

# EMPLOYMENT LAW SUMMARY

## Texas Unemployment Compensation – Employee Eligibility



*Because You're Different*

Texas unemployment insurance (UI) benefits provide income to individuals who have lost work through no fault of their own. The program partially replaces lost wages if certain conditions are met.

The Texas Unemployment Compensation Act (TUCA) requires most employers to make contributions to the state's Unemployment Compensation Fund (UC Fund). Texas law prohibits employers from deducting UI contributions from employees' wages.

## EMPLOYEE ELIGIBILITY REQUIREMENTS

The Texas Workforce Commission (TWC) considers monetary and non-monetary criteria to determine individual eligibility for benefits on a weekly basis.

To qualify for benefits, individuals must:

- Be totally or partially unemployed through no fault of their own;
- Have received enough wages during the base period to establish a claim;
- File an initial claim for benefits online at the TWC's [Unemployment Benefit Services](#) website during the first week of unemployment;
- Be physically able to work, available for work and actively looking for work during each week in which benefits are claimed;
- Register at [WorkInTexas.com](#) or a Texas Workforce Solutions office within three business days of a claim; and
- Wait through an initial one-week waiting period, request payment online or by phone every two weeks and maintain eligibility for each week in which benefits are claimed.

An employee's "base period" is a 12-month period of time, usually the first four of the last five completed calendar quarters prior to the beginning date of his or her UI claim. To establish a valid claim, an employee must have earned:

- Wages in **more than one** of the four base period calendar quarters; and
- Total base period wages of at least **37 times** the weekly benefit amount.

However, if an employee qualified for benefits on a prior claim, he or she must have earned **six times** his or her new weekly benefit amount since that time.

## EXEMPTED EMPLOYMENT

Certain activities are not considered employment under the TUCA. As a result, employees performing these activities are not entitled to UI benefits. Employers are not required to report the wages of these employees and do not have to make contributions based on their wages.

For UI purposes, the term "employment" does **not** include:

- Certain types of government service (for example, as an elected official, member of a legislative body, member of the judiciary, or as a temporary emergency worker);
- Student nurses or interns employed at a hospital or nurses' training school;
- Work performed for a church or organization operated primarily for religious purposes;
- Work performed by an individual for a facility that:
  - Is conducted to carry out a program of rehabilitation for individuals whose earning capacity is impaired by age, physical impairment (other than blindness) or mental deficiency or injury; or
  - Provides paying work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market;
- Work performed by an individual who is blind while in training at a sheltered workshop operated by a charitable organization under a rehabilitation program;
- Work performed as part of an unemployment work relief or work training program assisted or financed by a federal or state agency;
- Work performed for a spouse or child, or performed by a child under age 21 for his or her parent;
- Work performed for an educational institution by a student in regular attendance;
- Students who are enrolled at a nonprofit or public educational institution in a full-time work-study program (except programs established for or on behalf of an employer or group of employers);
- Certain students employed by an organized camp that operates for less than seven months of the year;
- Certain work as a product demonstrator or direct seller;
- Insurance agents and real estate brokers who are paid on commission;
- Newsboys or news vendors under the age of 18;
- Work performed by an inmate of a custodial or penal institution; • Work performed on fishing vessels normally having a crew of less than 10 members, if the crew members' payment is a share of the catch and the service is not employment under federal law; or
- Service performed by a nonresident alien during the period that the alien is temporarily in the United States under an H2-A visa if the service is not defined as employment under federal law.

Nonprofit organizations, Indian tribes and some government services have limited employment situations that are exempt from coverage. Employers engaged in these types of businesses should be aware of these additional exemptions when calculating their liability for unemployment insurance payments.

## DISQUALIFICATION

While an individual may earn enough wages to establish a valid UI claim, he or she may still be disqualified from receiving UI benefits. Disqualifications may prevent individuals from collecting benefits for specified periods of time or from collecting the full amount of regular benefits.

Individuals are disqualified from receiving UI benefits if they:

- Voluntarily quit their employment without a good cause related to work;
- Are discharged for misconduct or criminal acts in connection with work;
- Fail to accept a referral from the TWC or fail to accept suitable employment;
- Participate in a labor dispute other than a lockout;
- Receive alternative benefits (such as deductible retirement, temporary partial disability, any earnings equal to or more than the weekly benefit amount, vacation pay or holiday pay);
- File a fraudulent UI claim;
- Seek or receive UI benefits from another state or from a federal unemployment claim while also receiving benefits from the state;
- Fail to reasonably search for available work;
- Are not ready, willing and able to work, prepared to take a job immediately, or physically or mentally capable of employment; or
- Were self-employed, in certain circumstances.

## APPEALS

If a UI claim is denied, the TWC will send a written Determination Notice to the applicant. Interested parties have the right to appeal this decision **within 14 calendar days** of the mailing date of the determination. Late appeals are generally not allowed, but may be allowed in situations where a party can show in a hearing that there was good cause for the late appeal.

## MORE INFORMATION

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

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