ALJ), also called an Appeal Tribunal Decision (ATD), then the decision may be appealed to the Labor and Industry Review Commission (LIRC), an agency that decides appeals in unemployment insurance and other employment-related claims. LIRC is an independent agency that is separate from the department.

If an appeal to LIRC is filed, it must be postmarked or received by LIRC **within 21 days** from the date on which the ALJ's decision was issued. See Appendix A in this section for the address of LIRC. LIRC will accept faxed appeals at 608-267-4409, and appeals filed online at http://lirc.wisconsin.gov/ui_appeal.htm. The appeal deadline and information on how to appeal a decision to LIRC will be included with the ALJ's decision. LIRC will mail a confirmation to verify that the appeal has been filed to the business or person filing the appeal and any opposing party.

Generally, only the exhibits and a synopsis of the testimony given at the hearing before the ALJ will be considered in the review by LIRC. If you can demonstrate to LIRC that the synopsis is an inadequate summary of the testimony at the hearing, you may request that LIRC listen to the digital recording of the hearing or order a transcript. While it is very unusual for LIRC to grant such a request, you can send a written request to LIRC that explains why you feel the synopsis is inadequate and what you think would be added by listening to a digital recording or reading a transcript.

Except in exceptional circumstances, LIRC conducts its review based only on the record which resulted from the hearing held by the ALJ. **In general, LIRC will not accept additional evidence** unless it was unavailable to the party submitting it at the time of the hearing. The person or business filing an appeal to LIRC, or any opposing party, may request in the appeal or shortly after the filing of the appeal, to file a "brief" with LIRC. Upon receiving such a request, LIRC will establish a schedule by which the parties may file written arguments expanding upon the factual and legal points made in the appeal. The LIRC website, http://lirc.wisconsin.gov, contains a digest by topic of recent LIRC decisions and court decisions.

Except in most tax cases, LIRC decisions do not set legal precedent. For more information on precedence in tax cases, see Part 1B, Item 10.

PART 3 - Appeals to Court

If the employer, the claimant, or the department disagrees with the decision issued by LIRC, that decision may be appealed to circuit court (and from there to higher courts). Information on the circuit court appeal deadline and how to appeal a decision will be included with LIRC's decision. This is the point at which most people choose to hire an attorney, although one is not required. The deadlines and requirements about what must be stated in an appeal and how it should be filed are strictly upheld. If even a technical requirement is missed, the appeal will be dismissed.

Generally only the record from the Appeal Tribunal (the hearing before the ALJ), will be considered in a review by a court. The courts are required by law to affirm LIRC's findings of fact if there is any rational basis for those facts in the record. Moreover, the courts are required to defer to the conclusions of law and statutory interpretation in agency decisions in all cases except where the issue is one of first impression or the agency lacks special expertise in the issue presented. This is true even if the court feels that the decision could have gone a different way and that LIRC's decision is not the "best" one. It is not easy getting a LIRC decision overturned and few are reversed, however, it is possible.

APPENDIX A - Addresses and Telephone Numbers

UI Bureau of Legal Affairs
201 E. Washington Ave., Room E300
P.O. Box 8942
Madison, WI 53708
Phone: 608-266-0399
Fax: 608-266-8221

UI HEARING OFFICES

Eau Claire Hearing Office
715 S. Barstow St., Suite #1
Eau Claire, WI 54701
Phone: 715-836-6567
Fax: 715-836-1360

Madison Hearing Office
3319 W Beltline Hwy, Room E308
PO Box 7975
Madison, WI 53707-7975
Phone: 608-266-8010
Fax: 608-266-8180

Fox Valley Hearing Office
54 Park Place, Suite 800
Appleton, WI 54914
Phone: 920-832-2769
Fax: 920-832-5434

Milwaukee Hearing Office
819 N. 6th Street, Room 382
Milwaukee, WI 53203
Phone: 414-227-4731
Fax: 414-227-4264

COMMISSION

Labor and Industry Review Commission (LIRC)
P.O. Box 8126
Madison, WI 53708-8126
Phone: 608-266-9850
Fax: 608-267-4409

APPENDIX B – Forms

1. **Notice of Hearing**
   A. In-Person Hearing Notice
   B. Telephone Hearing Notice

2. **Telephone Hearing Instructions and Documents Packet**

3. **Form UCB-474 - Medical Report to Determine Unemployment Insurance Eligibility**

4. **Certified Expert Report on Labor Market Conditions (COED)**

5. **UI Drug Testing Reports**
   A. Obtain Specimen Report - Certification by the person who took the specimen
   B. Drug Test Report - Certification by the laboratory that performed the analysis

SECTION 4 - WAGE REPORTING

PART 1 - Wage Reporting

Employers covered under Wisconsin's Unemployment Insurance law are required to report quarterly wage information for each employee. This system of collecting detailed wage information is referred to as WAGE REPORTING.

A quarterly wage report is required *in addition* to the quarterly UI contribution (tax) report. Each employer is required to furnish a report containing wage data for every employee paid in the calendar quarter. Each wage detail must include the employee's social security number, first and last name, and total gross wages PAID during the quarter. Employers are required to file the wage and tax reports even though they may be unable to make the required contribution payment.

Reports are filed four times a year, based on the following reporting schedule:

Reporting Period	Report Due
January 1 through March 31	April 30
April 1 through June 30	July 31
July 1 through September 30	October 31
October 1 through December 31	January 31

Wage reports may be submitted using the following methods: Internet Wage Entry, Internet Wage File Upload or Paper.

Internet filing is required once an employer reaches certain employment levels.

Employers with 25 or more employees must file their reports electronically.

Employer Agents (e.g. Bookkeepers, Service Bureaus, Accountants, CPAs or Payroll Service Agencies) **who prepare quarterly wage reports for clients are required to file those reports electronically.**

Employers who are currently reporting with paper forms are strongly encouraged to convert to Internet reporting. Please refer to Part 2 for more information on Internet reporting.

If after reading our handbook, you need assistance converting to Internet reporting, please call 608-266-6877, or email us at **wagenet@dwd.wisconsin.gov**.

PART 2 - Internet Reporting

There are two options you can use to report your Quarterly Wage Reports via the Internet.

1. **Tax Report with Employee Wage Entry:** If you have fewer than 150 employees, you can key your quarterly wage and tax report data directly into our website. This is a form-fill application that displays the social security numbers and names of each employee reported on your last quarterly report.

   To complete your wage report, you enter the quarterly wage for each employee listed, update employee names or social security numbers that need correction, and add any new employees. You must have a social security number for each employee listed on the report. When you finish entering the wage detail, you can click **Save** and **Next** to have the Tax Report calculated for you, or you can select **Save and Exit** to save the wage report for you to complete later.

2. **Tax Report with Wage File Upload:**
   You can upload a wage file using one of four acceptable file formats (See Part 3 for more information about acceptable data formats). This option allows you to key your tax report online and then upload your wage file. After completing the tax report, a menu appears that allows you to upload your wage file(s).
   - Click on **Upload the employee wage file** and provide the business contact information requested.
   - Then click on **Next** and select the type of wage file you are uploading (original, replacement or append).
   - Then click on **Browse** at the bottom of the screen to open a window that allows you to browse your PC for the file you want to upload.
   - When the file is located, highlight it and click **Submit**.
   - If the file upload is successful, a confirmation message is displayed with a unique confirmation number for your records.
   - You may upload multiple files but you may upload only one file at a time. You can upload a maximum of 3 files in each login session with a maximum file size of 10 megabytes.

   - Two payment options are available.
   - You can print a Payment Coupon and mail it in with your check or money order or
   - you can make a payment via Electronic Funds Transfer (EFT).

If you have other questions on how to pay your quarterly UI Taxes, please call 608-261-6700 for more information.

When you access the Tax and Wage Reporting System for the first time, you will be asked to create a new user profile. Once you establish your profile, you can use the same user name and password for all future quarterly filings. After your profile is set up, you will be asked to provide your UI Account Number and Internet Access Number.

The access number appears on your Quarterly Contribution Report (UCT-101). It is required the first time you use the Tax and Wage Reporting System to submit your quarterly report. After that, access to your account is controlled by the user profile and password you create. **For this reason, please take every reasonable precaution to keep them confidential.**

PART 3 - Wage File Upload Data Formats

Following are specifications for the **four data formats** that may be used to submit quarterly wage reports on-line using Internet Wage File Upload.

Wisconsin UI Format - Alternative 1

Example of Wisconsin UI Format

This record format contains the employer UI account number and employee wage record information and quarter designation in one self contained record per employee.

Location	Field	Length	Description & Remarks
01-10	Employer UI Account Number	10	Enter Your 10-digit UI Account Number. Example: If your account number is 123456-000-7, positions 1-10 should contain 1234560007.
11-13	Reporting Period Quarter Year (QYY)	3	Enter Quarter and Year to which this report applies (e.g. 312 for the third quarter of 2012).
14-22	Social Security Number	9	If not available, fill with zeroes.
23-32*	Last Name	10	Left justify and fill with blanks.
33-40*	First Name	8	Left justify and fill with blanks.

41-49	Employee Quarterly UI Total Gross Wages	9	Right justify and zero fill. Enter dollars and cents. Do not use commas, decimal points, or dollar signs. Example: If employee's wages are $6425.00, positions 41-49 should contain the value 000642500.
50-51	Record Code	2	Should ALWAYS contain '01'
52-80*	Blank	29	Space-fill characters 52 - 80, and place carriage return in position 81.

* Locations 23-40 may be used for employee name. If unable to accommodate last name in locations 23-32 and first name in locations 33-40, you can use locations 23-40 for the name field. If using as a name field enter an 'S' if the surname appears first or enter an 'F' if the first name appears first in location 80. This field should be left blank if treating the name as separate fields.

Omit titles, e.g., Mr., Mrs., Ms. DR or MD, from the name field. Use uppercase letters only. Do not use punctuation. Parts of a compound surname must be connected by a hyphen. Leading letters (e.g., 'O', 'Mc', etc.) must not be separated from the rest of the surname by a blank.

Note that each line in the file is an 80 byte record, terminated by a carriage return. Files may be rejected if carriage returns are not placed in the correct position within the file.

Federal IRS/SSA Tape Format - Alternative 2

Example of Federal IRS/SSA Tape Format

The following format is a modified IRS/SSA format. Although the IRS/SSA reporting allows for record types 'A','B','E','W','I','T','F', we will be capturing the necessary Wage Record information exclusively from record types 'E', employer record, and 'S', employee wage, and bypassing all other record types. The 'E' and 'S' record types have been modified to allow for UI information.

Note: Wages reported to IRS/SSA are different from Wisconsin UI total Gross Wages. Following are the 'E' and 'S' record layouts for the modified IRS/SSA format:

Code 'E' - Employer Record

Use a separate code 'E' record for each State Employer Account Number recorded on the tape. Group all employee records (Code 'S') following the code 'E' record for the State UI Employer Account Number reporting group. At least one Code 'S' record must be present for each code 'E' record reported on the file.

E RECORD FORMAT			
Location	**Field**	**Length**	**Description & Remarks**
01	Record Identifier	1	Constant 'E'.
02-05	Filler	4	Not used by Wisconsin Wage Record.
06-14	FEIN	9	Enter 9-digit Federal Employer ID No.
15-158	Filler	144	Not used by Wisconsin Wage Record
159	Name Code	1	Enter 'S' if the surname appears first in the employee name field (positions 11-37) of the following Code 'S' records. Enter 'F' if the first name appears first in the employee name field of the following Code 'S' records. This code may vary with each Code 'E' record as long as it remains consistent with the following Code 'S' records.

160-167	Filler	8	Not use by Wisconsin Wage Record
168	Tax Type Code	1	Enter 'B' to designate the following Code 'S' records are UI Wage Records.
169-170	State Code	2	Enter '55' to designate Wisconsin
171-175	Filler	5	Not used by Wisconsin Wage Record
176-185	Employer UI Account Number	10	Enter your 10 digit UI account number. (Example: for account number 123456-000-7, enter 1234560007).
186-187	Record Code	2	Should ALWAYS contain '01'.
188-275	Filler	88	Space-fill characters 188 - 275, and place carriage return in position 276.

Code 'S' Employee Wage Record

Use the Code 'S' employee record to report employee wage information in conjunction with Code 'E' record. Generate this record for each employee of an employer and group by employer immediately following the 'E' record.

The format of the employee name on the Code 'S' record must correspond to the Name Code in position 159 of the preceding Code 'E' record. Separate the first and last name by a blank. If a preceding Code 'E' record (position 159) contains 'F', the first name (maximum 8 characters) is followed by a space and then surname (maximum 10 characters). If preceding Code 'E' record (position 159) contains 'S', the surname (maximum 10 characters) is followed by a space and then first name (maximum 8 characters).

Omit leading titles, e.g., Mr., Mrs., Ms., from the name field. Lower case letters are not acceptable. Do not use punctuation. Connect parts of a compound surname by a hyphen. Do not separate leading letters (e.g., 'O', 'Mc' etc.) from the rest of the surname by a blank.

The employee Quarterly UI Total Gross Wage Field (positions 132-140) must include dollars and cents and must be reported 'unsigned'. Do not report negative amount fields. Only positive amounts will be accepted. Do not use commas, decimal points or dollar signs in positions 132-140.

S RECORD FORMAT			
Location	**Field**	**Length**	**Description & Remarks**
01	Record Identifier	1	Constant 'S'.
02-10	Social Security Number	9	Enter the employee's social security number. If not available, fill with zeroes.
11-37	Employee Name	27	Enter employee's name. Left justify and fill with blanks.
38-123	Filler	86	Not used by Wisconsin Wage Record.
124-125	State Code	2	Enter '55' to designate Wisconsin.
126-127	Record Code	2	Should always contain '01'.
128-131	Reporting Period (MMYY)	4	Enter the last month and year for calendar quarter for which this report applies; ex: '0306' for Jan-Mar 2006.
132-140	Employee Quarterly UI Total Gross Wages	9	Right justify, zero fill. Enter dollars and cents. Do not use commas, decimal

			points, or dollar signs; (ex: if employee wages are $6425.00, positions132-140 should contain 000642500).
141-275	Filler	135	Space-fill characters 141 - 275, and place carriage return in position 276.

Federal IRS/SSA Diskette Format - Alternative 3

Example of Federal IRS/SSA Diskette Format

This is a modified Federal IRS/SSA Diskette format. There are four types: 'E' employer records '1' and '2', and 'W' Wage records '1' and '2'.

Note: Wages reported to IRS/SSA are different from Wisconsin UI Total Gross Wages.

Code 1E and 2E - Employer Records

These records identify the employer whose employee wage and tax information is being reported. Each Code 1E record must be followed directly by a Code 2E record.

Generate a new set of Code 1E/2E records each time it is necessary to change the information in any field on these records. Following each set of Code 1E/2E records, group together all the employee records for the employer identified in the set of Code 1E/2E records.

1E RECORD			
Location	**Field**	**Length**	**Description & Remarks**
01	Record Sequence	1	A Constant '1'.
02	Record Identifier	1	Constant 'E'.
03-06	Payment Period*	4	The payment period reported as quarter and year. Quarter is specified as 01, 02, 03, or 04, and year is specified as two digits; as 12 for 2012.
07-15	FEIN	9	Enter the 9 digit Federal Employer ID Number.
16-128	Filler	113	Not used by Wisconsin Wage Record.

2E RECORD			
Location	**Field**	**Length**	**Description & Remarks**
01	Record Sequence	1	A Constant '2'.
02	Record Identifier	1	Constant 'E'.
03-47	Filler	45	Not used by Wisconsin Wage Record.
48	Name Code	1	Enter an 'S' if the surname appears first in the name field. Enter an 'F' if the first name appears first in the name field.
49-56	Filler	8	Not used by Wisconsin Wage Record.
57-66	Employer UI Account Number	10	Enter your 10-digit UI account number. Example: If your account number is 123456-000-7, enter 1234560007.

67-128	Filler	62	Space-fill characters 67 - 128, and place carriage return in position 129.

* These fields are not in standard with IRS specifications.

Code 1W and 2W - Employee Wage Records

These records are used to report wage data for the employees of the employer identified in the most recent set of Code 1E/2E records.

Employee (Code 1W/2W) records should be grouped together to follow the appropriate employer (Code 1E/2E).The sets of employee records may appear in any desired sequence within a group, but each Code 1W record must be followed directly by a Code 2W record for the same employee.

The format of the employee name on the Code 1W record must correspond to the Name Code in position 48 of the related Code 2E record.

Use first and last names only; do not use middle initials or middle names.

1W RECORD			
Location	**Field**	**Length**	**Description & Remarks**
01	Record Sequence	1	A Constant '1'.
02	Record Identifier	1	Constant 'W'.
03-11	Social Security Number	9	If not available, zero fill.
12-38	Employee's Name	27	Left justify and fill with blanks.
39-128	Filler	90	Space-fill characters 39 - 128, and place carriage return in position 129.

2W RECORD			
Location	**Field**	**Length**	**Description & Remarks**
01	Record Sequence	1	A Constant '2'.
02	Record Identifier	1	Constant 'W'.
03-18	Filler	16	Not used by Wisconsin Wage Record.
19-27	Employee Quarterly UI Total Gross Wages*	9	Wage paid in the quarter to the person identified on the first half of this 'W' record. Right justify and zero fill. Do not use comma, decimal points, or dollar signs. (Example: if wages are $6425.00, positions 19-27 should contain the value 000642500.)
28-128	Filler	101	Space-fill characters 28 - 128, and place carriage return in position 129.

* These fields are not in standard with IRS specifications.

Tab-Delimited Text Format - Alternative 4

The online tax and wage reporting application can accept and process text files in a tab-delimited format that is similar to our WI UI Format. This allows employers and agents who maintain and submit quarterly wage data using Excel to convert an Excel file to a tab-delimited text format in order to upload a wage report file online.

Following are instructions for converting a wage report from an Excel format to a tab-delimited format accepted by the online reporting application:

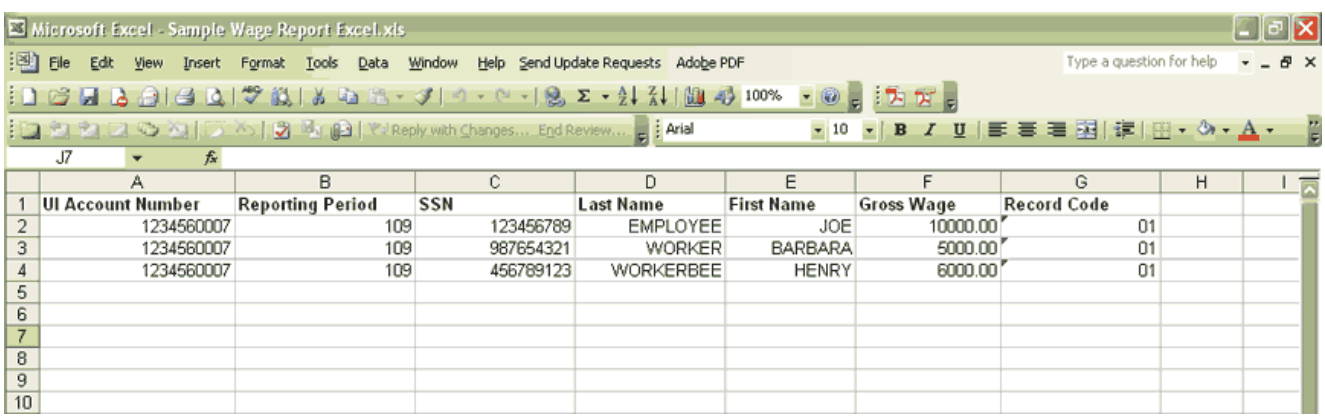
Step 1 – Create the Wage Report in Excel

The Excel file must include the same data required for the WI UI Format (Alternative 1), organized in the following manner:

Location	Field	Length	Description & Remarks
A	Employer UI Account Number	10	Enter Your 10-digit UI Account Number without dashes or spaces. (Example: If your account number is 123456-000-7, column A should contain 1234560007).
B	Reporting Period Quarter Year (QYY)	3	Enter Quarter and Year to which this report applies (e.g.,109 for the first quarter of 2009).
C	Social Security Number	9	Enter the 9-digit Social Security Number with no spaces or dashes. If not available, fill with zeroes.
D	Last Name	10	Enter the last name for the employee. Please note that the last name column must precede the first name column.
E	First Name	8	Enter the first name for the employee.
F	Employee Quarterly UI Total Gross Wages	9	Enter the employee's quarterly wages including a decimal point to show dollars and cents. Do not report negative wage amounts or use '+' to indicate a positive wage amount.
G	Record Code	2	Should ALWAYS contain '01.' If possible, do not format the column to truncate leading zeroes; using the text format for this column is recommended.

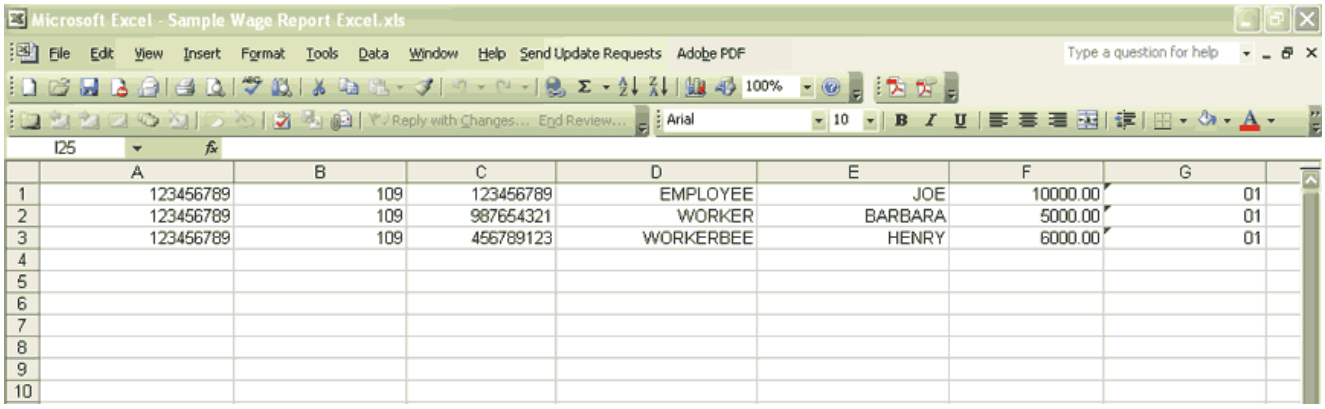
Note: The wage amounts in the Excel file must contain decimal points for the file format to be valid. In order to ensure that decimal points are not automatically dropped from your wage amounts (e.g., 200.00 to 200) when saving the Excel file to the tab-delimited format, make sure that Column F in the Excel file is formatted properly. Highlight the wage amounts in that column and right click to select Format Cells. In the Number tab, select Text so that the wage amounts remain exactly as entered.

Below is an example of an Excel wage report file that is formatted according to the specifications above:



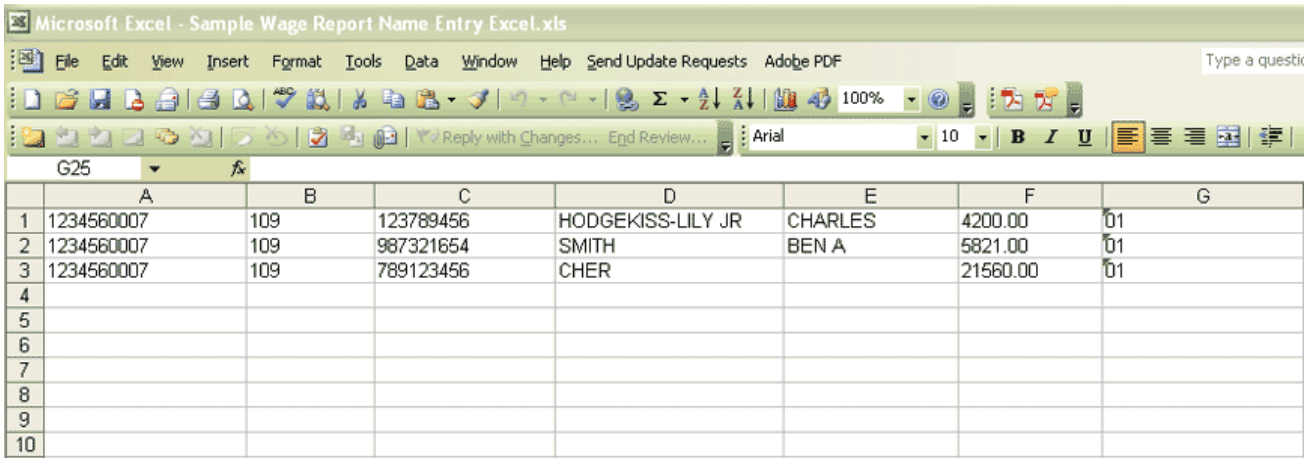
	A	B	C	D	E	F	G
1	UI Account Number	Reporting Period	SSN	Last Name	First Name	Gross Wage	Record Code
2	1234560007	109	123456789	EMPLOYEE	JOE	10000.00	01
3	1234560007	109	987654321	WORKER	BARBARA	5000.00	01
4	1234560007	109	456789123	WORKERBEE	HENRY	6000.00	01

Note that in the above example, the column headings in row 1 are included only to denote what data belong in each column. The headings must be removed prior to saving the file in the tab-delimited format so the file looks like the following example:



	A	B	C	D	E	F	G
1	123456789	109	123456789	EMPLOYEE	JOE	10000.00	01
2	123456789	109	987654321	WORKER	BARBARA	5000.00	01
3	123456789	109	456789123	WORKERBEE	HENRY	6000.00	01
4							
5							
6							
7							
8							
9							
10							

Do not combine the last and first name in one column. Omit titles, e.g., Mr., Mrs., Ms., DR or MD, from the name field(s). Use uppercase letters only. Do not use punctuation. Parts of a compound surname must be connected by a hyphen. Do not separate leading letters (e.g,. 'O,' 'Mc,' etc…) from the rest of the surname. Middle initials must be entered as part of the first name, after the first name (e.g., BEN A). If an employee has just one name (e.g., Cher), enter it in the Last Name column. The following screenshot shows examples of acceptable name entries using columns D and E:



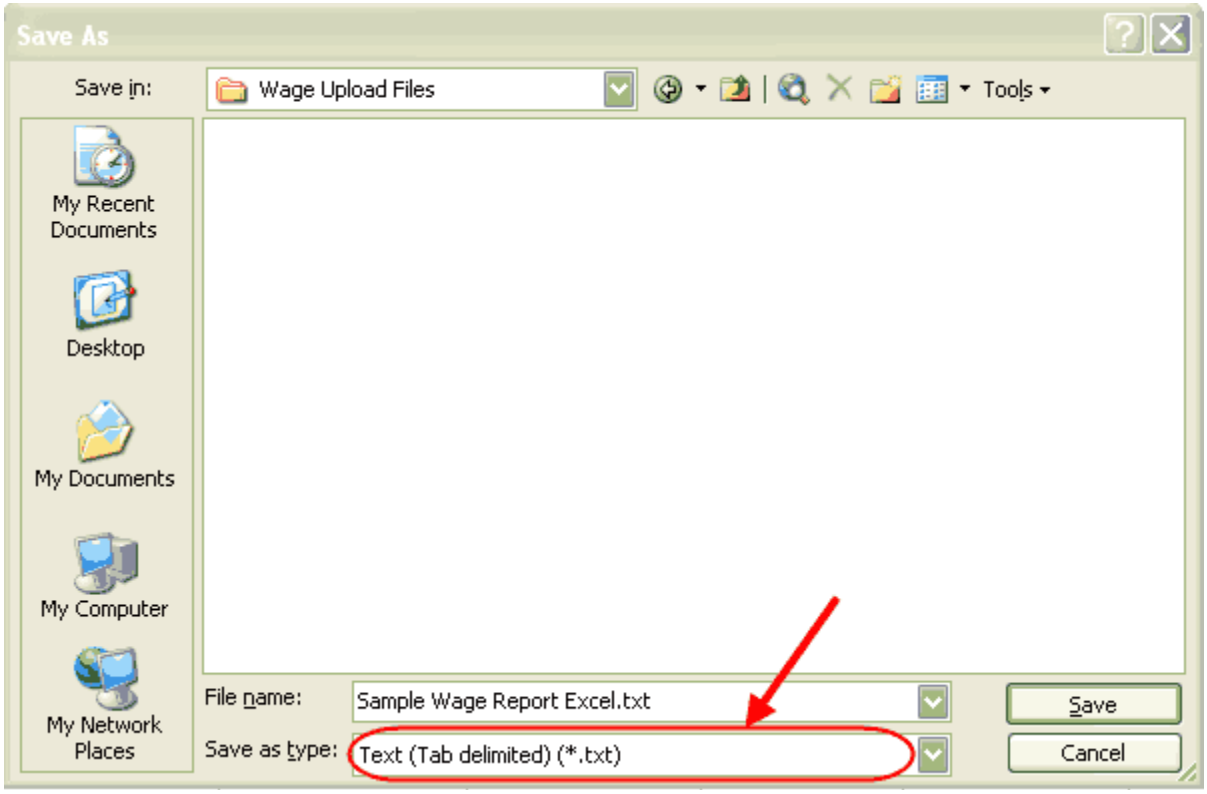
	A	B	C	D	E	F	G
1	1234560007	109	123789456	HODGEKISS-LILY JR	CHARLES	4200.00	01
2	1234560007	109	987321654	SMITH	BEN A	5821.00	01
3	1234560007	109	789123456	CHER		21560.00	01
4							
5							
6							
7							
8							
9							
10							

Step 2 – Save Excel File in a Tab-Delimited Format

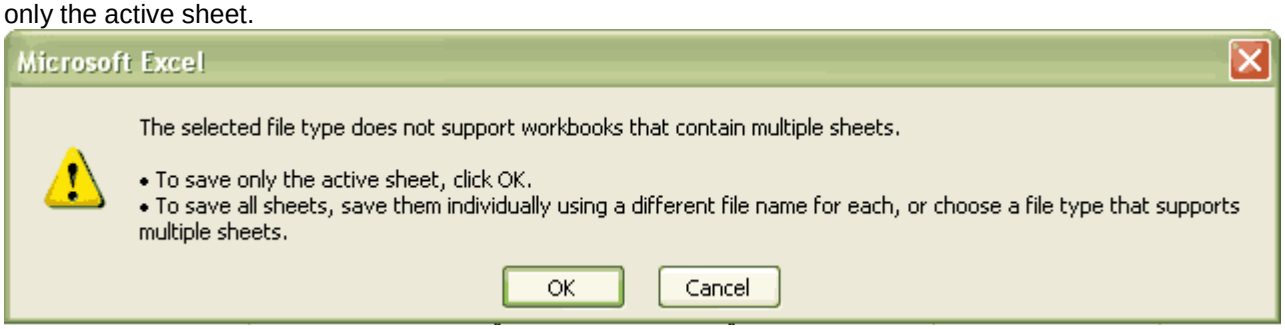
In your Excel file, select File > Save As to bring up the Save as window.

(Note: To ensure a properly formatted file, we recommend selecting only those cells that contain wage report data prior to selecting File > Save As to bring up the Save as window. To do this, you can select the A1 cell in your Excel file and then on your keyboard press Shift + Ctrl + End simultaneously. You can also manually select the cells containing your wage report data by dragging your mouse over the desired cells.)

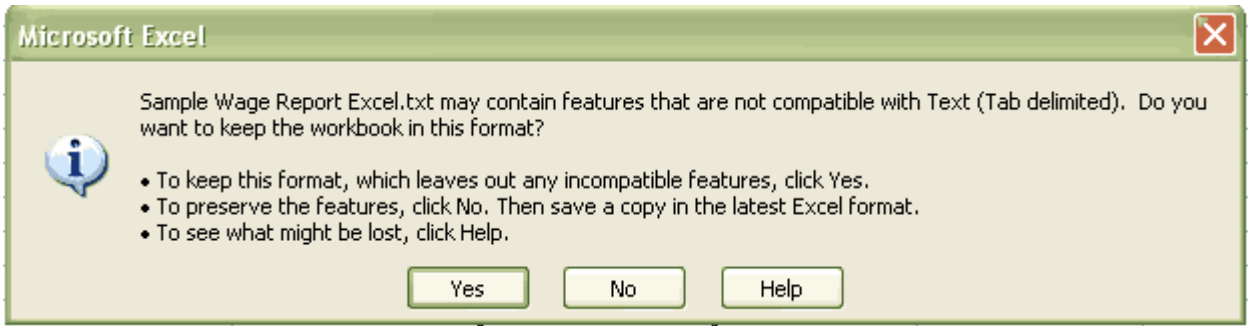
In the Save in field, browse to the desired location on your PC to which to save your file. Then enter a file name in the File name field. In order to convert your Excel file to a tab-delimited format, use the down arrow in the Save as type field and choose Text (Tab delimited)(*.txt) from the list of file types.



You may receive a warning about the file type not supporting workbooks with multiple sheets. Click OK to save only the active sheet.



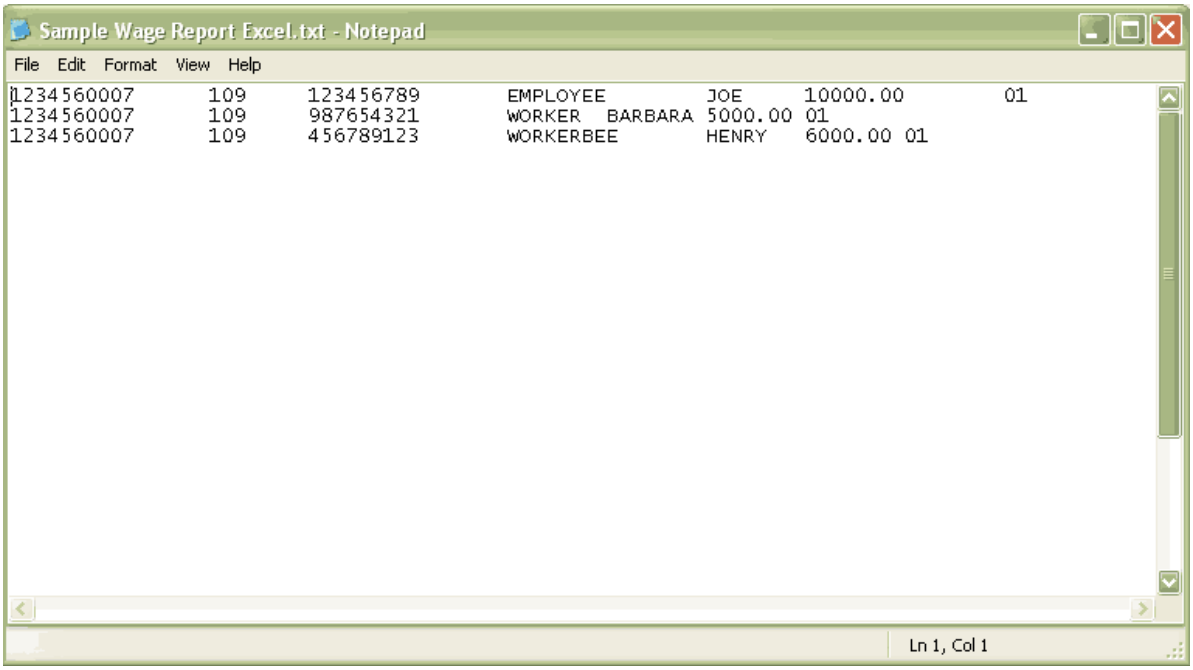
If you receive a warning about the file containing features not compatible with Text (Tab delimited), click Yes to keep this format.



You have now created a tab-delimited text file that contains your wage report data. Locate the text (.txt) file you saved in the location to which you saved it on your PC.

Name	Size	Type	Date Modified
Sample Wage Report Excel.txt	1 KB	Text Document	04/06/2009 12:08 PM

If you open the text file, it should look similar to the example text file below:



Sample Wage Report Excel.txt - Notepad

File Edit Format View Help

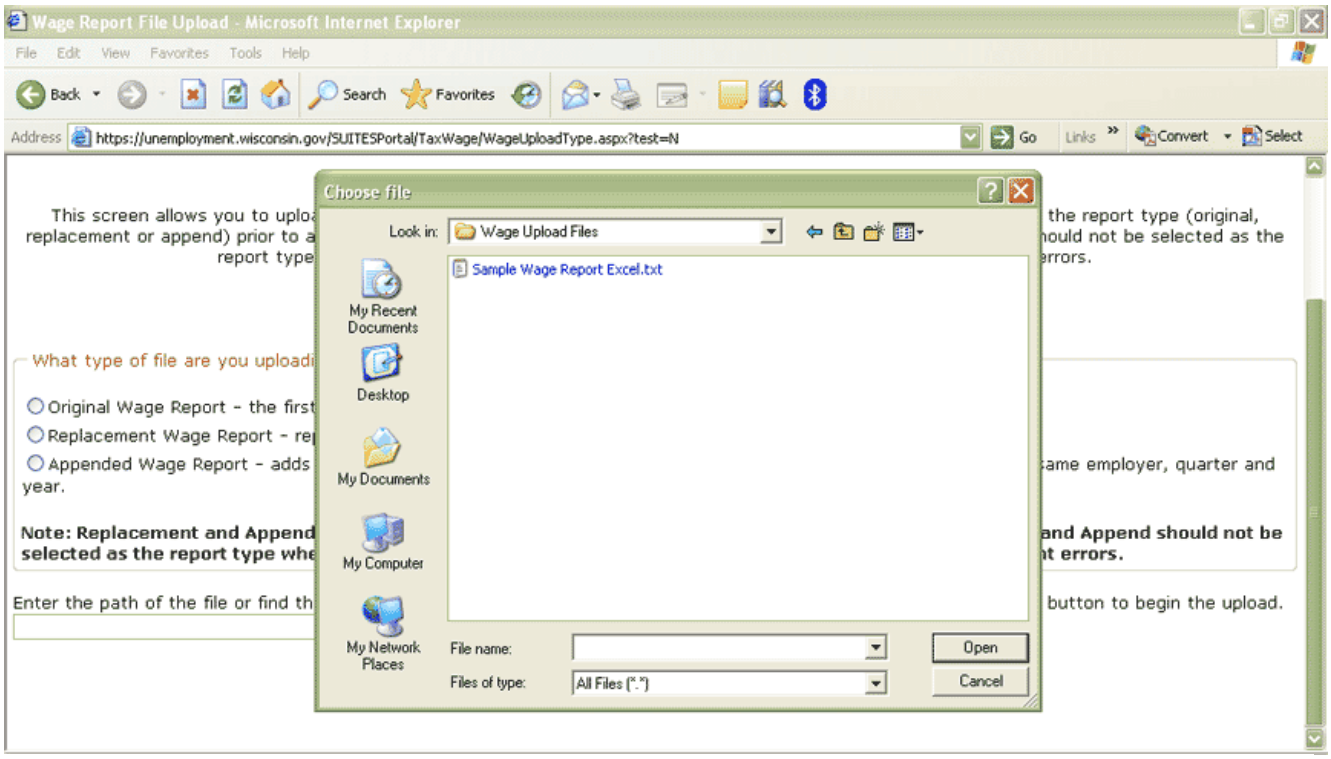
```
1234560007      109     123456789       EMPLOYEE        JOE     10000.00        01
1234560007      109     987654321       WORKER  BARBARA 5000.00 01
1234560007      109     456789123       WORKERBEE       HENRY   6000.00 01
```

Ln 1, Col 1

You can see in the above text file example that not all of the columns line up exactly; do not be alarmed if this is the case with your file. All of the individual data elements in each row are still separated by a tab, so the system will still be able to process the data elements correctly.

Step 3 – Upload your text file using the Online Tax and Wage Reporting System

You are now ready to upload your text wage report file using the online Tax and Wage Reporting System. To do this, visit our website at http://unemployment.wisconsin.gov. Select the link to **File Tax and Wage Reports** and login to the online reporting application. Access the Wage Report File Upload screen, enter the required contact information and click on **Next**. Then select the type of file you are uploading (original, replacement or append). Then click on the **Browse** button to locate the tab-delimited wage report text file you created and saved on your PC.



Once you have attached your wage report file, click on the Submit button. You can also test your wage report file before submitting it to satisfy quarterly reporting requirements using our Test Wage Report File Upload screen, also located in the online Tax and Wage Reporting system. By uploading a wage report file using the Test Wage Report File Upload screen, you can test your file to make sure the file format is correct and that it does not contain content errors that would cause any report(s) within the file to be rejected.

If you have further questions regarding uploading wage report files or converting Excel files to a tab-delimited format, you may contact us at the following phone number and email address: By Phone: (608) 266-6877 Monday – Friday, 8 AM to 4:00 PM By email: wagenet@dwd.wisconsin.gov

PART 4 - Paper Wage Reports

A. Reporting Options

Paper Wage Reports may be filed by employers whose employment totals are below the threshold levels that require online reporting.

Employers with 25 or more employees must file their reports electronically via the Internet.

B. Guidelines for Paper Reports

An optical character recognition (OCR) system is used to read information on the contribution and wage reports. Optical scanning reads typed and computer printed data and electronically converts it for computer processing. This system eliminates clerical key entry and is therefore very cost effective and accurate. The OCR can process reports at less than half the cost of clerical data entry.

Report In Specified Format

Submit wage reports on the preprinted forms provided or in the print format specified by the format guide on 8-1/2" x 11" white bond paper.

- **Return the original forms, not photocopies.**
- **Please do not attempt to duplicate our forms.**

You can find a copy of the Quarterly Wage Report - Form UC-7823-E in the DWD Internet Forms Repository. (This form is an Adobe Acrobat document. To view or print the Wage Adjustment Report, you must have

Adobe Acrobat Reader installed on your PC. Acrobat Reader can be downloaded free from the DWD Viewers Download Page). If you are unable to print a copy, you can order copies of the

Quarterly Wage Report by calling 608-266-6877 or emailing wagenet@dwd.wisconsin.gov. We supply forms free of charge.

Type or Computer Print

Type or computer print all paper reports (letter quality, no dot matrix please) to ensure readability by the optical scanner. The scanner reads data, which has been typed or printed in **black ink** on 8-1/2" x 11" white bond paper with:

- Font = OCR-A or OCR-B
- 6 lines per inch
- 10 characters per inch
- Double spacing (one employee per line)
- First Name field = 64 characters or less
- Last Name field = 64 characters or less

Report Social Security Number, Name and Total Gross Wages Paid

Report the social security number, name and total gross wages paid each employee for that quarter. Since Wage Reporting files are accessed by social security number, it is crucial that the number reported be accurate.

Printing Information By Hand

The OCR equipment is able to read computer printed or typewritten information ONLY. All hand written documents must be manually keyed into the computer system. If a typewriter is not available and the report must be completed by hand, PLEASE PRINT ALL INFORMATION WITH BLACK INK.

DO NOT STAPLE FORMS

Note: If you are unable to conform to the above specifications and have Internet access, you can file your reports using our web-based application. It is designed for employers with fewer than 150 employees. It is a form-fill application that asks you to fill in the wages of the employees you reported the previous quarter, as you would on your paper wage report, and uses this payroll information to figure your UI tax liability. Call UI Teams at 608-261-6700 for more information on obtaining access to this site.

C. Preprinted Forms

Preprinted forms are designed for employers who consistently employ fewer than 25 employees.
A preprinted wage report form will be mailed to employers with their quarterly contribution report at the end of each quarter. The wage report form contains preprinted information, including the social security number and name of each employee as reported by the employer in the prior quarter. You must:

1. Complete wage information for employees shown;
2. Add SOCIAL SECURITY number, name, and wages for newly hired employees;
3. Leave the wage entry blank if an employee received no wage for the quarter; and
4. Complete the contribution portion of the report.

Samples of forms follow. Our forms are available free of charge. **Photocopies of forms cannot be used. Please do not attempt to duplicate our forms.**

Special Note To Request Forms:

Visit the Forms section of our website and locate the UC-7823-E Quarterly Wage Report in the list of forms.

- Call: 608-266-6877
- Email: wagenet@dwd.wisconsin.gov

Or Write:

DWD - UI Wage Reporting
P. O. Box 7962
Madison, WI 53707

We Supply Forms Free of Charge

D. Corrections to Preprinted Information of Wage Reporting Forms

The preprinted forms contain a preprinted list of employee names and social security numbers. If a name and/or social security number is in error:

1. Enter an "X" in the CHANGE column.
2. Draw a diagonal line through each incorrect number and/or letter.
3. Enter the correct data above the incorrect data.

Change	Social Security Number	Last Name	First Name
X	45 123~~OO~~6789	S ~~O~~mith	John

E. Quarterly Wage Report - Form UC-7823

This preprinted form is used to report wages paid to each employee within the calendar quarter. One extra sheet is provided each quarter to report new employees.

If you are currently reporting with paper forms and have Internet access, you can file using our web-based application.

Instructions for Completion

If employee data is preprinted, enter the total gross wages paid to each employee in the quarter. If employee social security numbers and names are not preprinted or you want to add a new employee, enter the information in line with the example printed on the form. Enter social security number, name (last name, first name) and the total gross wage paid in the quarter.

If an employee listed was not paid during the quarter, leave the wage field blank. The employee's name and social security number will not appear on the next quarter's report.

Correct preprinted data by placing an 'X' in the CHANGE column, drawing a line through the incorrect character and entering correct information directly above.

Special Note To Request Forms:

Visit the Forms section of our website and locate the UC-7823-E Quarterly Wage Report in the list of forms.

- Call: 608-266-6877
- Email: wagenet@dwd.wisconsin.gov
- Write to:
  DWD - UI Wage Reporting
  P. O. Box 7962
  Madison, WI 53707

We Supply Forms Free of Charge

Example Form

Example of Form UC-7823

F. Desktop Printer Wage Reports

Wage Reports may also be created on plain white paper using a standard desktop laser or ink-jet printer. A sample of this type of report is shown below. Note that the report displays the same data as the UC-7823 report, but does not contain any field labels or column headings.

With this wage reporting option, you must also complete a separate Quarterly Contribution Tax Report.

For an example and instructions on form UCT-101, see Section 2, Part 4.

INSTRUCTIONS FOR COMPLETION:

The report should be printed on 8-1/2" x 11' white bond paper. The first two lines of the report contain **header** information, which consists of your 10-digit **UI Account Number,** the **Quarter/Year,** your **Federal Employer Identification Number,** and the employer's **Legal Name**.

The remainder of the report displays **Wage Detail** information presented in four separate columns: **Social Security Number, Employee Last Name** (up to 10 characters), **Employee First Name** (up to 8 characters) and **Quarterly Wage**.

The first line of **Wage Detail** should be printed at least 2 inches below the top edge of the page. Up to 23 lines of **Wage Detail** may be printed on a single page. Additional pages of **Wage Detail** may be created if you have more than 23 employees to report.

The last line on the report shows the **Page Total**, which is the total of all wages paid to employees listed on that page.

In order to be read by our OCR scanner, you must use a letter quality printer. **Please do not use Dot Matrix printing** as it is unreadable by our OCR scanner and must be manually key entered.

Other reporting options using the same print report format are:

1. Use blank forms UC-7823 in your laser printer.
2. File online using our web-based application. After completing your quarterly Tax and Wage reports online, you can mail your payment with a payment coupon or you can make an electronic payment via EFT (Electronic Funds Transfer).See Section 2, Part 4 - Account Reporting (I) or call 608-261-6700.

Sample Report

Desktop Sample Report

PART 5 - Mailing Instructions for Wage and Contribution Reports

Mailing Paper Wage Reports

A return envelope is provided with each wage and contribution report packet the department mails. If you did not receive a return envelope, or you generate your own reports, mail forms and any payment due to:

Department of Workforce Development
Division of Unemployment Insurance
P.O. Box 78960
Milwaukee, Wisconsin 53278

When You Do NOT Need to Mail a Paper Report

Do not mail any paper reports if you file your quarterly wage and tax reports **electronically**.

PART 6A - Correcting Previously-Reported Wage Reports (for Employers)

Correcting Data Electronically

Correcting Wage Reports electronically can be done in one of two ways.

- You can Enter Tax and Wage Report Adjustments online (this is recommended if only a few adjustments are necessary) or
- A Replacement Wage Report file can be uploaded via our online Tax and Wage Reporting System.

Entering Adjustments Directly Online

Using our web-based application you have the option of making adjustments to any employee in a specific quarter or to adjust the wages of a specific employee for multiple quarters by selecting the appropriate radio button. If you simply need to add an employee to an existing Wage Report select “Add New Employees To Existing Wage Report”.

Note: performing online wage adjustments requires online access to your UI account. The access number appears on your Quarterly Contribution Report (UCT-101). It is required the first time you use the Tax and Wage Reporting System to submit your quarterly report.

Uploading a Replacement Wage Report File

A Replacement Wage Report is used to correct the name, social security number, or wages that were previously reported for an individual on an Original Wage Report. A Replacement Wage Report cannot be filed unless an Original Wage Report has already been filed for a quarter and year on an employer account.

Please note that a Replacement Wage Report does not replace an existing Original Wage Report in its entirety. It will only modify the data already on file from the Original Wage Report. Therefore if your intention is to remove an employee that was listed on the Original Wage Report you must include this employee on the Replacement Wage Report and indicate that the employee earned zero wages during the quarter. See examples below of scenarios where a Replacement Wage Report may be used and how to do so properly.

Scenario	Necessary Steps
SSN Change from SSN "A" to SSN "B"	1) Create an upload file that includes the Original SSN "A" with a $0 wage amount. 2) Create a record for the new SSN "B" record and the correct wage amount.
Removing 20 of 100 Employees from a Wage Report	1) Create an upload file with the 20 wage record's SSN's, using $0 for the wages.* *You can make changes to the other records if desired, but the records for removal must be included/Zeroed.
Change a Wage Amount, First, and/or Last name	1) Create an upload file using the relevant SSN numbers and the correct Wage and/or First and/or Last Name.
Moving Wages from an Incorrect Account and/Quarter to a correct Account/Quarter	1) Create a file upload with all relevant records for the 'incorrect' account/quarter and list $0 wages for each record. 2) Create another file to upload to the correct Account/Quarter** **If there has not been a record previously posted to the "correct" account/quarter, this file must be uploaded as an "Original"

To submit a Replacement Wage report using our online Tax and Wage Reporting System, select the “Wage Report File Upload” link.

Once you have accessed the Wage Report File Upload screen, select the Replacement Wage Report option. If you only need to add employees select the Appended Wage Report option.

Correcting Data on Paper

Corrections to quarterly wage reports can be made using the Wage Adjustment Report - Form UCT-7878. (This form is an Adobe Acrobat document. To view or print the Wage Adjustment Report, you must have Adobe Acrobat Reader installed on your PC. Acrobat Reader can be downloaded free from the DWD Viewers Download Page). If you are unable to print a copy, you can order copies of the Wage Adjustment Report by calling 608-266-6877 or emailing wagenet@dwd.wisconsin.gov.

Mail Wage Adjustment Reports to:

DWD - UI Wage Record
P. O. Box 7962
Madison, WI 53707

DO NOT correct employee wages for a **prior quarter** on the **current quarterly report**. Enclose a separate Wage Adjustment Report indicating the correction. Be sure to include your employer account number, the social security number(s) of the employee(s) and the quarter(s) involved.

You can also Enter Tax and Wage Report Adjustments online. Note: performing online wage adjustments requires online access to an employer's UI account.

PART 6B - Correcting Previously-Reported Wage Reports (for Service Providers)

If you already have a Login ID to our online reporting system you can correct previously reported wage reports online. Bypass the steps to create a new Login ID.

If you do not have a Login ID and Password follow these steps.

- Select Employer Service Provider Online Services from the Employer Service Provider Resource Page
- Click on "Create Logon ID" button.

Correcting Wage Reports online can be done in one of two ways:

1. Enter Tax and Wage Report Adjustments online. This is recommended if only a few adjustments are necessary. (Requires access to the employers UI account.)

   If you need online access to a UI account please contact Unemployment Insurance at 608-261-6700, Monday through Friday, 8:00AM - 4:00 PM, or email us at taxnet@dwd.wisconsin.gov. Request that we mail a SUITES Portal Access Letter to your client. The letter will come with instructions and an access code explaining how to set up access online to the client's UI account.

2. Upload a Replacement Wage Report file via our online Tax and Wage Reporting System.

Entering Adjustments Online (requires access to employers UI account)

Login as a Service Provider to our online Tax and Wage Reporting System. On the Service Provider Home page in the section titled File Tax and Wage Reports click the "Adjust Previously Filed Individual Reports" link. Select the employer account you will be making adjustments to. You have the option of making adjustments to any employee in a specific quarter or to adjust the wages of a specific employee for multiple quarters by selecting the appropriate radio button. If you simply need to add an employee to an existing Wage Report select "Add New Employees To Existing Wage Report".

Uploading a Replacement Wage Report file

A Replacement Wage Report is used to correct the name, social security number, or wages that were previously reported for an individual on an Original Wage Report. A Replacement Wage Report cannot be filed unless an Original Wage Report has already been filed for a quarter and year on an employer account.

Please note that a Replacement Wage Report does not replace an existing Original Wage Report in its entirety. It will only modify the data already on file from the Original Wage Report. Therefore if your intention is to remove an employee that was listed on the Original Wage Report you must include this employee on the Replacement Wage Report and indicate that the employee earned zero wages during the quarter. See examples below of scenarios where a Replacement Wage Report may be used and how to do so properly.

Scenario	Necessary Steps
SSN Change from SSN "A" to SSN "B"	1) Create an upload file that includes the Original SSN "A" with a $0 wage amount. 2) Create a record for the new SSN "B" record and the correct wage amount.
Removing 20 of 100 Employees from a Wage Report	1) Create an upload file with the 20 wage record's SSN's, using $0 for the wages.* *You can make changes to the other records if desired, but the records for removal must be included/Zeroed.
Change a Wage Amount, First, and/or Last name	1) Create an upload file using the relevant SSN numbers and the correct Wage and/or First and/or Last Name.
Moving Wages from an Incorrect Account and/Quarter to a correct Account/Quarter	1) Create a file upload with all relevant records for the 'incorrect' account/quarter and list $0 wages for each record. 2) Create another file to upload to the correct Account/Quarter** **If there has not been a record previously posted to the "correct" account/quarter, this file must be uploaded as an "Original"

To submit a Replacement Wage report login as a Service Provider to our online Tax and Wage Reporting System. On the Service Provider Home page in the section titled File Tax and Wage Reports click the "Wage Report File Upload" link. Once you have accessed the Wage Report File Upload screen, select the Replacement Wage Report option. If you only need to add employees select the Appended Wage Report option.

PART 7 - Wage Reporting Penalties

All employers who are subject under Wisconsin's Unemployment Insurance law must file quarterly wage reports as required by the department. Each report is due at the end of the month following the close of each calendar quarter.

Quarter Number	Ending	Report Due
1	March 31st	April 30th
2	June 30th	July 31st
3	September 30th	October 31st
4	December 31st	January 31st

There are penalties for late filing or non-filing of quarterly wage reports:

- A required quarterly wage report filed within 30 days after the due date will result in a penalty of $50.

- A required quarterly wage report filed more than 30 days after the due date will result in a penalty of the greater of $100 or $20 per employee.

Penalties are also assessed if reports that are **required** to be filed electronically are submitted using paper forms. Section 108.205(2), Wisconsin Statutes, **requires employers with 25 or more employees to file their reports electronically**.

- Penalties for non-compliance with this filing requirement are substantial. An employer required to report wage detail electronically that continues to file on paper will be subject to a penalty of **$20.00 per employee** whose information is not reported in the required **electronic** format.

Employers are responsible for any penalties that may arise from their own or their representative's failure to file timely wage reports.

SECTION 5 - NEW HIRE REPORTING

PART 1 - Introduction to New Hire Reporting

New Hire is a national program required by both state and federal laws. It is designed to locate non-custodial parents with child support obligations.

New Hire information will also be used in the administration of Social Security and public assistance programs. This information will also be used to detect and prevent fraud within Unemployment Insurance and Worker's Compensation.

Accurate and timely reporting by employers is essential for the continued success of the program.

Additional information can be found on the internet at http://dwd.wisconsin.gov/uinh.

PART 2 – Compliance

All employers with a FEIN (Federal Employer Identification Number) must participate in New Hire reporting.

Employers are required to submit information on every newly hired employee to the Department of Workforce Development. Refer to Part 3 of this section for reporting deadlines.

An **employee** is any individual who is considered an employee for federal income tax withholding purposes.

A **newly hired employee** is any individual reporting to work with an employer for the first time or any individual rehired, recalled, or returning to work after an unpaid interval of more than 60 days.

New Hire data is stored in the State Directory and matched against state child support cases. If a match is found, a wage withholding notice is sent to the employer for collection of child support.

All states' New Hire, quarterly wage and Unemployment Insurance benefit data is transmitted to the National Directory for interstate matching and child support enforcement. New Hire reports are also regularly compared against all States' quarterly wage files to identify reporting compliance. Employers found not to be in compliance may be subject to penalties up to $25 per unreported employee.

PART 3 - Reporting Instructions

New Hire information may be reported in a variety of ways:

- **Secure Internet Site -** The address for the Internet reporting site is **http://www.wi-newhire.com**. At this site, employers may key individual reports or transfer an entire file.
- **Diskette or CD-R**
- **Magnetic Tape**
- **Paper** - Report by paper using State Form WT-4, Federal Form W4, or by submitting a list containing the required information listed below. Paper reports may be sent by toll free fax at 1-800-277-8075. Copies of these forms can be found at the end of this section.
- **Toll Free Telephone** - Report by automated touch-tone at 1-888-300-4473.

Mail electronic and paper reports to:

Wisconsin New Hire Reporting
P.O. Box 14431
Madison, WI 53714-0431

New Hire reports are due within 20 days after the date the employee starts work for you or at least twice per month for electronic reporting such as Internet, diskette, or magnetic tape.

REPORTS MUST CONTAIN:

- Employee name
- Employee address
- Employee social security number
- Employee date of birth
- Employer name
- Employer payroll address
- Employer FEIN
- Date of hire

Part 6 of this section includes copies of State Form WT-4 and Federal Form W-4.

PART 4 - Options for Multi-State Employers

Federal legislation allows employers with employees in more than one state the option to choose a single state for all New Hire reporting.

More information is available on the New Hire web site at **www.wi-newhire.com** or by calling toll free 1-888-300-4473.

PART 5 – Tips

- Internet reporting is very convenient and eliminates mailing costs associated with paper forms, tapes and diskettes. Visit the New Hire web site at **http://www.wi-newhire.com**. Follow the links to New Hire to register for a user password and to start reporting on-line.
- The employer address on New Hire reports will be used by Child Support Enforcement agencies to send wage withholding notices. Please consistently provide the best employer address for this use on your New Hire report.
- Please do not include a cover sheet with faxed reports.
- Duplicate reporting increases program costs. Please do not submit an individual report more than once.

PART 6 - New Hire Reporting Forms

WT-4 Employee's Wisconsin Withholding Exemption Certificate/New Hire Reporting

Form W-4 Deductions and Adjustments Worksheet

SECTION 6 - BENEFITS ACCURACY MEASUREMENT

PART 1 - Introduction to Benefits Accuracy Measurement (BAM)

The Unemployment Insurance (UI) Benefit Accuracy Measurement (BAM) program manages the Quality Control process for the federal-state unemployment system. The U.S. Department of Labor requires all states to conduct BAM audits on unemployment claims to determine if benefits are being paid (or denied) in accordance with state law and policy. Based on the results of these audits, the Wisconsin Department of Workforce Development is able to assess the accuracy of benefit payments and improve the integrity and efficiency of the state's UI program.

A claimant who worked for your business may be selected at random for a BAM audit. Selection for an audit does not imply any errors or wrongdoing on the claimant's or employer's part. The type of information requested in a BAM audit will vary depending on whether the claim selected has paid benefits or denied benefits. A Quality Control Investigator from the Department of Workforce Development will contact you and can provide specific details about the audit.

PART 2 - Authority for Audit

The federal regulatory authority for the BAM program comes from 20 C.F.R. 602. The program is administered by the Wisconsin Department of Workforce Development (DWD). Wisconsin law requires all employers to maintain employment and payroll records that will allow the DWD to carry out its duties under Wisconsin UI law (see Wis. Stat. 108.14). There are penalties for refusing or failing to keep records required by the Department, or for knowingly making false statements or reports. Records must be made available for an inspection by an auditor at any reasonable time.

PART 3 - What to Expect

The length of time required to complete a BAM audit varies. Most investigations are conducted by phone, fax, mail or email. If the audit is related to a claim that paid benefits, most of the information requested will be payroll information. As part of the audit, the investigator may ask for a report of the claimant's gross wages by pay date going back to the start of the claimant's base period. This information will be compared to the wage amounts reported by the employer on the quarterly wage reports. The investigator will contact you if there are any discrepancies.

If the audit is related to a determination that denied benefits, the Quality Control Investigator will ask you to confirm the information provided in the original fact-finding investigation, and will ask for some general employment information about the claimant that is required by the Department of Labor. The investigator will also contact the claimant to confirm his/her original statement.

PART 4 - Your Right to Appeal

In some instances, new information will be discovered during a BAM audit that warrants re-determining the original decision. However, this situation is rare, and there are finality rules that may prevent an investigator from re-determining a particular decision regardless of the new information. If you disagree with the original decision, you should file an appeal of that decision as soon as possible.

See "Section 3 – Appeals" for more information about how to file an appeal. Don't wait for the outcome of the BAM audit. If the Quality Control Investigator does re-determine or change a decision then a new, appealable determination will be sent to all parties.

SECTION 7 – LEGAL ADDENDUM

PART 1 - Disclaimer

This handbook is for informational purposes only. Nothing in this handbook guarantees a particular result on a matter that arises under Chapter 108, Wisconsin Statutes or Federal Law. Employers may not rely on the contents of this handbook as legal advice regarding their obligations under unemployment law and are encouraged to consult with independent legal counsel.

PART 2 - Employee Acknowledgement

I am aware of the contents of this handbook:

_____ _____

Employee Signature Date

_____

Employee Please Print)

Hours of Operation and Telephone Numbers

EMPLOYER ASSISTANCE

Monday-Friday 8:00am-4:00pm

Contribution/Tax Information:	
Audit	608-266-3180
Business Transfers or Taking Over a UI Account	608-261-6700
Collections, Benefit Overpayment	608-266-9701
Collections, Tax	608-266-9700
Coverage Liability	608-261-6700
Opening/Closing an Account	608-261-6700
Quarterly Reports	608-261-6700
Reimbursement Financing	608-266-9989
Tax Rate and Other Account Information	608-261-6700
Email contact: taxnet@dwd.wisconsin.gov	
Online: http://dwd.wisconsin.gov/uitax	

Benefits/Claimant Eligibility:	
Madison Benefit Center P.O. Box 8978 Madison, WI 53708	608-232-0633 or
Southeast Wisconsin Help Center P.O. Box 9001 Menomonee Falls, WI 53052	414-438-7705
Benefits Staff are Available:	
Monday-Friday	7:45 AM - 4:30 PM

The benefit center telephone service lines are very busy on Monday. For faster service, we suggest that you call Tuesday through Friday from 8:30 to 11:30 AM or 1:30 to 4:00 PM.

Wage Reports:	
Online: http://dwd.wisconsin.gov/uitax	
To receive access number for Internet Wage Reporting	608-261-6700
Questions regarding Internet Wage Reporting	608-266-6877
Questions regarding Paper Wage Reports, Adjustment Forms, Templates	608-266-6877
To Request Paper Wage Report Forms	608-266-6877

New Hire Reporting:	
Toll Free Number	1-888-300-4473
On-line: http://dwd.wisconsin.gov/uinh	

Hearing Offices - Information about appeals only:	
Madison	608-266-8010
Milwaukee	414-227-4731
Eau Claire	715-836-6567
Appleton	920-832-2769

CLAIMANT SERVICES

To File an Initial Claim Application

For a New Claim or to Reopen an Existing Claim

Go Online Today:
my.unemployment.wisconsin.gov
Most claims can be completed online
Fast, secure & mobile friendly

Hours of Operation

Online initial claims system is available:

Sunday	9:00 AM - 5:00 PM
Monday – Friday	6:00 AM - 7:00 PM
Saturday	9:00 AM - 2:30 PM

Anyone may use the automated telephone system to file an initial claim during the following times:

Sunday	9:00 AM – 5:00 PM
Monday – Wednesday	6:00 AM – 7:45 AM and 4:30 PM – 7:00 PM
Thursday – Friday	6:00 AM – 7:00 PM
Saturday	9:00 AM – 2:30 PM

During the business hours of 7:45 AM to 4:30 PM, we have recently assigned days for callers to receive priority service based on social security number (SSN) when filing a telephone initial claim or needing to speak with a Claims Specialist:

Monday	Last digit of SSN is 0-2
Tuesday	Last digit of SSN is 3-6
Wednesday	Last digit of SSN is 7-9
Thursday & Friday	All SSNs (Open to all callers which may result in longer wait times)

You will receive priority service if you call on your assigned day during business hours

Telephone Numbers

414-438-7700 or 608-232-0678

NOTE: Your claim will start in the week that you placed

To File a Weekly Claim Certification

For a Benefit Payment

Go Online Today:
my.unemployment.wisconsin.gov

Hours of Operation

Online and automated telephone systems for weekly claims are available:

Sunday	9:00 AM – Midnight
Monday – Friday	1:00 AM – Midnight
Saturday	1:00 AM - 3:00 PM

Telephone Numbers

414-438-5395 or 608-261-9990

To Get Information or Assistance

About an Existing Claim

Go Online Today:
my.unemployment.wisconsin.gov

Quick access to your claim information online
Expanded features & tools online

Hours of Operation

Online and automated telephone systems for inquiries are available:

Sunday	9:00 AM – Midnight
Monday – Friday	1:00 AM – Midnight
Saturday	1:00 AM - 3:00 PM

During the business hours of 7:45 AM to 4:30 PM, we have recently assigned days for callers to receive priority service based on social security number (SSN) when needing to speak with a Claims Specialist:

Monday	Last digit of SSN is 0-2
Tuesday	Last digit of SSN is 3-6
Wednesday	Last digit of SSN is 7-9
Thursday & Friday	All SSNs (Open to all callers which may result in longer wait times)

your first call. If you call and the system tells you to call back on your assigned day or Thursday/Friday, the system will still record your claim as having been started. You can complete your claim online or if instructed, call back (using the same telephone number) to complete your application.

While most initial claims placed through our automated telephone system require that application be completed by a Claims Specialist, most initial claims filed online can be fully completed online.

To Report Unemployment Fraud

Contact a Fraud Specialist

Go Online Today: Web Form
http://dwd.wisconsin.gov/uiben/contac.htm

Hours of Operation

Monday – Friday	8:00 AM - 4:00 PM

Telephone Numbers

UI Fraud Hotline	1-800-909-9472

You will receive priority service if you call on your assigned day during business hours

Telephone Numbers

414-438-7713 or 608-232-0824

Language & TTY Access

Language interpretation services are available upon request when calling these phone numbers.

Deaf, hard-of-hearing, and speech-impaired callers may call our **TTY toll free number: 1-888-393-8914** (TTY callers must have a telephone typewriter device. Voice calls are not answered on this number).