

EMPLOYMENT LAW SUMMARY

Colorado Unemployment Compensation – Employer Contributions



Because You're Different

Colorado's Employment Security Act (ESA) provides benefits to workers who lost their job through no fault of their own.

Employers that are subject to the ESA are required to make contributions to Colorado's Unemployment Insurance (UI) fund on a quarterly basis. Contribution rates are determined by an employer's experience rating, the condition of the UI fund and whether an employer qualifies as a new employer.

COVERED EMPLOYERS

Most employers in Colorado are subject to the ESA, and are therefore required to make contributions to the UI fund.

In general, employers must pay unemployment contributions if they meet one or more of the following requirements:

- The employer paid wages of **\$1,500 or more** in a calendar quarter or employed **at least one person** for 20 weeks in the current or preceding calendar year;
- The employer employed **domestic help** in a private home and paid cash wages of **\$1,000 or more** in any calendar quarter (domestic help includes local college clubs and/or a local chapter of a college fraternity or sorority);
- The employer either paid cash wages of **\$20,000 or more** to **agricultural workers** in a calendar quarter or employed **ten or more agricultural workers** for 20 weeks in a calendar year;
- The employer is subject to the Federal Unemployment Tax Act (FUTA);
- The employer is a religious, educational or charitable **nonprofit organization** under the federal tax code and employed **four or more employees** for 20 weeks in a calendar year (even if exempt from federal unemployment tax);
- The employer acquired a business that is liable to pay UI premiums; or
- The employer is a state agency, state-operated hospital or school of higher education, or a political subdivision of the state.

Employers may also voluntarily elect to participate in the UI program, if approved.

EMPLOYER CONTRIBUTIONS

Colorado UI benefits are funded through premiums paid by employers covered under the ESA through a quarterly premium-report and wage-report process. An employer's UI contribution rate is the annual percentage tax that it must pay into the UI fund.

To calculate the amount of UI tax payable, the [Colorado Department of Labor and Employment](#) (CDLE) multiplies the employer's amount of chargeable payroll by the employer's tax rate.

NEW EMPLOYERS

Newly liable employers under the ESA are assigned a standard contribution rate, which is based on the type of business activity that they are engaged in. For the years 2013 through 2017, the standard rate consisted of two components—a base rate and bond principal rate. For 2018 to the present, the standard rate consists of only the base rate. The standard rates for 2021 are listed in the table.

Business Classification	Base Rate
Non-Construction	0.0170
General Construction	0.0207
Heavy Construction	0.0774
Trades	0.0247

EXPERIENCE-RATED EMPLOYERS

Once an employer has paid UI contributions for a sufficient number of quarters, it is eligible for a computed rate. An experienced-rated employer's computed rate is determined by a Premium Rate Schedule established by the ESA. The [Premium Rate Schedule](#) combines two factors—an employer's percent of excess and the reserve ratio of the UI fund.

An employer's percent of excess is determined by taking the total premiums paid to the employer's account minus the total unemployment benefits charged to the employer's account, divided by the average chargeable payroll.

"Average chargeable payroll" refers to the average of the chargeable payrolls for the last three fiscal years, ending June 30 of each year. For employers that have not reported payrolls for 36 consecutive months, the CDLE will compute the average chargeable payroll by dividing the total chargeable payrolls of the employer during the three fiscal years ending on June 30 by the total months during which wages were paid and multiplying that amount by 12.

The reserve ratio of the UI fund is the balance of the fund as a proportion of total wages reported by all experience-rated employers.

VOLUNTARY CONTRIBUTIONS

At any time before March 15, employers may make voluntary premium payments in addition to the premiums they are required to pay. Voluntary premiums are credited to an employer's account and reduce an employer's experience rate. Additionally, voluntary premium payments are used in calculating an employer's contribution rate.

REPORTING REQUIREMENTS

Employers that are subject to the ESA must file UI reports with the CDLE's Unemployment Insurance Employer Services division on a quarterly basis. Included in these quarterly reports is information on the total covered wages paid and premiums owed, as well as a report of covered wages paid to all workers.

These reports, and any premiums due with them, must be filed by the last day of the month immediately following the end of each calendar quarter. If the due date falls on a Saturday, Sunday or legal holiday, the report and premium payment must be received by the next working day.

The table below provides an overview of the reporting schedule.

Reporting Quarter	First day to File	Must File and Pay by
1st quarter (January, February, March)	February 1	April 30
2nd quarter (April, May, June)	May 1	July 31
3rd quarter (July, August, September)	August 1	October 31
4th quarter (October, November, December)	October 1	January 31

Employers may file quarterly premium reports either via paper copy or online using the [MyUI Employer](#) system. Wage reports may be filed online using the MyUI Employer system or, if an employer has more than 100 employees, through the [Secure Transport File Transfer Protocol](#).

PENALTIES AND INTEREST

Employers that fail to file required reports on time will be assessed a \$50 penalty for each quarter that their report is delinquent. However, the penalty for new employers is \$10 for each delinquent report during the first four quarters of coverage. Employers that owe delinquent premium payments as of the annual computation date (June 30) will be assessed a delinquent premium penalty equal to the lesser of the amount of delinquent premiums or 1 percent of the employer's taxable payroll.

All delinquent premium payments and penalties for late reports are subject to an 18 percent annual interest rate, or 1.5 percent per month, until the payment plus accrued interest is received by the CDLE.

EMPLOYER FRAUD AND WORKER MISCLASSIFICATION

An employer that knowingly makes false statements as to the reason for a job separation and causes a delay in the proper payment of benefits to a claimant commits an act of fraud, and may be charged **with one and one-half times** the payment that should have been paid to the claimant during the delay. In addition, employers may face civil and criminal prosecution for committing fraud.

Employers must be careful to properly classify their employees. If the CDLE finds that an employer has misclassified an employee as an independent contractor, the employer must pay back all unemployment insurance premiums owed with interest. If the CDLE finds that employees have been misclassified with willful disregard for the ESA, the employer may be fined up to \$5,000 per misclassified employee for the first misclassification, and up to \$25,000 per misclassified employee for any subsequent misclassification. Employers that misclassify two or more employees will be prohibited from contracting with, or receiving any fund from, the state of Colorado for up to two years.

REQUIRED POSTER

Colorado employers must display and maintain posters, in a conspicuous workplace location, informing employees of their rights under the ESA. The CDLE provides a model [poster](#) that employers may use to satisfy this requirement.

MORE INFORMATION

Please visit the CDLE's [website](#) or contact Heffernan Insurance Brokers for more information on unemployment compensation laws in Colorado.

This guide is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. It is provided for general informational purposes only. Readers should contact legal counsel for legal advice. © 2023 Zywave, Inc. All rights reserved.