

EMPLOYMENT LAW SUMMARY

North Carolina Unemployment Compensation – Employer Contributions



Because You're Different

Employers that are subject to North Carolina's Employment Security Law (ESL) are required to make unemployment insurance premium payments on an annual basis. The amount of these payments is determined by an employer's experience rating, the solvency of the North Carolina Unemployment Insurance Fund (UI Fund) and whether the employer qualifies as a "beginning employer" under the law.

AFFECTED EMPLOYERS

Most employers in North Carolina are subject to the ESL and therefore must make contributions to North Carolina's UI Fund. In general, an employer must make UI Fund contributions if it:

- Employs at least **one worker in 20 different weeks** during a calendar year;
- Pays at least **\$1,500** in wages during any calendar quarter;
- Is subject to the Federal Unemployment Tax Act (FUTA); or
- Is a state or local government agency or department, an employee leasing company or an American Indian tribe (as defined by the FUTA).

However, North Carolina law uses different criteria to determine UI Fund liability for nonprofit, agricultural and domestic employers, as explained below.

NONPROFIT ORGANIZATIONS

A 501(c)(3) nonprofit organization must make contributions to the UI Fund if it employs at least **four workers in 20 different calendar weeks** during a calendar year.

AGRICULTURAL EMPLOYERS

An agricultural employer must make contributions to the UI fund if it:

- Employed at least **10 workers** in agricultural labor on any day during 20 different weeks in the current or preceding calendar year; or
- Paid wages of **\$20,000** or more for agricultural labor for any calendar quarter in the current or preceding calendar year.

Agricultural labor includes all services performed:

- On a farm, in connection with cultivating the soil, raising or harvesting any agricultural or horticultural commodity;
- In the employ of the owner, tenant or operator of a farm, in connection with the operation, management, conservation, improvement or maintenance of the farm and its tools and equipment (or salvaging timber or clearing land of brush and other debris left by a hurricane, if the majority of the work is performed on a farm);
- In connection with the production or harvesting of any agricultural commodity; the ginning of cotton; or the operation or maintenance of nonprofit ditches, canals, reservoirs or waterways used exclusively for supplying and storing water for farming purposes;

- In the employ of a farm operator, or a group of farm operators, in handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market (or to a carrier for transportation to market), in its unmanufactured state, any agricultural or horticultural commodity; or
- On a for-profit farm, if the service is not in the course of the employer's trade or business.

DOMESTIC EMPLOYERS

A domestic employer must make contributions to the UI fund if it pays wages of at least \$1,000 in any calendar quarter for domestic service. Domestic service is work performed in a private home, college club, fraternity or sorority.

EMPLOYER CONTRIBUTIONS

An employer's unemployment insurance contribution rate is the annual percentage tax that it must pay to the UI fund. The rate varies based on an employer's experience rating, the solvency of the UI Fund and whether the employer qualifies as a "beginning employer."

To calculate the amount of UI tax an employer must pay, the North Carolina Department of Commerce [Division of Employment Security](#) (DES) multiplies the employer's total taxable wages by its tax rate for the corresponding year. An employer's taxable wages is the sum of the first **\$21,400** paid in wages to each employee per calendar year. The maximum amount of taxable wages is set by statute and is subject to annual change.

BEGINNING EMPLOYERS

New employers are assigned a "beginning employer" contribution rate of **1 percent** until their accounts have been charged with benefits for **at least 12 calendar months**.

An employer's account has been charged with benefits for at least 12 calendar months if the employer has reported wages paid in four completed quarters and its liability extends over all or part of two consecutive calendar years. Thereafter, an employer's UI contribution rate is determined by its experiencing rating and the condition of the UI Fund.

EXPERIENCE-RATED EMPLOYERS

Experience-rated employers' UI tax rates are determined by a statutory formula (see table below), which takes into account an employer's experience rating and the condition of the UI Fund. An employer's experience rating takes into consideration the employer's payroll, UI tax paid, timeliness of payments and UI benefits charged against the employer's account.

Each year, DES determines which formula will apply based on the UI Fund balance as a percentage of total insured wages reported by all employers in the state. Once DES has determined which formula applies, an **employer's reserve ratio percentage** (ERRP) is subtracted from the base contribution rate for that year. An ERRP is the employer's reserve ratio (a percentage, calculated by dividing an employer's UI account balance by the employer's total taxable payroll for the past 36 months) multiplied by 68/100. Rates are limited to the minimum (0.07 percent) and maximum (6.91 percent) contribution rates.

Employer's base rate	UI Fund Balance as A Percentage of total insured wages	Contribution rate
Beginning Employers	All balances	1%
Experience-rated Employers	Less than or equal to 1%	2.9% minus ERRP
Experience-rated Employers	Greater than 1% but less than or equal to 1.25%	2.4% minus ERRP
Experience-rated Employers	Greater than 1.25%	1.9% minus ERRP

DES will notify an employer of its contribution rate by Jan. 1 of each calendar year. That rate becomes final unless the employer files an application for review and redetermination by May 1.

SURTAX FOR THE UI RESERVE FUND

A **20 percent surtax** is imposed on all contributions in a calendar year, unless the UI Fund balance equals or exceeds \$1 billion. This surtax is collected and administered in the same manner as regular UI Fund contributions.

VOLUNTARY CONTRIBUTIONS

An employer that is subject to the UI tax may make a voluntary contribution to the UI Fund in addition to its required contribution, which will be credited to its account. If a voluntary contribution is made by an employer within 30 days after the date of the annual contribution rate notice, it is considered to have been made as of the previous July 31.

REQUIRED REPORTING

Employers must submit an Employer's Quarterly Tax and Wage Report ([Form NCUI 101](#)), beginning with the quarter in which employment begins. These reports must include each employee's name and Social Security number as well as quarterly wages earned. Taxes must be paid on each employee's wages up to the taxable wage base for each calendar year.

These reports are due by the last day of the month following the end of each quarter, as described in the table below.

Quarter	Reporting Period	Due Date
First	Jan. 1 through March 31	April 30
Second	April 1 through June 30	July 31
Third	July 1 through Sept. 30	Oct. 31
Fourth	Oct. 1 through Dec. 31	Jan. 31

PENALTIES

INTEREST ON PAST-DUE CONTRIBUTIONS

Employers that fail to make timely UI contributions will be subject to a late payment penalty of 10 percent of the amount of tax due. Past due payments accrue monthly interest until the contribution plus interest is paid in full. Interest rates are set by the [North Carolina Secretary of Revenue](#) on a semi-annual basis.

FAILURE TO FILE TIMELY QUARTERLY REPORTS

Employers that fail to file quarterly tax and wage reports within the required timeframe are assessed a penalty of 5 percent of the amount of contributions due with the report for each month or fraction of a month that the failure continues. The penalty for late filings may not exceed 25 percent of the amount of contributions due.

MAKING FALSE STATEMENTS OR REPRESENTATIONS

Any employer that knowingly provides incorrect information, makes false representations, fails to disclose a material fact or hinders an inspection of records in order to prevent or reduce benefit payments to individuals or to manipulate its UI tax contribution commits a Class 1 misdemeanor, punishable by up to **120 days of imprisonment and a fine determined by the court**. Each incorrect statement, false representation or failure to disclose is considered a separate offense.

PENALTIES UNDER TAX LAW

Employers that violate North Carolina's unemployment compensation laws may also be subject to a number of penalties under North Carolina's tax laws. Those that commit fraud with the intent to evade UI contributions can be assessed a penalty of up to **50 percent** of the total deficiency. In addition, any person who willfully attempts (or who aids or abets any person to attempt) to evade or defeat a tax or payment is subject to Class H felony charges (in addition to other penalties provided by law), which is punishable by **up to 25 months of imprisonment**.

MORE INFORMATION

Please visit the DES [website](#) or contact Heffernan Insurance Brokers for more information on unemployment compensation laws in North Carolina.

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