www.labor.vermont.gov

EMPLOYER INFORMATION MANUAL

A Guide to Vermont's Unemployment Insurance Program

Working Together for Vermont

Administrative Office:
5 Green Mountain Drive • P.O. Box 488
Montpelier, Vermont 05601-0488
Telephone: 802-828-4344

A-26 (4/08)

The contents of this manual are provided for informational purposes only, and do not have the effect of law. V.S.A Title 21, Chapter 17 provides the legal authority that supports the information in this manual.

	PHONE *(802 area code)*
ADMINISTRATIVE OFFICE	
Vermont Department of Labor	828-4000
Post Office Box 488, 5 Green Mountain Drive	
Montpelier, Vermont 05601-0488	
TAX RELATED INFORMATION	
Unemployment Tax Liability	828-4344
Employer Account Registration	828-4344
New and Experienced Ratings	828-4344
Quarterly Reports, adjustments, penalties and interest	828-4344
Account Delinquencies and payment plans	828-4333
FUTA certifications	828-4152
BENEFIT RELATED INFORMATION	
Determinations, benefit payments, charges to you account	1-877-214-3331
Labor Market Statistical Information	828-4202
Employment Service activities	828-4342
FAX NUMBERS	
Employer Services Unit	828-4248
Program Integrity Unit	828-4198
Unemployment Insurance Claim Center	828-9191
New Hire Reporting	828-4286
OTHER STATE AGENCY CONTACTS	
Vermont Secretary of State	828-2386
www.sec.state.vt.us	
26 Terrace Street	
Montpelier, VT 05609-1101	
Vermont Department of Taxes	828-2551
www.state.vt.us/tax/	
109 State Street	
Montpelier, Vermont 05609-1401	

Equal Opportunity is the Law

The State of Vermont is an Equal Opportunity/Affirmative Action Employer. Applications from women, individuals with disabilities, and people from diverse cultural backgrounds are encouraged. Auxiliary aids and services are available upon request to individuals with disabilities. 711 (TTY/Relay Service) or 802-828-4203 TDD (Vermont Department of Labor).

Interpretative services are available for limited English proficiency customers. For more information please visit: http://www.dol.gov/oasam/programs/crc/ISpeakCards.pdf

Table of Contents

WHAT IS UNEMPLOYMENT INSURANCE? 1

THE EMPLOYER'S ROLE IN THE PROGRAM 1

HOW THE PROGRAM IS ADMINISTERED 2

EMPLOYER RESPONSIBILITIES 2
- What Does It Mean When We Say "You Are An Employer"? 2
- Sole Proprietorships, Partnerships, Limited Liability Companies (LLC) And Limited Liability Partnerships (LLP) 3
- What does "Employee" Mean? 4
- Employment – ABC Test 4
- The ABC Test vs. the IRS Independent Contractor Test 5
- Exempt Employment 5
- Voluntary Election of Coverage 6
- Inactive Status 7
- Termination of Coverage 7

REPORT FILING AND PAYMENT INFORMATION 7
- Keeping Records 8
- What is the Definition of "Wages"? 9
- What Types of Payments are not Considered Wages? 9
- Employees Who Work in More than One State 10
- Power of Attorney 11
- Filing Quarterly Reports 11
- "Due Date" for Filing Quarterly Reports 11
- Calculating Excess Wages 11
- Duplicate Reports 12
- Facsimile Reports and Reporting by Magnetic Media 12
- Making Corrections to Reports 12
- Application of Payments Received from Employers 12
- Refunds and Adjustments 12
- Reimbursement Payment Option 13
- How to Elect the Reimbursable Option 13
- Changing from a Taxable to a Reimbursable Method of Payment or Vice Versa 14
- Reporting Changes to Your Business 14
- Sale of Business Certification 14
- Penalties 14
- Interest Charges 15
- Liens 15
- Assessments 15
- Contacts by a Field Auditor or Other Department Representative 15

EMPLOYEE LEASING 16
- Requirements for Licensure of Employee Leasing Firms 17
- Unemployment Insurance Requirements for Employee Leasing 17

UNEMPLOYMENT TAXES AND EXPERIENCE RATING 18
State and Federal Unemployment Taxes 18
New Employer Rates 18
Experience Rating 18
Qualifying for an Experience Rate 19
Benefit Ratio 19
Determining Your Tax Rate 19
Rate Schedule 19
Successor Employer 20
Partial Successor 21
What is "SUTA" Dumping"? 21

UNEMPLOYMENT BENEFITS 22
Providing Information to Your Employees 22
How Individuals File a Claim for Benefits 22
How are Benefits Charged? 23
Reducing the Cost of Unemployment Insurance 24
Stabilize Employment 24
Minimize Charges to Your Account 24
How Benefit Eligibility is Determined 25
Other Eligibility Requirements 26
Employee Dismissals and Suitable Work 26
Disqualifying Remuneration 28
Health Leaving Provision 29
Illness and Disability Claims 29
Continuing Eligibility for Benefits 29
Disregarded Earnings 29
Extended Benefits 29

UNEMPLOYMENT INSURANCE PROGRAM INTEGRITY ACTIVITIES 30
Overpayment and Fraud Prevention 30
New Hire Report Cross-Matches 30
What We Do with the Information We Collect 31
Delinquent Collection 32
Benefit Quality Control 32
Revenue Quality Control 32

UNEMPLOYMENT CLAIMS ADJUDICATION 32
Notices and Information Requests 34
Instructions for Completing Request for Separation Forms 34

APPEALS IN THE UNEMPLOYMENT INSURANCE PROGRAM 36
Participating in the Appeals Process 36
What are the Steps in the Appeals Process? 37
The Hearing Before An Administrative Law Judge 37
Do You Need a Lawyer? 37

Limited English Proficiency (LEP) and Sign Language Interpreters 37
Americans with Disabilities Act 37
Notice of Hearing 37
Evaluate and Prepare Your Evidence 38
Which Party Has the Burden of Proof? 38
What Goes on at the Hearing Before the Administrative Law Judge? 39
Did You Personally Observe the Incident? 39
The Importance of Witnesses & Subpoenas 40
Contacts with the Administrative Law Judge Outside of the Hearing 40
Postponement of a Hearing 40
Withdrawal of an Appeal 40
Appeals to the Employment Security Board 40
Appeals to the Supreme Court 41

OTHER PROGRAMS AND DIVISIONS WITHIN THE DEPARTMENT 41
Wage and Hour Program 41
Child Labor Information 41
Mandatory Postings 41
Deductions from Employees Pay 41
Benefits or Wage Supplements 42
Minimum Wage 42
Labor Market Information 43
Workforce Development Services and Programs 43
Vermont JobLink 44
Vermont JobLink Services for Employers 44
Vermont Job Link Services for JobSeekers 44
Other Workforce Development Programs 45
Workplace Safety Programs 46
Vermont Occupational Safety and Health Administration 46
Green Mountain Voluntary Protection Program 46
Project WorkSAFE 46
Safety and Health Achievement Recognition Program 47
Vermont Passenger Tramway Program 47
Workers' Compensation Program 48
What is a Work Injury? 48
Statutory Benefits 48
First Report of Injury 48
Denial of a Claim 48
Burden of Proof is On Employee 49

FORMS (Back of Guide)
Limited Power of Attorney (C-50)
Notice of Change (C-36)

WHAT IS UNEMPLOYMENT INSURANCE?

Since the early 1900's Unemployment Insurance in one form or another has been accepted and practiced in both Europe and North America. Not until the disastrous depression of the 1930's, however, was there widespread recognition in this country of the need for federal legislation to cushion the impact of crippling economic downturns.

In 1935, the U.S. Congress passed the Unemployment Insurance provisions of the Social Security Act. This established a federal-state system of paying monetary benefits to eligible unemployed persons. Vermont's Unemployment Compensation Law was enacted in 1936 and was fully operative by 1938.

Over the years there have been substantial changes in the program, but the basic principles which underpin the Unemployment Insurance program remain the same. Among those principles are:

1. That the primary objective of Unemployment Insurance is to alleviate the hardship of lost wages for workers who become involuntarily unemployed, and who are able and willing to accept suitable jobs which are available;

2. That eligible claimants receive Unemployment Insurance payments not as charity, but as a matter of right - and no “means” or “needs” test is involved;

3. That payments to the unemployed, though only a partial replacement of the lost wages, permit continuation of the unemployed individual's non-deferrable purchases. This helps those individuals and businesses they buy from, and often prevents secondary unemployment which would result if the total amount of wages lost through unemployment was completely withdrawn from circulation;

4. That unemployment is a normal accompaniment of production, and Unemployment Insurance is a production cost, which should be borne by management as are other business costs. For that reason, taxes are collected solely from employers, which is used to build up the state unemployment trust funds, from which unemployment benefits are paid, and;

5. That, from the standpoint of employers, Unemployment Insurance for short spells of unemployment tends to hold together a labor force, which can be called upon when business improves.

THE EMPLOYER'S ROLE IN THE PROGRAM

The employer plays a critical role in the program. First of all, the costs of the program are borne entirely by the employer. Employers pay two taxes for unemployment insurance. One tax is paid to the State of Vermont Department of Labor and is used solely for the payment of benefits. The second tax is paid to the federal government and is used to pay for the cost of administering the program, to make loans to replenish state trust funds, and to pay for the federal share of the cost of any extended benefits program that may be in effect.

The employer also plays a critical role in the administration of the program by; 1) providing wage data that is used to compute benefit eligibility; 2) responding to requests for information; and 3) participating in the claims adjudication and appeals process so that only those individuals who are unemployed through no fault of their own will be awarded benefits. Employers also help ensure the integrity of the program by

reporting potentially fraudulent activities and by not enabling individuals who are receiving benefits to also work off the books at the same time.

Since the unemployment trust fund is funded only through the payment of employer taxes, and is the only source of benefit payments, the cost of unemployment is assessed either directly to those employers who employed the individual receiving benefits or by all other employers when benefits are not charged to specific employer accounts. Non-charging of benefits occurs when individuals file claims against companies that have gone out of business. It also occurs under certain statutory provisions where benefits are allowed but not charged to a specific employer account. For example, when someone is discharged for misconduct, and misconduct is proven by the employer, payment to the claimant is denied generally for nine weeks, after which the claimant may still receive a full 26 weeks of benefits provided s/he is otherwise eligible. Since the statute provides that an employer who discharges an individual for misconduct shall not be charged with the cost of benefits, those benefits are "socialized", which means that all other employers pay a share of the cost of those benefits. Sometimes the last employer in time is not subject to benefit charging because they are not a "base period" employer, and in those circumstances, there may be less incentive for the employer to participate in the process by providing information that might lead to a legal disqualification of the claim, but over time, the cost of not participating in the process can be greater than the time it takes to respond to a notice requesting separation information and/or follow up questions from a Claims Adjudicator. Since employers are the only one's who pay, it is important for employers to participate. It is part of our job at the Vermont Department of Labor to help make it easier for employers to participate in the process.

HOW THE PROGRAM IS ADMINISTERED

The Vermont Department of Labor administers the unemployment insurance program from a central office in Montpelier and a telephone claim center which is also in Montpelier. The employer tax program and Office of Program Integrity, which are responsible for assigning employer tax rates and UI integrity activities, is located in the Central Office in Montpelier. The office of the Administrative Law Judge and the Employment Security Board is housed in the Central office. Individuals who are unemployed file their claim for benefits by calling the claim center. The Claims Adjudication process is also administered from the Claim Center and employers with questions related to benefit charges also interact with employees at the Claim Center. The department also has Field Auditors who work from various locations around the state, as well as individuals who conduct program integrity activities as described later in this manual.

The Resource Centers, located throughout the state, provide the department's other services to both employers and the general public. Employers can contact their local Resource Center to place job orders and obtain information on qualified applicants for open positions. The unemployment insurance program works with staff in the Resource Centers to facilitate the reemployment of unemployment insurance claimants.

EMPLOYER RESPONSIBILITIES

What Does It Mean When We Say "You Are An Employer"?

For unemployment insurance purposes, an employer is a legal entity that is required by law to furnish unemployment insurance coverage to one or more individuals. An employer can be a sole-proprietor, a partnership, a limited liability company (LLC or LLP), a corporation, or any other entity for whom a worker

performs services. There are a number of ways that an entity is deemed to be an employer for purposes of furnishing unemployment insurance coverage, including an entity which:

1. Employs one or more persons during some part of a day in each of at least 20 different weeks (not necessarily consecutive) in either the current or the preceding calendar year in general employment;

2. Pays at least $1,500 in gross wages during any calendar quarter in either the current or the preceding calendar year, regardless of the number of employees;

3. Is a religious (other than a Church), charitable, educational or other organization exempt under Section 501(c)(3) of the Internal Revenue Code and have at least four employees for twenty different weeks (not necessarily consecutive) in either the current or preceding calendar year;

4. Pays $1,000 or more in gross wages in any calendar quarter for domestic services in a private home;

5. Pays $20,000 or more in gross wages in any calendar quarter for agricultural services, or employs ten or more workers in agricultural employment, including legal aliens, during some part of a day in each of at least 20 different calendar weeks (not necessarily consecutive) in either the current or preceding calendar year;

6. Is a State or any political subdivision thereof;

7. Succeeds to the business of any employer already covered under the Vermont Unemployment Compensation law.

8. Is (or becomes) liable under the Federal Unemployment Tax Act and furnishs any employment in this state to individuals hired for a specific job in Vermont regardless of the number hired or the number of weeks employed.

9. Voluntarily elects to provide unemployment coverage to domestic or agricultural workers even though it is not required, unless otherwise exempted by Vermont Unemployment Compensation law.

10. Begins employing again after a period of inactivity of less than 3 years.

Registration information can be found on our website, under “Businesses”, “Unemployment Tax & Benefit Information” section.

Sole Proprietorships, Partnerships, Limited Liability Companies (LLC) And Limited Liability Partnerships (LLP)

With the exception noted below, payments made to the owner or owners/members of a business organized as a sole proprietorship, LLC or LLP are not considered to be “wages” for unemployment insurance purposes. These payments are not reportable, cannot be used to qualify for unemployment benefits, and are not taxable for unemployment insurance purposes.

However, the owners/members of an LLC or LLP may elect recognition and classification as a corporation with the Internal Revenue Service (IRS). If such an election is made, payments made to members of a LLC or LLP will be treated as wages. To have payments to members of a LLC or LLP treated as wages, the LLC or LLP must provide this department with a copy of their IRS election (Form 8832 - Entity

Classification and Election) or (Form 2553 - Election by Small Business Companies) and be registered with the Secretary of State accordingly. Once this has been confirmed and the appropriate documentation has been received, all remuneration for services performed by the member(s)/manager(s) are reportable and taxable and may be used in determining unemployment benefit eligibility.

What Does "Employee" Mean?

The term "employee" is not defined in statute. When we refer to an individual as an "employee" that means an individual who is entitled to be covered for unemployment purposes. An "employee" for unemployment insurance purposes may include someone who is otherwise considered to be an "independent contractor". In general, it is the nature of the relationship between an employer and the individuals who provide services to that employer that determines whether or not they are employees.

The services may be performed on a full-time, part-time, temporary, seasonal, or probationary basis. They may be performed on or off your premises or in the employees' own homes.

Because it is the nature of the relationship that controls whether someone is an "employee" for unemployment purposes, a "contract" does not necessarily change the relationship from employer/employee to something else. The "ABC" test of the Vermont Statute Annotated, Title 21, Chapter 17 determines if the individual is an employee for unemployment insurance purposes.

Employment – ABC Test

In order to determine whether an employer is required to provide unemployment insurance coverage to an individual, the department utilizes an employment "test". Under statute and case law, an "employment" relationship will exist (unemployment insurance coverage is required) unless and until the employer is able to demonstrate that all three parts of the so-called "ABC Test" are met. Those tests are:

A. Such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract of service and in fact; and

B. Such service is either outside the usual course of the business for which such service is performed, or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

C. Such individual is customarily engaged in an independently established trade, occupation, profession or business.

The Vermont Legislature chose to use the ABC test, which is much more inclusive than other employment "tests", in order to ensure broad unemployment insurance coverage. There has been significant case law developed over the years that helps define situations where unemployment coverage must be provided. The Vermont Supreme Court has made it clear that direction and control will exist where the employer has the "right" to provide direction and control, regardless of whether such direction and control is actually exercised. The employer's usual course of business is any business activity the employer chooses to engage. Likewise, the employers place of business is all places where the employer conducts its business, not just the main location or office from which the employer conducts its business. Finally, being independently established means being established in a similar type of occupation or trade as the one being examined, and generally the individual must have some history of providing similar services for others in order for the "C" part of the test to be met.

In the case of determining coverage for individuals who are in harvesting or transportation of timber to market or employed as a stone artisan, only the A and C parts of the ABC test must be met provided the individual furnishes the equipment, tools and supplies necessary to perform the required services.

The ABC Test vs. the IRS Independent Contractor Test

The Internal Revenue Service uses a different, less inclusive test to determine if an individual is an employee or an independent contractor. Basically, the IRS test is similar to the "A" part of the unemployment ABC Test and only looks at whether the employer provides direction and control over the services being performed. The courts have considered many facts in deciding whether a worker is an independent contractor or an employee. These relevant facts fall into three main categories; behavioral control; financial control; and relationship of the parties. It is possible to reach different conclusions on the employment status of an individual when different tests are used.

Employers should understand that the department will follow Vermont law and use the ABC test to determine if a worker is an employee for unemployment insurance purposes, and will be liable to report wages paid to and pay taxes on those wages unless all three parts of the ABC test are met. This is true even if the IRS "Evidentiary Factors" Test has a different outcome. Misclassification of employees is the single most common problem with regard to the proper reporting of individuals for unemployment insurance purposes.

Exempt Employment

The following services are not considered to be "employment" by statute:

1. Services by elected officials to state and local governments, members of a legislative body or the judiciary, members of the state national guard or air national guard, and certain temporary "emergency employment" and major policy-making positions.

2. Some services for nonprofit religious, charitable and educational organizations and for State hospitals or institutions of higher education.

3. Casual labor of not more than $50.00 that is not part of the employer's trade or business (this exclusion does not apply if the employer is a corporation).

4. Services of individuals as insurance agents or solicitors, if paid solely by commissions.

5. Services of individuals as salesmen, agents or solicitors, if paid solely by commissions <u>and</u> the occupation is required to be licensed by state law.

6. Services of a sole proprietor or partners, or family members (parent, spouse, civil union partner, child or stepchild under the age of 18) for an individual (sole proprietorship) or a partnership.

7. Services for Limited Liability Company (LLC) or Limited Liability Partnership (LLP) by the members, managing members or managers of such organizations are exempted from coverage. In addition, the same family exemptions apply as follows: Single member/manager LLC is recognized as a proprietorship for reporting purposes. Multi-member LLC/LLP is recognized as a partnership for reporting purposes.

8. Services in railroad employment.

9. Services on foreign vessels.

10. Some services in fishing employment.

11. Services in student work experience programs - performing services as part of the school's academic program.

12. Services by students in regular attendance at the educational institution that employs them or by spouses of students if the spouses are employed as part of a financial assistance program for the students.

13. Some services performed by students for organized summer camps.

14. As of July 1, 2006, wages paid to a direct seller, provided *all* of the following conditions are met:

    1. An individual engaged in one of the following trades or businesses.

       a. Selling or soliciting the sale of consumer products, including services, either –

          A. In a home or other place that is not a permanent retail establishment, or

          B. To any buyer on a buy-sell basis or a deposit-commission basis for resale in a home or other place that is not a permanent retail establishment.

       b. Delivering or distributing newspapers or shopping news (including any services directly related to that trade or business).

    2. Substantially all the individual's pay for the services described in (1) is directly related to sales or other output (including the performance of services rather than to the number of hours worked.

    3. The services are performed under a written contract between the individual and the person for whom the services are performed, and the contract provides that the individual will not be treated as an employee for federal and state tax purposes.

Voluntary Election of Coverage

Employers who are not required under law to provide unemployment coverage to workers can, in most situations, elect to provide such coverage on a voluntary basis. An application (Form C-1A) must be completed and filed with the Commissioner of Labor who will provide approval in writing, provided such request is received by December 1st prior to the year coverage is requested. Voluntary coverage becomes effective on January 1st or the first day of employment of the year being requested and will remain in effect for two full calendar years.

Sole proprietors, partners of a partnership, managers or managing members of an LLC or any other employees specified as exempt cannot "elect" coverage for their employment, nor can they draw benefits based on the wages earned from their own business.

Inactive Status

Seasonal employers and other employers who may have no employees for a period of time can request to have their account made inactive. By making an account inactive, quarterly wage and contribution reports are not required to be filed until such time as employment begins again. Requests to make an account inactive should be made in writing to the department. Making an account inactive does not relieve the employer of its responsibilities if it is learned later that employment occurred during the period of inactivity.

Termination of Coverage

An employer found to be liable for unemployment taxes remains liable for at least two calendar years, regardless of the size of the payroll or the number of individuals employed.

After two calendar years of liability, a business that drops below the required number of employees and pays less than the minimum amount in wages ($1500 per calendar quarter for regular employment, $20,000 per calendar quarter for agricultural or $1000 per calendar quarter for domestic employment) for the preceding calendar year may make a request to terminate coverage. A written request must be filed with this department before March 31st, stating that the minimum requirements for liability were not met during the preceding calendar year. Termination, if granted, is effective January 1st of the year in which the request was made. Requests received April 1st or later will not be made effective until January 1st of the following year, and then only if there is no material change in the employment situation between the date of the request and the beginning of the following calendar year.

The Commissioner may also end the coverage of any employing unit when termination is in order, even if the employer has not requested termination.

REPORT FILING AND PAYMENT INFORMATION

Unemployment insurance is financed through an employer payroll tax. The employee makes no contribution themselves, and this tax cannot be withheld from an employee's paycheck.

Employers pay two unemployment taxes, one to the state and the other to the federal government. The Vermont unemployment tax is due quarterly, along with the quarterly wage report. Although you must report all wages paid to each employee on the wage report, you pay taxes only on the first $8,000 in gross wages paid to each worker in a calendar year.

Employers are also required to pay federal unemployment taxes under the Federal Unemployment Tax Act (FUTA). The FUTA tax is used to fund the administrative costs of the unemployment insurance program while your Vermont tax is used solely for the payment of benefits to unemployed workers.

It is important to pay all state unemployment taxes when due. If an employer fails to pay state unemployment taxes when due, it can lose an important federal tax credit. The FUTA tax is currently 6.2% on the first $7,000 in gross wages paid to each worker in a calendar year. When you pay your state unemployment taxes on time, you receive a tax credit of 5.4% on your FUTA tax. That means that the federal unemployment tax rate will be .8% instead of 5.4%. The federal tax credit is applicable regardless of the state tax rate provided state taxes are paid on time.

Keeping Records

Each employing unit shall maintain and preserve for four years accounts and records with respect to workers engaged in subject employment and non-subject employment which shall show:

(1) For each pay period:

- (a) The date and total amount of remuneration paid for subject employment.
- (b) The date and total amount of remuneration paid for non-subject employment.
- (c) The beginning and ending dates of each pay period.
- (d) The beginning and ending dates of such subject and non-subject employment.
- (e) Date during each week on which the largest number of individuals worked, and the number of individuals who worked on that day.

(2) For each worker:

- (a) Address, and social security number.
- (b) Place of employment.
- (c) Hourly rate of pay or salary amount and the frequency of payment.
- (d) Date on which worker was hired, or returned to work after a temporary layoff, and date separated from work and reason therefore.
- (e) The actual days worker performed services in employment each week and the actual number of hours worker performed services in employment each day.
- (f) Total remuneration paid in each quarter.
- (g) Worker's remuneration paid for **each pay period** showing separately:
  - i. Money payments (excluding special remuneration).
  - ii. Special remuneration of all kinds showing separately:
    - (A) Money payments.
    - (B) Reasonable cash value of payments in any medium other than money.
    - (C) The nature of such special remuneration.
    - (D) The period or periods during which the services were performed for which the special remuneration was paid.
  - iii. The reasonable cash value of remuneration paid by the employing unit in any medium other than cash, (i.e. lodging, room and board, etc.).
  - iv. The amount of gratuities received from persons other than his or her employing unit and reported by the workers to his or her employing unit.
  - v. Amount paid worker as allowances or reimbursements for traveling or other business expenses, dates of payment, and the amounts of such expenditures actually incurred and accounted for by him or her.

Each employing unit **shall keep its payroll records** in such form that it will be possible for inspection thereof to determine with respect to each worker in its employ who may be eligible for partial benefits:

(1) Wages earned for any employment during a "week" beginning at 12:01 a.m. Sunday through 12:00 p.m. Saturday.
(2) Whether any week was in fact a week of less than full time work as defined in VDOL Rule.
(3) Time lost, if any, by each worker and reason therefore.

An employing unit having its principal place of business outside of Vermont **shall maintain payroll records** in this state with respect to wages paid to employees who perform some service in this state, provided, however, that an out-of-state employing unit may, with the approval of the Commissioner, maintain such payroll records outside the state upon its agreement that it will, when requested to do so, furnish the Commissioner with a true and correct copy of such payroll records.

Each employing unit shall **make available upon request** the following records and documents, to enable proper assessment of covered employment under the applicable U. C. laws and the associated tax liabilities.

(1) Check stubs and canceled checks for all payments;
(2) Cash receipts and disbursement records;
(3) Payroll journal and time cards;
(4) General Journal and general ledger;
(5) Copies of tax reports filed with all federal and state agencies;
(6) Copies of W-2's; W-3's, and 1099's.

What is the Definition of "Wages"?

"Wages" means all remuneration paid for services rendered by an individual, including commissions and bonuses and the cash value of all remuneration paid in any medium other than cash. Gratuities customarily received by an individual in the course of employment from persons other than the employer and reported by the individual to the employer, shall be treated as wages paid by the employer. The reasonable cash value of remuneration paid in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the board. The value of room and board, if set by agreement between the employer and employee, must be reported as wages. Where there is no agreement, the department uses the minimum values assigned to room and board as established under the Wage and Hour program.

Further information and definitions of "wages" is indicated on the "Item by item Instructions" provided for filing the C-101, Wage and Contribution Report.

What Types of Payments are not Considered Wages?

By statute, the term "wages" shall not include:

(A) The amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of:

(i) sickness or accident disability (but, in the case of payments made directly to an employee or any of his or her dependents, this subparagraph shall exclude from the term "wages" only payments which are received under a workers' compensation law); or

(ii) medical or hospitalization expenses in connection with sickness or accident disability; or

(iii) death;

(B) Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of six calendar months following the last calendar month in which the employee worked for such employer;

(C) Any payment made to, or on behalf of, an employee or his beneficiary (i) from or to a trust described in section 401(a) of the United States Internal Revenue Code which is exempt from tax under section 501(a) of the United States Internal Revenue Code at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or (ii) under or to an annuity plan which, at the time of such payment, is a plan described in section 403(a) of the United States Internal Revenue Code;

(D) The payment by an employer (without deduction from the remuneration of the employee) of the tax imposed upon an employee under section 3101 of the United States Internal Revenue Code;

(E) Any amounts received from the federal government by members of the national guard and organized reserve, as drill pay, including longevity pay and allowances.

The state law uses similar language as found in the Federal Unemployment Tax Act and for many years, the types of payments excluded under both federal and state law were the same. Currently, federal law excludes some types of payments from the definition of wages under federal law that are not excluded in state law. A common example is federal law excludes payments made under a Section 125 Cafeteria Plan from the definition of wages. Any payment excluded under the federal definition that is also not excluded under state law must be reported as wages. State law also provides that if federal law changes so that one or more of the payments currently excluded under both state and federal law is no longer excluded under federal law, then state law automatically no longer excludes those same types of payments.

Employees Who Work in More than One State

To avoid conflicts and overlapping unemployment coverage on an employee who performs services in more than one state for the same business, four tests determine which state receives the unemployment insurance taxes for that individual. The tests are applied in the following order to each employee and not the employer:

1. **Place Where Work is Localized -** If the individual works entirely within this state, Vermont law would cover them. If they work in Vermont and in another state, but the work in the other state is incidental to the individual's services performed within Vermont, they would be subject to Vermont law. The word "incidental" is interpreted to mean temporary or transitory in nature, or consisting of isolated transactions.
2. **Place Where Base of Operations is Located -** If the individual's work is not localized in any state, they will be covered by Vermont law if they do some work in Vermont and their base of operations is in Vermont. "Base of operations" means a place from which the employee starts work and to which they customarily return to receive instructions from their employer, communications from their customers, to replenish stocks of material, repair equipment, etc. It may be a business office, the worker's home, or some other place specified in the contract of employment.
3. **Place From Which the Work is Directed or Controlled** - If the individual has no base of operations or if they perform no work in the state, which has their base of operations, their services will be covered by Vermont law if they are directed or controlled from Vermont. This refers to a company's headquarters, and not the base of operations for a manager or foreman who directly supervises the worker, if that manager or foreman receives general instructions from another site.
4. **Place of Residence -** If none of the three tests apply in a given case, the individual's work will be covered by Vermont Law if the individual both lives and does some work in Vermont.

Power of Attorney

A power of attorney is necessary for an employer representative to receive confidential information and to perform any and all acts the employer can perform relating to the Vermont Unemployment Insurance Program. The necessary form (C-50) can be found in the back of this manual or on our website.

Filing Quarterly Reports

The C-101 Wage and Contribution report must be filed every quarter, even if no wages were paid in a calendar quarter. Employers will be reminded about the responsibility of filing the report approximately 40 days before it is due. The C-101 Wage and Contribution report may be filed using our Internet application, or via paper. However, any employer employing 25 or more employees, must file quarterly reports electronically. This can be accomplished by using our Internet application, which also provides the opportunity for electronic payment or by submission of the wage data portion of the report through magnetic media. Specifications and application for magnetic media reporting (forms C-19, C-31, and C-32) may be found on our website under "Forms and Publications" or by contacting our Employer Services Unit at 802-828-4344.

"Due Date" for Filing Quarterly Reports

Reports are due as shown below:

For Wages Paid During	Date Report Mailed	Report Due By
Jan, Feb, Mar	March 20th	April 30
Apr, May, Jun	June 20th	July 31
Jul, Aug, Sept	Sept. 20th	October 31
Oct, Nov, Dec	Dec. 20th	January 31

The postmark on the returned report or the electronic filing date is deemed to be the date the report is received. When the report due date for any calendar quarter falls on a Saturday, Sunday or a legal holiday, the report and tax payment must be postmarked or filed electronically no later than the next business day to be considered a timely report.

Reimbursable employers are only required to provide wage and demographic data for each employee, the number of employees for each month of the quarter and the total gross wages paid during the quarter.

Complete instructions for filing quarterly Employer Wage and Contribution Reports have been provided under separate cover. **You need to retain these instructions for future reference.** Another copy (Form C-101) can be found on our website, under "Forms and Publications" or by contacting the Employer Services Unit in our Administrative Office at 802-828-4344.

Calculating Excess Wages

As previously mentioned, detailed instructions for completing the Quarterly Employer's Wage and Contribution Report have been provided separately. One of the commonly misunderstood sections of the quarterly report is calculating "excess" wages. "Excess" wages means the amount paid to each employee after his or her year-to-date earnings have exceeded the maximum calendar year taxable wage limit as shown on the report. Currently the taxable wage limit is $8,000.00. Employer Services staff can be reached at 802-828-4344 if you need help with this calculation and/or have any questions.

EXCESS EXAMPLE:

EMPLOYEE 1

Quarter	Total Wages/Qtr.	In Excess of $8,000	Taxable Wages/Qtr. To Report
1st	$5,000	$0	$5,000
2nd	$5,000	$2,000	$3,000
3rd	$5,000	$5,000	$0
4th	$5,000	$5,000	$0

EMPLOYEE 2

Quarter	Total Wages/Qtr.	In Excess of $8,000	Taxable Wages/Qtr. To Report
1st	$2,000	$0	$2,000
2nd	$2,000	$0	$2,000
3rd	$2,000	$0	$2,000
4th	$3,000	$1,000	$2,000

EMPLOYEE 1 earned $5,000 per quarter. The $8,000 per year EXCESS limit was met in the 2nd quarter by $2,000. All wages for this employee after the $8,000 limit are EXCESS.

EMPLOYEE 2 does not reach the $8,000 EXCESS limit until the 4th quarter.

EXCESS is based on individual wages. However, the amount to report must be total excess for ALL employees.

EXCESS for Employee 1 AND Employee 2 is as follows:

Quarter	Total Wages/Qtr.	In Excess of $8,000	Taxable Wages/Qtr. To Report
1st	$7,000	$0	$7,000
2nd	$7,000	$2,000	$5,000
3rd	$7,000	$5,000	$2,000
4th	$8,000	$6,000	$2,000

Duplicate Reports

Employers with less than 25 employees may obtain a duplicate report on our website or by calling our Employer Services Unit.

Facsimile Reports

Employers may use software packages to create Form C-101, however, PRIOR to using and submitting facsimile reports, authorization must be obtained from this department.

Making Corrections to Reports

To correct a previously submitted report, clearly identify the adjustment on a copy of the original report and submit it to Employer Services Unit in our Administrative Office, along with an explanation of the error. If one or more individuals was left off the original report, be sure to include the name, social security number, wages, gender, whether the individual is paid hourly or by salary, and if paid by hour, the hourly rate of the employee(s) affected.

Adjustments must be made to the proper quarterly report. Do not attempt to correct a worker's over-reported wages by including a negative amount on a subsequent wage report, as these amounts are read by the computer as increases in wages.

Application of Payments Received from Employers

When the department receives payment of taxes for a current quarter which is filed on or before the date it is due, the payment is applied to that quarter. However, if there are amounts which are past due, payments on delinquent reports (filed after the due date) will be applied to the oldest quarter where contributions are due, interest, penalties and fees, in that order, progressing from oldest to most recent delinquent quarter.

Refunds and Adjustments

Absent a credit balance establishing as a result of an administrative error, reversed decision, or a credit balance on an inactive or non-subject account, it is the expectation of the U. I. and Wages Division that all adjustments and refunds will generally be applied to future amounts due. All automated contribution quarterly reports and rate tapes, along with the Vermont Internet Tax and Wage System (VITWS) will reflect a credit balance where one exists. Therefore, it is important to note any credit balances for future deduction and use the correct rate when calculating amounts due, keeping in mind a potential change

in your rate beginning with the third quarter filing each year. If you are filing your Quarterly Wage and Contribution Reports via our Internet application, any credit balance will be automatically notated in the payment portion of the application.

If you have any questions on how to calculate the amounts due on the quarterly reports, please contact the Employer Services staff at 802-828-4344 or your local Field Auditor. Contact information for all Field Auditors is provided on the back cover of this manual.

Reimbursement Payment Option

Certain non-profit organizations (exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code) and governmental entities may elect the reimbursement payment option. Here are some things to consider before electing the reimbursement option:

1. This option is generally advantageous for employers with stable employment; the quarterly tax option is usually advantageous for employers with high employee turnover.

2. Reimbursement payments will vary, depending on the number of former employees who are receiving unemployment benefits. With this method it may be difficult to estimate costs, but reimbursable employers are wise if they budget or at least project for the potential costs based on past experience. Claim history (if any currently exists) is available from the department upon request.

3. A reimbursable employer will reimburse the unemployment fund on a dollar for dollar basis; their proportionate share of benefits paid to their former employees. Reimbursable employers are charged ½ of their proportional share of extended benefits or the full amount of their proportional share of extended benefits if they are a governmental employer.

4. Employers who have elected the reimbursement payment option will not be relieved of "charges" (payments) for any reason. Even in cases in which former employees are paid benefits after serving a disqualification, reimbursable employers, unlike taxable employers, are not relieved of charges. The only exception is when a claimant is found to have been overpaid benefits. In that case, the reimbursable account may be credited but only if overpaid monies are actually recovered from the claimant.

Reimbursable accounts receive a monthly charge statement outlining the proportional charges made against the account. It is important to review this monthly charge statement to ensure that only individuals who have worked for you are included on the statement. The cost of these benefits is billed on a quarterly basis, and payment is expected within 30 days to avoid interest charges.

How to Elect the Reimbursable Option

If you are a new employer and your organization is a non-profit with a 501-C-3 determination from the Internal Revenue Service, or if your organization is a governmental entity:

1. Complete (Form C-1B) Election to Make Payments in Lieu of Contributions. Such election must be made in writing within 30 days from the date we determine you are an employer for unemployment purposes.

2. Once made, the election will be in effect for at least one complete calendar year and will continue in force until terminated by the employer. The Commissioner may also terminate the election if the employer is delinquent in making payments.

Changing from a Taxable to a Reimbursable Method of Payment or Vice Versa

An employer whose organization is a non-profit with a 501-C-3 determination from the Internal Revenue Service or is a governmental entity may elect to change their method of payment following one complete calendar year of liability, provided:

1. Written notice must be filed at least thirty (30) days prior to the beginning of the calendar year for which the change is to be effective.

2. Such change in election shall remain in effect for not less than two full calendar years.

3. Special Note: A Reimbursable employer changing their method of payment to taxable is liable to make payments as if they were still a reimbursable employer for each claim that is filed based on wages paid while the account was reimbursable. These payments are in addition to any tax payments that may also be due.

Reporting Changes to Your Business

When any change in your business occurs, notify the department promptly. A delay could result in additional costs to you later. Be sure to report such changes as:

1. Sale of your business;

2. Discontinuation of your business;

3. A new business name;

4. Change in ownership of your business;

5. Incorporation of the business (registered with the Vermont Secretary of State's office);

6. Change in business address or telephone number;

7. Acquisition of another business.

A Notice of Change (Form C-36) is included in the back of this manual. Another copy may be obtained on our website under "Forms and Publications" or by calling the Employer Services Unit at 802-828-4344.

Sale of Business Certification

An employer selling its business can obtain a certification of their unemployment account status, which can be given to the buyer to provide assurance that there are no outstanding amounts due on the seller's account. These certifications can only be provided to the seller, not the buyer. Such a certificate must be requested by the seller from this department 10 days prior to the date of sale. Sale of Business Certifications may be obtained by calling 828-4252.

Penalties

Under V.S.A. Chapter 17, Sections 1314 and 1328 a penalty shall be imposed for failure to file reports as required. Such penalty will be assessed if:

- The Quarterly Employer's Wage and Contribution Report (Form C-101) is not **postmarked** or filed electronically on or before the due date.
- Individual wage data contained on the Employer's Wage and Contribution Report is incomplete, illegible, or in an unacceptable format.
- A Wage Request (Form B-70) is not **received** in our Administrative Office on or before the due date.
- A Request for Wage and Separation Information (Forms B-10S or B-8F), when required, is not **received** in our Administrative Office on or before the due date.

Interest Charges

If Vermont unemployment taxes are not paid on or before the date they are due, interest will be charged at the rate of one and a half percent (1.5%) per month from the due date to the date payment is received. If you appeal an assessment of unemployment taxes, interest will continue to accrue during the appeal process. Paying the assessed taxes will prevent the accrual of interest charges and will not prejudice your appeal. If you win your appeal, any interest or penalties previously paid will be promptly refunded.

Liens

Delinquent taxes, interest, or penalty charges may result in a lien being placed on an employer's real estate and/or personal property. Such liens may be foreclosed in the same way as mortgages on property.

Assessments

Assessments may also be made for any past due amounts. An assessment serves two purposes, one to notify the employer of past due amounts and also as a vehicle the employer can use to file an appeal. An assessment can be appealed by following the instructions in the Appeals section of this manual. An assessment may be reduced to judgment by a court. If a judgment is not voluntarily paid, the department may request the court to issue a "writ of execution", which directs the sheriff to collect the amount of the judgment plus interest from the judgment debtor.

Contacts by a Field Auditor or Other Department Representative

The department Field Auditors perform a number of functions related to the unemployment insurance program. These functions include examining employment records for the purpose of establishing an employer's unemployment and health care contribution liability, checking on unreported wages that are holding up payment of unemployment benefits, conducting compliance audits, and investigating allegations of fraudulant or inappropriate unemployment claims. The compliance audits verify the status of individuals as employees and the designation of payments as wages to insure proper payment of unemployment taxes.

Each tax field auditor carries a picture ID card for identification. Field auditors can be reached at many of the Resource Centers listed on the inside back cover, or by contacting the department's Administrative Office at (802) 828-4344.

If a compliance audit is necessary, the field auditor will contact the owner or employer's representative to schedule an appointment to perform the audit. Before examining the records, the auditor will interview the owner or representative of the business. The interview will acquaint the auditor with the nature of the business and its services. This pre-audit interview also helps the tax auditor to identify the financial records which will be examined. Financial records for the previous three calendar years as well as the current year may be examined. Records which are located out of state must be made available to the tax

auditor at the business's headquarters in Vermont, or, if there is no Vermont headquarters, through the employers registered agent in Vermont, if requested. In all but the exceptional case, the department will work with an employer to conduct compliance audits on a mutually agreeable schedule. If an employer refuses to participate in a compliance audit or to produce other records related to the administration of the unemployment insurance program, a subpoena may be issued to force compliance.

In addition to the department's field auditors, the department has a Benefits Accuracy Measurement program where Quality Control Specialists conduct random reviews of unemployment payments made to help ensure the integrity of the unemployment insurance program. When this review is conducted, it may require that certain records be produced.

EMPLOYEE LEASING

An employee leasing company is a business, which by agreement and for a fee, places employees of a client company on the leasing company's payroll. In turn, the leasing company "leases" these employees back to their original employer, usually for an unlimited period of time.

In 1996, the Vermont Legislature passed a law (21 V.S.A. Secs. 1031-1043) to regulate the employee leasing industry. This law, which originated through an industry request for regulation of leasing companies requires the employee leasing companies doing business in Vermont to be licensed by the Vermont Department of Labor, which is the state department responsible for administering both the unemployment insurance and worker's compensation programs.

Regulation of the employee leasing industry was enacted in part as a response to some situations, most of which occurred outside of Vermont, where an employee leasing company went bankrupt after having collected from its clients money which was to be used to pay wages, benefits, worker compensation premiums and unemployment insurance contributions, but without first making those payments to the appropriate agencies. In those situations, the client companies bore the responsibility of paying those wages, premiums and taxes twice. The financial responsibility and bonding provisions of the employee leasing law are intended to reduce or eliminate the exposure of the client companies should their leasing company suddenly go out of business. By helping ensure that only stable employee leasing companies do business in the state, Vermont's employee leasing law provides protections to workers, client companies and the leasing industry itself. It also helps to ensure that the cost of unemployment insurance and workers' compensation is borne by the client company, and not spread amongst all other employers.

Employee leasing companies provide a number of valuable services to their clients. Typically, an employee leasing company will provide payroll services and assist companies in managing their human resources by providing employee manuals and other services which are sometimes difficult for smaller companies to provide on their own. Better management of workplace safety can help control the cost of worker compensation. Improved hiring practices and experienced representation in unemployment insurance benefit and tax matters can help keep the cost of unemployment compensation down. Because leasing companies represent a number of employers, and therefore a larger pool of workers, the cost of benefits can sometimes be lowered. In some cases, client employers which could not afford to provide certain benefits such as health insurance, find it affordable to do so when taking advantage of the buying power of an employee leasing company.

In order to maximize the advantages and minimize the risks of employee leasing, Vermont employers are encouraged to only utilize those services provided by a company licensed to do business in Vermont. A list of employee leasing companies licensed to do business in Vermont is maintained by the Vermont

Department of Labor. You can obtain a copy of this list on our website under “Info Center”, “Employee Leasing” section, or by contacting the Employer Services Unit at 802-828-4344.

Requirements for Licensure of Employee Leasing Firms

This section highlights the requirements for an employee leasing company to become licensed in Vermont. A complete copy of the statute, rules and forms pertaining to employee leasing can be obtained on our website under “Info Center” or by writing to our Administrative Office, Attn: Employee Leasing.

The employee leasing law requires leasing companies to provide the following:

1. register with the Vermont Department of Labor;

2. provide a list of all controlling persons of the applicant, their biographical information, and an affidavit from each attesting to his or her good moral character and management competence;

3. provide documentation that the applicant maintains a place of business in this state, or has designated an agent of service, domiciled in the state, if there are to be no more than 50 leased employees working in the state, and the applicant is licensed, if required, in the applicant’s state of domicile.

4. certify that the applicant does not conduct a temporary help business through the same entity as the employee leasing business;

5. an agreement to maintain separate records for each client company and file reports as required by this rule and law for each of its client companies.

6. an agreement to pay unemployment insurance contributions and workers’ compensation premiums based on the experience rating of each client company, provided that, for workers’ compensation premiums, the client company has sufficient workers’ compensation premium volume to be experience rated, otherwise workers’ compensation premiums shall be at a rate approved for an employer that cannot be experience rated, and provided that, for unemployment insurance contributions, the client company has sufficient experience to be experience rate, otherwise contributions shall be paid at the applicable new employer rate.

7. An acknowledgment of the applicant’s joint and several liability with each client company for protections required by or damages due under laws designed to protect the health, safety or welfare of an individual lease to a client company;

8. evidence of financial responsibility in accordance with this rule;

9. An agreement that the Commissioner of Labor may liquidate any securities or bond provided pursuant to this rule, upon the default by the applicant in paying wages, benefits, workers’ compensation premiums or awards or unemployment insurance contributions, in order to use the funds to pay the same.

Unemployment Insurance Requirements for Employee Leasing

For unemployment insurance purposes, employee leasing companies are required to:

1. notify the Vermont Department of Labor each time it adds or terminates a client company;

2. complete a Power of Attorney for each client company, authorizing it to act on behalf of the client for unemployment insurance purposes;

3. file quarterly Wage and Contribution Reports (Form C-101) for each client separately, using each client's VTDOL employer account number and the client's assigned rate;

4. provide a list of each client company in Vermont on or before December 31st of each year, and

5. maintain accurate records for each client company and make those records available to this department for inspection as needed.

UNEMPLOYMENT TAXES AND EXPERIENCE RATING

State and Federal Unemployment Taxes

Employers pay two types of unemployment taxes. State unemployment taxes are paid to this department, deposited into a trust fund and can only be used for the payment of benefits. The state tax is payable on the first $8000 in wages paid to each employee during each calendar year. Federal unemployment taxes are paid to the Internal Revenue Service and are used to pay for the cost of administration of the state programs, the federal cost of extended benefits, and to make loans when state unemployment trust funds experience shortfalls and have to borrow to pay benefits. The federal tax is payable on the first $7000 of wages paid to each employee during each calendar year. On an annual basis, the department and IRS conduct a cross match to ensure that employers are paying both taxes. Payment of state unemployment taxes in a timely manner reduces the federal unemployment tax rate from 6.2% to .8%, so it is important to pay your state unemployment taxes on time.

New Employer Rates

Employers pay unemployment taxes at a New Employer rate until such time as they earn a rate based on their "experience" with unemployment. Beginning July 1, 2004, the new employer rate for most employers is one percent (1%). However, if you are an out of state (foreign) corporation classified under the North American Industry Classification System (NAICS) as 236 Construction Building, 237 Heavy/ Civil Engineering or 238, Specialty Trades foreign construction corporation, you will be assigned a "New Employer" rate based on the industry average of all other similarly classified businesses during the past calendar year.

If you are being assigned a "New Employer" rate for liability prior to July 1, 2004 it will be assigned based on your NAICS Code and will neither exceed Rate Class 11 of the rate schedule then in effect, nor be less than one percent.

Experience Rating

All covered employers paid a state unemployment tax rate of 2.7% until 1941. An "experience rating plan" then went into effect that reduced rates for employers with favorable unemployment records. Under this plan, the number of unemployment benefit payments affects the tax rate. The more benefit payments that are made to former employees, the higher the tax rate (up to a statutory maximum rate). Because rates are related to experience with unemployment, experience rating should act as an incentive both to

take steps to help stabilize employment and supply information needed to prevent benefit payments to ineligible persons.

Qualifying for an Experience Rate

The law requires at least one complete calendar year of benefit liability before an employer receives an experience rating. Benefit liability means that unemployment insurance payments could have been charged to the employer's experience rating throughout a complete calendar year. It is not necessary for unemployment insurance payments to have actually been charged. Because tax rates are recalculated only on an annual basis, most employers pay unemployment insurance taxes at the new employer rate for at least two years before getting an experience rating. Without exception, the tax rate of an employer that has had three calendar years of benefit liability will be based on experience during the last three years. After three years, the rate is based on a rolling three year experience.

Benefit Ratio

To compute a benefit ratio, the department divides the total amount of benefits charged to your record during the last calendar year (or last two or three calendar years if you have been liable for benefits that long) by the total taxable wages you reported for that same period. This ratio is used to set your tax rate.

EXAMPLE:

Year	Benefits Charged To Your Record	Taxable Wages Paid By You	
2003	$ 2,448	$ 120,954	
2004	2,732	98,520	
2005	1,675	105,617	
	$ 6,855	$ 325,091	6,855 divided by 325,091 = .02108 (benefit ratio)

Determining Your Tax Rate

The lowest possible benefit ratio is .00000 - no benefits were charged to that employer's account over the last three years. Employers with a zero benefit ratio are assigned the lowest tax rate in effect for that year (rate class 0). Rate class "0" is assigned the lowest rate in each schedule. See further information provided in the "Rate Schedule" section.

All other employers are then placed in the twenty tax rate classes that are higher than zero. No employer is assigned to a higher class than any other employer with the same benefit ratio. Rate Class 1 is made up of employers with the lowest benefit ratios above zero and Rate Class 20 is made up of those with the highest benefit ratios.

Your rate depends upon two factors: (1) How your benefit ratio compares with other employers' benefit ratios, and, (2) Which rate schedule is in effect.

Rate Schedule

The appropriate schedule is determined by a special formula in the Vermont Unemployment Compensation Law. Section 1326 of the Vermont Unemployment Compensation Law provides five different rate schedules, each with twenty-one tax rates. The tax schedules are designed so that rate Schedule 3 provides an "equilibrium" of funding across the business cycle. Schedules 1 and 2 raise less money than the equilibrium and Schedules 3 and 4 raise more than the equilibrium. The difference in the total amount raised under each schedule is approximately $10 million. The unemployment trust

fund is "forward funded", which means that the tax schedules are designed to raise funding during good economic times to ensure that there is adequate funding during recessions. The U. S. Department of Labor suggests that a state trust fund be maintained at a sufficient level such that if no additional taxes were paid, the trust fund could continue to pay benefits for at least one year. Vermont's rate schedules are designed to maintain at least 1.5 years of funding if no additional taxes are paid. The tax schedules and rates are as follows:

Tax Rate Class	Tax Rate Schedules				
	1	2	3	4	5
0	0.4	0.6	0.8	1.1	1.3
1	0.5	0.7	0.9	1.2	1.5
2	0.6	0.8	1.1	1.4	1.8
3	0.7	1.0	1.4	1.7	2.1
4	0.8	1.2	1.7	2.0	2.4
5	0.9	1.4	2.0	2.3	2.7
6	1.1	1.7	2.3	2.6	3.0
7	1.4	2.0	2.6	2.9	3.3
8	1.7	2.3	2.9	3.2	3.6
9	2.0	2.6	3.2	3.5	4.0
10	2.3	2.9	3.5	3.8	4.4
11	2.6	3.2	3.8	4.1	4.8
12	2.9	3.5	4.1	4.5	5.2
13	3.2	3.8	4.4	4.9	5.6
14	3.5	4.1	4.7	5.3	6.0
15	3.8	4.4	5.0	5.7	6.4
16	4.1	4.7	5.3	6.1	6.8
17	4.4	5.0	5.6	6.5	7.2
18	4.7	5.3	5.9	6.9	7.6
19	5.0	5.6	6.2	7.3	8.0
20	5.4	5.9	6.5	7.7	8.4

Successor Employer

Title 21, Chapter 17, Section 1325(b)(1) says in part "Any individual or employing unit who in any manner succeeds to or acquires the organization, trade or business or substantially all of the assets of any employer who has been operating his or her business within two weeks prior to the acquisition, except any assets retained by the employer incident to the liquidation of his or her obligations, and who thereafter continues the acquired business shall be considered to be a successor to the predecessor from whom the business was acquired and, if not already an employer before the acquisition, shall become an employer on the date of the acquisition. The commissioner shall transfer the experience-rating record of the predecessor employer to the successor employer. If the successor was not an employer before the date of acquisition, his or her rate of contribution for the remainder of the rate year shall be the rate applicable to the predecessor employers with respect to the period immediately preceding the date of acquisition if there was only one predecessor or there were only predecessors with identical rates. If the predecessors' rates were not identical, the commissioner shall determine a rate based on the combined experience of all the predecessor employers. If the successor was an employer before the date of acquisition, the contribution rate which was assigned to the successor for the rate year in which the acquisition occurred will remain assigned to the successor for the remainder of the rate year, after which the experience-rating record of the predecessor shall be combined with the experience rating of the successor to form the single employer experience-rating record of the successor."

Transferring the experience record means that the tax rate of the company which was purchased under

these conditions becomes the tax rate of the new owner. It also means that both the benefit charges and taxable wages used to compute a rate are transferred to the new employer. There can be benefit charges based on claims filed against the original owner, either before the acquisition or as a result of the change in ownership that are not yet reflected in the rate. The statute also requires the department to combine the rates when there was more than one predecessor account being acquired, and in the case where the employer was already an employer subject to the unemployment statute prior to the acquisition, the employer will keep its rate for the remainder of the rate year, after which the experience of all existing and acquired accounts will be merged to determine a new experience rate as of the beginning of the next rate year, which is July 1st of each calendar year.

Title 21, Chapter 17, Section 1325(b)(2) continues to say "notwithstanding the provisions of subdivision (1) of this subsection, an individual or employing unit who in any manner succeeds to or acquires the organization, trade, or business or substantially all of the assets of any employing unit who was an employer before the date of acquisition and whose currently assigned contribution rate is higher than that currently assigned to the acquiring individual or employing unit shall not be treated as a successor." That means that an already existing employer that has a lower experience rate than the business it acquires gets to keep the lower rate. The purpose of this section of the law is to not penalize an employer with a good experience record simply because of the acquisition of a business that had a poor experience record.

Partial Successor

"An entity that is not already an employer for unemployment purposes which acquires only a portion of an existing business which was liable to pay unemployment insurance tax in this state and then continues to operate that portion of the business is considered to be a 'partial successor'". A partial successor is not eligible for a rate transfer. In the case of a partial successor, the new employer rate is assigned.

What is "SUTA Dumping"?

SUTA dumping is an illegal practice whereby an existing employer attempts to manipulate its experience rate so as to reduce the cost of unemployment insurance. In 2004, the United States Congress passed a law which made unemployment insurance rate manipulation illegal, and which also required all states to pass laws designed to thwart these types of practices at the state level. Vermont passed such legislation that became effective July 1, 2005.

SUTA dumping occurs in two types of situations. In one, an employer with a high unemployment tax rate creates one or more new legal entities and then transfers the employees of the existing high cost account to the new, lower cost account. In another scenario, an employer buys a business with a low experience rate ostensibly to continue that same type of business, is deemed to be a full successor with a lower rate, and then changes the nature of the acquired business so as to report the employees otherwise reportable under the higher cost account. Since these practices are illegal, employers who attempt to do this may find themselves subject to both civil and criminal penalties. The department has systems in place to detect these types of activities and will strongly enforce the provisions of the state SUTA dumping law. SUTA dumping is unfair to the employer community in general because when successful, the cost of unemployment is shifted from the employer with a lot of experience with claims, and thus a higher tax rate to all other employers who participate in and pay into the unemployment insurance trust fund. In some cases SUTA dumping can create an uneven playing field where honest employers are disadvantaged by employers who engage in SUTA dumping, thus lowering their cost of doing business and putting them at a competitive advantage when bidding for certain types of business.

UNEMPLOYMENT BENEFITS

Unemployment benefits are paid to workers who are unemployed, either totally or partially, through no fault of their own and who are able to work and available for suitable work, and, if required to do so, are actively seeking work. Unemployment benefits are an entitlement provided the individual filing the claim meets all eligibility requirements. Individuals who may have been “classified” as a subcontractor are often still entitled to unemployment coverage and can file claims and receive benefits if found eligible.

The following sections describe the claim process, what the employer is required to do in order to facilitate the filing and processing of unemployment claims and how the amount of benefits is determined. It also explains how the benefits that are paid are charged to employer accounts.

If benefits are to be paid only to eligible persons your cooperation is important. The department has to establish certain facts on every claim. Prompt and accurate information from employers is essential to establish the eligibility of claimants. Overpayment of benefits and the charging of overpaid benefits to your account can result from inaccurate, incomplete, or untimely submission of information.

Providing Information to Your Employees

Vermont law requires that every business display the department’s Unemployment Insurance poster (Form A-24) in the workplace, which is easily accessible to all employees. This poster outlines how individuals go about filing a claim for benefits.

The poster is mailed to you when you become liable for unemployment taxes. You can obtain additional copies of the poster on our website under “Forms and Publications” or by contacting the Employer Services Unit at 802-828-4344.

How Individuals File a Claim for Benefits

Since late 1999, unemployed individuals file a claim for unemployment insurance benefits by telephone in Vermont. These calls are received in a centralized Unemployment Claim Center in Montpelier. The Claim Center uses a state of the art system that first requires callers to interact with a voice response system. Following the taking of preliminary information by computer, the claimant must speak to a customer service representatives, who completes the claim filing process, outlines the basic requirements to remain eligible and answers any questions the claimant may have. The department also mails an information packet to the claimant following the claim filing process, which outlines the claimant’s responsibilities and rights.

As part of the claims taking process, the customer service representatives evaluate whether the claimant is “job attached”, which means the claimant has a return to work date with a specific employer. Individuals who are job attached must remain able to work and available for work while filing for benefits, and cannot refuse an offer of work, but they are not necessarily required to make an active job search. The reason not every claimant has to look for work is two-fold: first of all, when an employer lays someone off with the intent to rehire the individual when business picks up, that employer would like to be able to recall that worker and not go to the expense of hiring and training a new employee. Second, claimants who know they can go back to work with the employer that just laid them off create a burden on other employers when forced to make job contacts solely to satisfy the requirements of the job search program. Regardless, if an employer has work available that the individual claimant is capable of doing, if the claimant refuses an offer of such work they put their continued eligibility for benefits at risk. When an employer knows that someone is receiving unemployment benefits and makes an offer of “suitable work”

that the claimant then refuses to accept, the department should be contacted toll free at 877-214-3331 so we can follow up on the refusal of work. While not every job offer is considered “suitable work” under statute, employers are encouraged to raise these issues with the department to help ensure that only those individuals who are truly unemployed through no fault of their own will be paid benefits. (See more discussion about “suitable work” later in this manual).

Those claimants who are not job attached are required to make at least three job contacts each week. The department performs periodic eligibility reviews with claimants who are not job attached to help ensure that an adequate work search is being performed. Individuals who fail to make the required number of job contacts may be disqualified from receiving benefits unless and until they meet the job search requirements.

If a worker’s job ended for any reason other than lack of work, (a quit or discharge) a thorough investigation is conducted by a department claims adjudicator. After the relevant facts are gathered and evaluated, a written determination about the claimant’s eligibility is mailed to both the claimant and the separating employer. Individuals who are discharged where “misconduct” is found are generally disqualified for nine weeks, after which they can receive benefits if still unemployed provided they then meet all eligibility requirements. Claimants who voluntarily quit work for reasons that are not attributable to the employer are disqualified from receiving unemployment benefits until they return to work, earn at least six times what their weekly benefit amount would have been, and then have another qualifying separation from work. There is more information about these issues in the Appeals section of this manual.

Certain payments to the claimant, including vacation pay, wages in lieu of notice, back pay awards, temporary partial or temporary total workers’ compensation payments, pensions that are 100% employer financed and in some cases severance pay are considered “disqualifying remuneration”, which means that those payments may be deducted from the first week(s) of benefit payments made to claimants. It is important to report these payments on the Notice of Separation which is sent to all base period employers following the filing of a claim for benefits. A more detailed explanation of what information the department requests and the reason for providing that information is found later in this manual.

How are Benefits Charged?

Benefits are paid from the Unemployment Compensation Trust Fund and are charged to the experience rating record of the base period employers. Employers are charged for a percentage of the benefits paid to eligible claimants in the same proportion as the wages used to qualify the individual. For example, if a claimant has two base period employers, both of who paid the claimant the same amount in wages, then both employer accounts would be charged 50% of the benefits paid to the claimant. In some cases, an individual employer is not chargeable, in which case that employer’s proportional share of the benefits paid are charged to the trust fund, which means that all employers who contribute to the trust fund share in the expense of the non-charged benefits. Benefit charges are set at the time a claimant files an Initial Claim and the employer remains chargeable for the entire Benefit Year.

A taxable employer may be relieved of charges if the reason for separation was for any of the following:

1. Discharge for misconduct connected with the work.
2. Quit without good cause attributable to the employer.
3. Termination under a retirement plan with a mandatory retirement age.

4. Leaving due to a health condition.

5. Leaving employment which is considered unsuitable.

In addition, benefits will not be charged to the experience rating of a base period employer if:

1. An individual who works part-time for a base period employer continues to work his or her part time hours with that employer.

2. The individual was hired when an employee took family leave, and the individual's employment ended because the employee on family leave returned.

A monthly Statement of Benefit Charges to Your Unemployment Benefit Account (Form B-84W) is mailed to employers to inform them about charges to their experience rating records. This is not a Billing Statement. If there are individuals who you feel should not be listed for any reason, contact the toll-free Employer Assistance line at 1-877-214-3331 and provide all necessary information.

Reducing the Cost of Unemployment Insurance

Stabilize Employment

1. Screen prospective employees carefully to select the "right" employee for the job.
2. Hire versatile employees who can be shifted to another job if necessary.
3. Transfer employees to other job sites when feasible.
4. Use regular employees for repairs and maintenance during slack periods.

Minimize Charges To Your Account

1. Keep accurate records of employment agreements, dates and details of work refusals, employee performance, dates and details of warnings, and other disciplinary measures.

2. Provide separation information to the department, when requested, by the due date specified.

3. Return the Notice of Potential Charges (Form B-10S) with specific information about the reason for the claimant's separation from your employ if it was for other than a lack of work or if there is an error in reported wages.

4. File an appeal if you believe a determination or decision is wrong.

5. Notify us promptly if you have information that a claimant is not available for work, not able to work, has refused work, or is employed.

6. Complete audit forms promptly when they are sent to you.

7. Submit quarterly wage reports timely to avoid penalties.

8. Pay taxes promptly to obtain maximum Federal Unemployment Tax credit.

9. Report all changes to your business promptly.

10. Encourage your workers to seek and accept part-time or temporary work during seasonal layoffs, since all wages earned above their disregarded earning amount in a given week, reduces their unemployment compensation benefit amount on a dollar-for-dollar basis.

How Benefit Eligibility is Determined

Determining a claimant's eligibility for benefits is a multi-step process.

First, the claimant must have earned a sufficient amount of wages during his or her "base period" to be considered "monetarily" eligible.

A "base period" is four successive calendar quarters. Usually, the claimant's base period is the first four of the last five completed calendar quarters immediately preceding the date the claimant calls to file his or her claim for benefits. This is also referred to as "monetary method one".

To be monetarily eligible for benefits under "monetary method one", the claimant must have been paid at least $1,981.00 in one of the first four of the last five completed calendar quarters (Note: this minimum amount can change each year in July if the minimum wage per hour increases), and then also earn at least 40% of that amount in the remaining three calendar quarters of the base period.

Vermont has two other ways in which claimants may be determined "monetarily eligible", which are sometimes referred to as "alternate base periods".

If a claimant is not monetarily eligible under monetary method one, the department will use the last four completed calendar quarters preceding the effective date of the claim as the base period. To be monetarily eligible under "monetary method two", the claimant must have been paid at least $1,981.00 in one of the four calendar quarters (Note: this minimum amount can change each year in July if the minimum wage per hour increases), and then also earn at least 40% of that amount in the remaining three calendar quarters of the base period.

If the claimant is not monetarily eligible under monetary method two, the department will use the last three completed calendar quarters and wages paid in the current quarter up to the effective date of the claim as the base period. To be monetarily eligible under "monetary method three", the claimant must have been paid at least $1,981.00 in one of the four calendar quarters (Note: this minimum amount can change each year in July if the minimum wage per hour increases), and then also earn at least 40% of that amount in the remaining three calendar quarters of the base period.

Since the wage reports for the last completed and current calendar quarters (used under monetary methods two and three) will not yet have been received, a special request for these quarters' wages will be sent to all employers who furnished employment to the individual during these quarters.

Finally, there is a fourth method that is only applicable to individuals who have been receiving Workers Compensation benefits because of temporary total disability. A former Workers' Compensation recipient will be entitled to receive unemployment insurance benefits which would have been available at the time of separation from employment, as long as the claimant, at the time of filing, is not monetarily eligible under monetary methods 1, 2 or 3, the claim is filed within six months after the termination of the period of temporary total disability and the claimant is otherwise eligible for unemployment insurance.

If a claimant is monetarily eligible for benefits, the weekly benefit amount is computed by dividing the total wages paid in the two highest quarters in the claimant's base period by 45. The amount of weekly benefits

is capped each year. Effective July 1, 2007 the maximum weekly benefit amount payable in Vermont is $409.00. As with the minimum amount necessary in one quarter to qualify, the maximum weekly benefit amount is also subject to change each year in July.

Other Eligibility Requirements

A claimant who is monetarily eligible for benefits must still meet certain eligibility requirements before being paid benefits. Generally, the claimant must be unemployed through no fault of their own. An individual who is laid off due to lack of work will be determined eligible for benefits. An individual who is discharged will be awarded benefits unless the employer can demonstrate that the reason for discharge was workplace misconduct, as that term is defined in law and case law. Behavior or conduct that may justify a discharge from employment will not necessarily constitute "misconduct" sufficient to disqualify the claimant for benefits. A single incident of tardiness, absenteeism, poor performance or insubordination will not necessarily disqualify a claimant for benefits, unless the employer can establish that the incident is part of a continuing pattern or practice of the claimant, against which the claimant had previously been warned. Therefore, it is critical for you to keep good notes and documentation.
In limited cases, an individual will be determined eligible if he or she quits for reasons attributable to the employer. For example, "attributable to the employer" generally means the employer did something it cannot do, like unilaterally changing the terms and conditions of employment or didn't do something it must do, like maintaining a workplace that is free of harassment and discrimination. The claimant must also be both able to work and available to work to be determined eligible.

Employee Dismissals and Suitable Work

The following information relates to two of the more commonly misunderstood unemployment issues, dismissal from employment and refusal of suitable work.

Employee Dismissals - Well over half of all employer protests stem from discharge issues. The results of the protest do not always satisfy the employer.

Based upon extensive discussions with employers, several recurring points of confusion are evident. This review will explore the unemployment issues surrounding the dismissal of an employee. The legal right of an employer to fire a worker is a separate issue, and is not considered here.

First, many employers discharge individuals for misconduct, but few know the legal definition of misconduct for unemployment purposes. Case law defines misconduct as a substantial or intentional disregard of the employer's interests. The deliberate nature of the act is a crucial component of the definition.

In contrast, case law specifically exempts from the misconduct definition "inefficiency, unsatisfactory conduct, failure in performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgement or discretion".

Ineptitude is not misconduct, nor is an argument between employer and employee, nor a difference in work habits. An unintentional error or a temporary lapse of good judgement also are not misconduct.

In addition, a single instance does not constitute misconduct except in extreme cases. (Arson, for example, is gross misconduct based upon a single incident.) At least one prior warning for the specific behavior that led to a discharge is generally required to sustain a finding of misconduct.

A warning for something else does not qualify. If an employee receives a warning for lateness, but then is discharged for neglecting to follow safety standards, misconduct would probably not be found. The initial warning for lateness is not the same as the actual reason for discharge (safety violations).

The law places the need for documentation, burden of proof, upon the employer in misconduct issues. The employer must usually show two things: deliberate disregard of the employer interest, and at least one prior warning for misconduct.

To meet this burden of proof, complete and accurate record keeping is essential. Ideally, warnings should be in writing, dated and signed by both the employer and employee. In case of a dispute over the issuance of a warning, the employee's signature on the warning constitutes clear evidence that he was indeed given a warning.

Warnings should clearly list the behaviors that are not acceptable. Citing specific recommendations on how to improve, and specific standards to be achieved, are also important. Incomplete or vague records seldom contain these essential items and will not generally meet the burden of proof requirement.

Finally, this proof must be provided to the Adjudication Unit and again to the administrative law judge at an appeal hearing. Failure to substantiate an allegation of misconduct with evidence or credible testimony will result in a determination in favor of the claimant. An employer must participate in the initial fact finding process, as well as any appeals, or evidence will be lacking and the unemployment claim will be allowed.

Suitable Work - Statute requires individuals who are unemployment claimants to accept an offer of "suitable work". Not all jobs are considered suitable for an individual, however.

"Suitable work" involves many factors, such as pay, working conditions, health, work skills and commuting distance.

Two major questions comprise our scenario of suitable work: Was the person actually willing to work, and was the job appropriate for the person?

One must be willing to work to receive unemployment insurance. Any indication to the contrary triggers an immediate investigation. "Going through the motions" is not sufficient. A sincere desire to work must be shown through a realistic work search effort. A willingness to work implies being able to work. If one is physically unable to work due to illness or injury, he or she may be barred from receiving unemployment insurance benefits for refusing otherwise suitable work for as long as they are unable to work.

If a willingness to work is evident, then the department explores the appropriateness of the job. For example, if a person earned $20.00 an hour as a manager at his or her most recent position, a job at $10.00 an hour as a salesperson would not normally be considered appropriate. If the new job required a commute of 50 miles, but the person had always worked within 10 miles from home, the location of the new job might be sufficient reason to turn down the job. If a person did not have the necessary skills or background for a job, he or she could also refuse it and generally remain eligible for unemployment insurance.

If a job offer is in the person's normal occupation, working conditions and pay become key issues. A carpenter would have a fairly strong case if he or she refused a night carpentry job. Carpenters do not normally work at night, and that unusual working condition could be sufficient reason to refuse a job. Pay that is either considerably below the person's most recent salary or less than the prevailing wage for the occupation also may constitute a valid reason to refuse a job offer.

We have been assuming a valid job offer of work has been made to the person. To be a valid offer of work, the job must begin within two weeks, and the worker must be told pay, hours, location of the job, and other relevant information. A simply query of "Would you like to work for me?" does not meet the department's definition of a valid offer of work.

A person who is working has the right to remain with the current employer. Refusing to work for someone else is perfectly acceptable. This right to continue work for one's current employer often leads to bitter protests from a former employer. The reason for the strenuous protests can be understood with this example.

A worker, "Joe", is laid off by Superior Products Company. "Joe" receives unemployment insurance payments for a month, and then takes a job with Quality Wares Company. When Superior Products asks "Joe" to return, he refuses. They then hire someone else. A few months later, Quality Wares lays off "Joe". He resumes collecting unemployment insurance, and Superior Products is still charged for his payments. Superior's owner is not happy, and hastens to tell the department that "Joe" refused an offer of work.

The department investigates, discovers that "Joe" was working for Quality Wares at the time of the job offer, and informs Superior Products that "Joe" has not violated any provision of the unemployment insurance law and will continue to receive payments. The worker has done nothing to cause disqualification of his unemployment, and has abided by all the regulations. Superior Products will be charged for his unemployment for the rest of the benefit year. (A "benefit year" begins when a worker files for unemployment insurance and ends 365 days later. Within that time period, charges for unemployment are not changed. They will be assessed against the same company or companies for the entire 12 months.)

The department will only investigate a "suitable work" issue if the person is currently receiving unemployment insurance or was receiving unemployment insurance at the time of the refusal of work. The department has no legal authority to investigate a person who is not now and has not been receiving unemployment insurance.

For more information on this or other aspects of "suitable work" contact the Employer Assistance Line toll-free at 1-877-214-3331.

Disqualifying Remuneration

Receipt of certain payments upon separation from employment including wages in lieu of notice, vacation pay, a back pay award or settlement, temporary partial or temporary total workers' compensation, or a pension paid by a base period employer (if it has been contributed to solely by the employer), and in some cases severance pay will affect the payment of the first week(s) of benefits. These payments are allocated to the weeks following separation and reduce the payment of benefits on a dollar for dollar basis. For example, if an individual receives two weeks of vacation pay upon separation, the vacation pay will "disqualify" the individual for the first two weekly payments. Most of the other types of disqualifying remuneration is allocated in the same manner. In the case of "severance pay", the employer has a choice under law as to whether severance pay is disqualifying, but if the employer elects to have severance pay be disqualifying, it is also allocated to the weeks immediately following separation. However, if the claimant was required to sign a release agreement in order to receive severance pay, it is not treated as severance pay and cannot be considered disqualifying remuneration.

Health Leaving Provision

Vermont statute includes a special provision that allows an individual to leave work under certain circumstances due to health reasons and receive unemployment benefits. Under the "health leaving" provision of the law, if the department finds that the claimant has left the employ of his or her last employing unit, without good cause attributable to their employer, because of a health condition, as certified by a health care provider, which precludes the discharge of duties inherent in such employment, the claimant will be disqualified for one week after which he or she may receive unemployment benefits provided all other eligibility conditions are met. The other eligibility conditions include being able to do some type of work, so claimants may leave work under the health leaving provision and still not get benefits. Any benefits paid under the "health leaving" provision are not chargeable to a base period employer.

Illness and Disability Claims

Claimants who become ill or otherwise disabled after they have filed an initial claim for benefits and registered for work may continue to be eligible for benefits unless and until work is offered to them which is suitable except for the illness or disability, and they turn down the job offer. A physician or health care provider will be required to certify such illness claims.

Continuing Eligibility for Benefits

Once eligible for benefits, the claimant must certify on a weekly basis that they continue to be unemployed and remain eligible for benefits. Weekly claims can only be filed between Sunday at 12 AM and Friday at 4:30 PM and are filed for the week which ends at midnight on Saturday. In order to remain eligible for benefits, the claimant must 1) be able to work and available for work, 2) not refuse an offer of work or a referral to a job, 3) not quit a job or be fired from a job (if working part-time), 4) not already be working full time, and 5) report all gross wages earned when working part-time. The claimant is also asked to report the receipt of any type of disqualifying remuneration that may have been paid after separation.

Disregarded Earnings

A claimant who is employed part-time may file for Unemployment Benefits as long as the individual reports all gross wages earned from Sunday through Saturday, for each week they work less than full-time. The first $40.00 earned by the claimant, or 30 percent of the claimant's weekly benefit amount, whichever amount is greater, will not be deducted from the weekly benefit amount. Any amount above the disregarded earnings amount is deducted on a dollar for dollar basis from the individual's weekly benefit amount, and the claimant is paid a partial benefit for that week.

Extended Benefits

Additional weekly payments beyond the 26 week limit for regular unemployment benefits are triggered by high unemployment levels, and are called "Extended Benefits". Under the state extended benefit program, up to 13 extra weeks of full benefits may be payable to claimants after they exhaust their regular payments if they continue to remain eligible for the receipt of benefits; the actual amount may be limited by the duration of the Extended Benefit Period. These benefits are payable only during periods of higher unemployment and are not payable unless a determination is made that the program has triggered "on".

In recent years, Congress has stepped in during periods of higher unemployment and provided for special extended benefit programs which are paid for solely out of funds raised through the Federal

Unemployment Tax. These federal programs have gone into effect even during periods when the state program would not have been triggered "on", and the cost of benefits paid under the federal programs do not impose any additional burden on the state Unemployment Compensation Trust Fund.

UNEMPLOYMENT INSURANCE PROGRAM INTEGRITY ACTIVITIES

Ensuring the integrity of the unemployment insurance program is a joint responsibility of employers and the Vermont Department of Labor. In order to maintain a viable program, it is important that we work together to ensure that only individuals who are eligible receive benefits, that the process used in awarding or denying benefits is both fair and timely and that in situations where benefits have been improperly paid due to misrepresentation, steps are taken to recover benefits that should not have been paid. Employers required by law to pay into the unemployment trust fund must do so in order to avoid the "cost shift" that can occur when employers don't pay their fair share on time. To accomplish these goals, the Department of Labor has staff dedicated to perform functions of benefit payment control and recovery, delinquent employer tax collection, Benefit Quality Control and Revenue Quality Control.

Overpayment and Fraud Prevention

Unemployment benefits paid to an individual, who is later found to have been ineligible from receiving those benefits due to misrepresentation and/or a failure to report wages or disqualifying remuneration may be required to be to repaid to the department.

Until recently, the two most effective ways of detecting overpayments were field investigations and computer cross-matches. Field investigations are initiated by reports from department employees, employers, private citizens and others who may tell us, for an example, that a claimant is working while receiving unemployment benefits. The department follows up on reports of fraud tips and takes appropriate action. Computer cross-matches are initiated automatically. Quarterly wage reports are checked against benefit payments during the same quarter to determine if a claimant was paid unemployment benefits while working, and if he or she failed to report or incorrectly reported wages. If so, an inquiry is sent to the employer for whom the individual worked while receiving benefits requesting weekly wage information for the period in question. This weekly wage must be provided in a Sunday through Saturday format. If the department can establish a factual basis for doing so, it will order repayment of benefits. The process of wage cross-match review is labor intensive, for both the employer and department, but until recently, it represented the only systematic method for the department to uncover this type of fraud.

New Hire Report Cross-Matches

Recently, the department implemented a new methodology for helping to identify and prevent unemployment insurance fraud. Since the mid-1990's, employers have been required to report each new hire within 20 days of the date the employee begins work. This new hire reporting was originally intended to assist with the collection of past due child support payments owed by non-custodial parents. However, the ability to more quickly identify individuals who may be both working and collecting unemployment benefits has long been recognized as another appropriate use of the data collected as part of the New Hire program.

Employers in Vermont report these new hires to the Department of Labor. Employers must provide the legal business name, address and Federal Employment Identification Number (FEIN), as well as the employee's name, address, and Social Security number. It is also critical to include the "start date" when

reporting new hires, which is the first day the employee began working. The reports are either faxed or directly entered using the Internet. Once filed, the information reported is transferred to the State Directory of New Hires at the Office of Child Support. That office in turn transmits the data collected in Vermont to a National Directory of New Hires. The National Directory is then used to track non-custodial delinquent parents who may move from state to state in order to avoid child support payments. The New Hire Reporting program has been very successful in helping to secure payment of obligations owed by non-custodial parents that have helped thousands of custodial parents and their children.

In 2004, the department began to develop a process to use the information in the State Directory of New Hires to identify individuals who are both claiming benefits and working. With the recent approval to use the National Directory of New Hires for purposes of unemployment insurance fraud prevention, the department has a complete and comprehensive tool that will not only help us catch individuals who are both working and receiving benefits, but also will reduce the amount of these overpayments as we learn about them more quickly. Many overpayments are the result of individuals going back to work who do not stop filing until they receive their first paycheck, when the law actually requires individuals to stop filing as soon as they go back to work. Though these types of overpayments may be more a result of confusion over the rules than actual and intentional fraud, by identifying them early they can be stopped, or if not stopped immediately, they can be more quickly recovered. It is much easier to recover a smaller overpayment than a large one. So now employers have two good reasons to report all new hires within 20 days of the date the individual starts work.

For additional information on New Hire Reporting requirements, visit our website under “Businesses”, “Unemployment Insurance & Benefit Information” section, or contact the Vermont New Hire helpline at 802-241-2194 or toll-free at 1-800-786-3214.

What We Do with the Information We Collect

If, upon completion of a field investigation or computer cross-match, it is found that a claimant has been overpaid benefits, the overpayment is classified as either fraudulent or non-fraudulent. A fraudulent overpayment occurs when a pattern of deception is evident. Two or more weeks of earnings that are not reported or are underreported by the claimant on his or her weekly claim form constitutes fraud. Less than two weeks of misreported wages, or reporting net instead of gross wages, on the weekly claim form generally constitutes non-fraudulent error. Both types of overpayment, however, can be recovered.

In all cases of fraudulent overpayments, repayment of the overpaid benefits will be required. Up to 26 “penalty weeks” may also be imposed, one for each week of benefits paid as the result of intentional fraud. For each “penalty week”, the individual must file an unemployment claim for a week when he or she would otherwise be eligible, but no benefits are paid to the person. When an individual is filing for benefits during a week which serves against a “penalty week”, no payment is made and no benefit charges are assessed for the week filed.

In all cases of non-fraudulent overpayments, the department may either order or waive the repayment of the overpaid benefits. If the claimant made an error on the weekly claim form, intentional or unintentional, repayment will be ordered. Similarly, if an individual received benefits but did not apply for or accept an offer of available, suitable work, repayment of the overpaid benefits may be ordered unless there was good cause to refuse the work or not apply for work. In all other cases of non-fraudulent overpayments, where the claimant is found to be not at fault for the overpayment, repayment may be waived.

When a claimant is determined to have been overpaid unemployment insurance benefits, the taxable employer’s experience rating is relieved of charges for the overpaid benefits immediately unless the

overpayment resulted from the employer providing erroneous wage information. Reimbursable employers are only relieved of charges for overpaid benefits if the department recovers the overpaid benefits.

The department has five years to recover overpayments or obtain court judgments. Frequently, individuals use an installment payment plan; they make weekly or monthly payments until they have repaid all of the overpaid benefits. Overpayments can also be recovered by offset from future benefits when the claimant files another claim for unemployment insurance. In such situations, weekly benefit checks are withheld and the claimant is credited for a payment in the amount of each check. In some cases, where an individual is not filing for unemployment insurance, the department may seize State of Vermont income tax refunds or obtain a garnishment order against wages from current employment. However and whenever recovered, these overpaid benefits are returned to the unemployment insurance trust fund.

Delinquent Collection

Employers who do not file quarterly reports or make payment of unemployment taxes when due are subject to delinquent tax collection efforts, as well as claimants who do not repay amounts owed. The department employs a number of individuals who's primary job is to work with employers to secure reports and/or collect amounts owed by claimants and employers. In the case of an employer, there are a number of collection tools used in this process, including agreements for a repayment schedule, liens on business property and, in some cases, court action. Entities that are required to be licensed by the State of Vermont may have their license revoked for non-payment of unemployment taxes. Entities that do business with the State of Vermont may also have vendor payments diverted to the department in order to pay all or a portion of the amount due.

Benefit Quality Control

Established in the mid-1980's, and now known as Benefit Accuracy Measurement (BAM), the benefit quality control program is designed to measure and demonstrate the extent to which payments of unemployment benefits are made in accordance with law and policy. BAM uses a statistically valid sample of claims and includes a detailed examination of the processes and procedures used by the department in awarding benefits. In the early 2000's, a new process to measure the accuracy of "denied claims", in other words, those claims where the claimant was found not to be eligible for payment, was added to the BAM program.

Revenue Quality Control

In the mid-1990's, the U.S. Department of Labor, in conjunction with the states, implemented a Revenue Quality Control program, which is now known as Tax Performance System (TPS) control. TPS looks at a dozen aspects of the unemployment insurance tax operation and uses a statistically valid sample to determine whether the decisions made in the unemployment insurance tax program are made in accordance with law, policy and procedure.

UNEMPLOYMENT CLAIMS ADJUDICATION

Not every individual who applies for unemployment benefits is eligible. The program is designed to pay benefits only to individuals who have a demonstrated "attachment" to work, measured by the amount of wages paid over a fixed period of time and who are also unemployed through no fault of their own, provided such individual is both able to work and available for work while receiving benefits. Individuals

cannot qualify for benefits while they are fully employed. There are various reasons why the employment relationship may end; in the majority of cases where a claim is filed, it is the result of a layoff, but other times it is because the individual quit or was discharged from his or her job.

The unemployment insurance program is a "remedial" program, which means that there is a presumption of eligibility absent facts that would support a disqualification. Therefore, the importance of responding to information requests when there may be a reason or reasons to not pay benefits cannot be overstated. These requests include both forms that are mailed as well as telephone calls from Claims Adjudicators who are assigned to make an initial determination on eligibility. More than 20% of all unemployment claims filed in this state have some type of eligibility issue (either separation or disqualifying remuneration or both) that has to be reviewed before the claimant will be paid. There are strict timeframes imposed by the U.S. Department of Labor that require the department to pay benefits "when due", which generally means as soon as the department has enough information to determine whether someone should be paid, but without unnecessarily delaying those payments. The U.S. Department of Labor considers payment within 21 days of the date the first claim is filed to meet the requirement of payment "when due". Since unemployment benefits are financed solely from employer paid unemployment taxes, there is always a cost of unemployment benefits that only employers pay.

If a claimant tells us they were laid off when they were actually fired or quit their job, and the last employer in time doesn't respond to the Separation Notice, we will pay benefits to that individual by default, ten days after the date the claim is filed. Likewise, and this is actually more common than are cases of misrepresentation, there may be some confusion on the part of the claimant about the reason for separation. In some cases, if the claimant has not already received his or her last paycheck when they file for benefits, they may not know or remember that they have disqualifying remuneration, like unused vacation pay, coming to them. The initial notice of separation also includes base period wages that will be used to determine the weekly benefit amount, which provides an important check against mistakes in the wage record database.

Sometimes a separating employer is not a base period employer because the individual has not worked for the separating employer for a long enough period. When a separating employer is not a base period employer, it may be tempting not to respond to information requests, because there is no immediate impact on the employers liability to pay into the unemployment trust fund. If an individual has filed a claim and the employer has information that might lead to a disqualification, it is critical to the UI system as a whole for that employer to furnish a timely response outlining the reasons it believes the individual should not be paid UI benefits. A response to the notice of separation triggers the adjudication process and is sometimes the only way we know there is an issue that has to be investigated.

In other cases, employers will respond to the initial notice but then not respond to a Claims Adjudicator request for additional information. The details of separations, especially when someone has been discharged, are difficult to identify solely by submitting a form. Taking a chance that benefits will not be paid, on the theory that if they are paid it can be undone at the first level of appeal, may work for an employer, but in many cases it causes benefits to be paid that cannot be recouped later from the claimant. It is always best to try to get these decisions done quickly, accurately and as soon as the employer has information that should be considered. Since no response is required when the individual has been laid off due to "lack of work", responding to the 20% of the claims where there is an issue at stake is not as burdensome in Vermont as it is in some states that require a response whether or not there is an issue that is being considered.

Notices and Information Requests

There are a number of requests that the department makes of employers related to the unemployment claim process. What those requests are and the reason they are made are as follows:

1. **A Wage & Separation Data Request** (Form B-70W) is mailed when we need wages that have not yet been reported to qualify a claimant under "monetary method" two or three. This request must be completed and returned within 10 days of the mailing date; failure to do so will result in a $35.00 penalty.

2. **A Notice of Potential Charges to Your Unemployment Benefit Account** (Form B-10NS) is mailed to employers when a claimant is determined to be monetarily eligible for benefits, and the employer's account has been determined to be potentially liable for a percent of all the benefits paid.

3. **A Request for Separation Data** (Form B-8F or B-10S) is mailed to the claimant's most recent employer to determine the reason for the claimant's separation from the employer.

With regard to the Request for Separation Data form, **if any of the following apply**, you must complete and return the notices by the "due date" indicated on the notice. Failure to do so will result in a $35.00 penalty and an increased probability of benefits being paid improperly.

1. The claimant was not your employee or worked somewhere else after working for you.
2. The claimant resigned, retired or abandoned the employment.
3. You dismissed the claimant for a reason other than lack of work or reduction in force.
4 Received any payments at separation time.
5. The form does not list the correct figure for gross wages that you paid the claimant.
6. If the person is still working part-time with no reduction in hours.
7. The Return To Work date provided by the employee is incorrect.
8. Is receiving a monthly pension paid by you as a former employer.
9. Is on family leave or was hired to cover for an individual on family leave.

There is no need to return this form to the department if the claimant was separated due to a lack of work, did not receive any separation pay at the time of separation (vacation/wages in lieu of notice or severance pay), and the return to work date the claimant provided to us is correct according to your records. If you have any questions about completing the Request for Separation Information, you can call us toll free at 877-214-3331.

Instructions for Completing Request for Separation Forms (B-8F or B-10S)

In addition to the following, feel free to attach other information that you feel is relevant to eligibility.

Section A

This section should be completed on all forms that are returned to us.

Start and End dates of employment help us to gauge a claimant's experience in this position, which can be relevant in a separation determination. It also helps with the separation pay. On occasion we do find employer's who report all wages paid to date as "Wages in Lieu of Notice". "Wages in Lieu of Notice" is a payment an employer may make to compensate a worker when it has not been able to provide advance notice of a separation.

Hours worked, with an hours per day times the number of days per week, are needed for a correct

allocation of separation pay. We have to allocate based on the customary work schedule, not just the total hours usually worked per week.

Pay Rate is needed for allocation of separation pay as well as determining the suitability of the work.

Occupation is needed for suitable work as well as simply having a better understanding of what a person's job duties were in order to more accurately determine eligibility due to an adverse separation.

Location is needed to determine commuting distance for suitable work.

Separation reason is **vital** on all claims. Most circumstances will match one of the choices on the form. If the "Other" box is marked a narrative is required. Please do not use "Other" if the separation is due to a "reorganization", "down sizing", "position elimination" or any of the other ways employer may indicate that it is a lack of work separation. These responses frequently result in the unnecessary delay of payments to claimants who are eligible. If "Still working Part-time or Hours Reduced" you must complete section E so we can determine the cause of the part-time status to evaluate for an availability issue or charge relief if appropriate.

Section B

Payment information is only necessary if the claimant has received any vacation pay, wages in lieu of notice, severance pay or is currently receiving a pension from the employer. These payments would be made at the time of separation, or if vacation pay was paid, but not used, within 4 weeks prior to the date of separation. We are asking for the gross dollar amount of each type of payment as well as the number of hours/weeks/etc that was paid.

Under Vermont Law, Severance pay is disqualifying unless the employer chooses to designate it as non-disqualifying remuneration. Please mark the appropriate box. Also, Combined Time Off (CTO) or Earned Time Off (ETO) should be reported as vacation pay. Sick pay and holiday pay is not disqualifying under Vermont Law, so please do not include those figures.

Section C

If you have indicated in Section A the separation was due to a discharge, a specific statement regarding the cause of separation is required. Vague statements such as "Job Performance" will require us to do follow up contacts as we need to know the exact circumstances or failures in performance that lead to discharge. If there is supporting documentation, please provide it up front. Supporting documentation should include copies of written warnings, policies that the claimant is accused of violating, attendance records as appropriate and anything else the employer feels would support their decision to terminate employment. If you prefer not to provide information due to what is believed to be in your best interest, please simply write, "Employer declines to provide specifics". That response is more accurate than "no protest". Please note that if you do that, however, we are likely to pay benefits.

Section D

If you have indicated in Section A the claimant has resigned, please provide whatever information you have available. If it was personal, indicate that. If it was a choice to resign or be discharged, Vermont considers this to be a discharge circumstance and would ask that you complete Section C.

Vermont Law does not recognize a claimant's failure to report for reassignment as a Voluntary Quit, despite whatever policies the employer may have. We look at the reason the claimant's position ended, not why they were not reassigned.

Section E

Under Vermont Law, we can evaluate the potential of charge relief for employers who have part-time employees who are filing for benefits. Section E helps us to understand what the hiring agreement was, if there has been any change in that agreement, and if there has been, what caused the change. We use this information to determine if availability issues need to be explored or if the employer would be entitled to relief. Completing all questions asked with specific information will help us to determine eligibility for the claimant as well as potential charge relief for the employer.

Education Institutions

For those employers who are subject to the Education Contract provision of the law, Section A tells us if the claimant falls under a professional or non-professional provision of Vermont law as well as helping to determine if the claimant has a reasonable assurance of returning to the "same or similar" position after a between terms recess. Information provided should include the start and end dates of the academic recess, as well as the last physical day worked. Include information on reasonable assurance to return to the same or similar employment after the recess or the next term.

APPEALS IN THE UNEMPLOYMENT INSURANCE PROGRAM

The following will give you information on the process for appeals involving the Unemployment Insurance program. These appeals generally begin with a review of a determination made by department staff. Most appeals involve a question of eligibility pertaining to a claim for benefits by an unemployment claimant. In other cases, department staff make determinations affecting an employer's liability to pay unemployment taxes, either as a new or successor employer, and/or the requirement to furnish unemployment coverage to an individual or individuals the employer may have considered to be "independent contractors". While it is important to respond to initial requests for information made by this department, so as to help ensure that the initial determination is correct, the program provides additional protection to both employers and claimants through the appeal process.

Participating in the Appeals Process

Participation in the appeals process is the best way to ensure that your interests are protected. Administrative Law Judges make decisions based on the information that is presented during the hearing. If only one party participates the judge may have no option but to rule in favor of the party that participates. There is a misperception in the employer community that the system is tilted in favor of claimants. Employers who participate in discharge cases are just as likely to prevail as the claimant. In cases involving a voluntary quit from employment, employers prevail in 9 out of 10 cases. If an employer fails to participate in a hearing, some claimants who should not be eligible for benefits may receive them. It is not unusual for the last employer in time to have no immediate financial stake in the outcome of an appeal because the employer may not be a "base period" employer, having employed the individual for only a short period of time. In such cases, some portion of benefits paid may not be chargeable to a specific employer, which will cause them to be "socialized", which means that they are paid from the unemployment trust fund. Socialized costs drive up the overall cost of the program to all employers. So even if you have no immediate and direct financial interest in the outcome of a case, your participation may provide a balance that helps all employers who pay into the unemployment trust fund. Remember, the trust fund is the only source of payments made to claimants, and protection of the trust fund is a goal that is shared by employers, claimants and the department.

What are the Steps in the Appeals Process?

There are three levels or steps in the appeals process in Vermont, as follows:

1. Appeal to an Administrative Law Judge
2. Appeal to the Employment Security Board
3. Appeal to Vermont Supreme Court

There are specific time limits for the filing of a timely appeal at each of the above levels. The time limits are outlined in writing at the end of the determination or decision.

The Hearing Before An Administrative Law Judge

The first and most important step is a hearing before an Administrative Law Judge. This is the only step in which you can submit evidence, so it is very important to both participate and provide all your evidence at this step. If the issue under appeal is a separation from work, the refusal of an offer of suitable work, or some matter involving your liability as an employer under the unemployment statute, you should definitely participate in the hearing. Even though you may have submitted documents and have spoken to staff of this department, the appeal hearing will be your only opportunity to present sworn testimony and introduce documents as exhibits for this and subsequent appeal levels. If the appeal is based on a question of claimant eligibility, it will also be your only opportunity to question the claimant and have those responses recorded. Your failure to participate in the hearing will increase the likelihood that you will lose. The same is true if you use the services of an employer representative and that entity does not participate, you are more likely to lose. If the claimant filed the appeal and you fail to participate in the hearing, the hearing will go on without your input other than a review of the statements and documents you have previously submitted to the department. You should be prepared to discuss all issues pertaining to the claimant's employment with you as identified in the hearing notice. Even if the determination being appealed was in your favor, if you do not participate, the decision could be changed because the Administrative Law Judge will not have your direct testimony to consider.

Do You Need a Lawyer?

Hearings are designed to permit lay persons to represent themselves or another party. If the issues are complex, if you expect the other party to be represented by an attorney, or if you think you may have difficulty presenting your case, you may wish to consult an attorney. If you intend to have an attorney represent you in the hearing, the attorney should file a notice of appearance letter with the Appeals Office. You should also contact the Appeals Office as soon as you are aware that you will have an attorney to avoid scheduling delays.

Limited English Proficiency (LEP) and Sign Language Interpreters

If either party needs language translation assistance or a sign language interpreter, notify the appeals office immediately. The department uses a telephone based language interpretation service for non-english speaking parties. If a sign language interpreter is needed the department will make arrangements for the interpreter to participate with either party (or both) at one of the Career Resource Centers.

Americans with Disabilities Act

This department complies with the Americans with Disabilities Act. Should you require special assistance due to a disability as defined in the Act in order to pursue your rights, please contact the Appeals Office as soon as possible.

Notice of Hearing

The *Notice of Hearing* will provide you with important information about the time and date of the appeal hearing, which will be conducted by a telephone conference. Try to have all witnesses available at ONE location. Mail or FAX (802-828-4289) any documents you want to have considered as evidence in the

hearing to the appeals office and, if the case involves a question of claimant eligibility, to the claimant so they can be considered as part of the record. Do this as soon as possible following receipt of the Notice of Hearing so the documents are received prior to the hearing. Remember that hearings before an Administrative Law Judge are all done by phone, so there is no way to provide a copy to a claimant during the hearing. If you do not send a copy to the claimant, your exhibits will NOT be entered into the record, will not be considered in making the decision and will not be available for use later in the appeals process. If your appeal involves a question of employer liability or some other issue related to unemployment insurance taxes, the appeals office will provide a copy to the department staff prior to the hearing.

NOTE: You must call the appeals office with a telephone number where you can be reached at the time of the hearing. You will not be called if you do not supply a telephone number.

Evaluate and Prepare Your Evidence

The first level of appeal is a new review, which means the Administrative Law Judge reviews the case based solely on evidence presented in the hearing record. The Administrative Law Judge is not bound by earlier findings or determinations made by the department. Since this will be your only opportunity to present your evidence, and further appeals only review testimony and other evidence introduced at this hearing, you should be ready to submit your side of the story.

Which Party Has the Burden of Proof?

Having the burden of proof generally means that unless the party which owns the burden can demonstrate on a factual basis that certain events happened, or in some cases did not happen, the decision will be made contrary to the interests of the party which owns the burden. If you have the burden of proof, and for any reason fail to present evidence to support the decision made, you are likely to lose the appeal. Unlike proceedings in a criminal case, the standard of proof is not “beyond a reasonable doubt”; rather, the standard of proof is “preponderance of credible evidence”, which is the lower civil case standard.

The following issues are the most common ones that lead to appeals by employers:

Issue	Burden Rests On
Discharge from Employment	Employer, who must demonstrate that discharge was for “misconduct”.
Discharge for Gross Misconduct	Employer, and the burden is higher in that the employer must prove some egregious act, for example, theft, violence in the workplace, use of intoxicants on the job.
Refusal of Suitable Work	Claimant, who must demonstrate that s/he should not have to accept the job that is offered.
Voluntary Quit by Employee	Claimant, who must demonstrate that the reason for quitting is good cause attributable to the employer.
Not Able/Available for Work	Claimant, who must prove that s/he was both able to work and available for work. Availability is often demonstrated by quality of work search, if one is required.
Disqualifying Income	No burden per se, but employer may have to produce records showing certain payments were made upon separation.
Liability to provide unemployment coverage	Department, which must demonstrate that an employment/wage liability threshold has been reached.
Successorship	Department, which must demonstrate that the business has been acquired and continues in operation.
Assessment – Delinquency	Department must show that amounts due have not been paid.
Assessment – ABC Test	Employer, who must demonstrate that all three parts of the “ABC” test have been met.
Unemployment Tax Rate	Department, which must demonstrate that information used in computing the rate is accurate.

What Goes on at the Hearing Before the Administrative Law Judge?

Testimony is taken under oath and tape recorded. The appeal is heard by an Administrative Law Judge. The Administrative Law Judge will try to bring out the important and relevant facts in the case through questioning of the parties. The Administrative Law Judge will first determine which records, if any, will be made part of the record. Depending on which party has the burden, that party will go first in presenting its side of the dispute, including presenting witnesses, if any. Next, the other side is given an opportunity to present its side of the dispute, including presenting witnesses, if any. Following that, both parties, in turn, will be given the opportunity to ask relevant questions of the other. Relevant information is information that bears directly on the issues that are being considered, including the credibility of witnesses and parties. While these proceedings are administrative in nature, and do not follow the same rules as one would find in a court of law, fairness and efficiency may require the Administrative Law Judge to rule evidence and testimony out of order.

Prepare in advance. Make a list of your key points. Be prepared to address all issues raised in the determination under appeal. Stay calm. Do not be defensive or aggressive. You are at the hearing to present facts and to bring into question those facts presented by the other party. Your actions and conduct can be important factors in the Administrative Law Judge's assessment of credibility of your testimony. For example, if the claimant quit his job because he alleges that a foreman was hostile and threatening, and the foreman comes to the hearing denying this behavior, yet demonstrates that behavior in the hearing, the Administrative Law Judge will most likely believe the claimant's allegations.

Make written notes of anything the other party says with which you disagree. This will help you to answer important points made by the other party or help you question the other party when it is your turn to speak. Your notes can be used to refresh your memory of certain events, but you should take care that you not read these notes word for word. It is generally more credible to testify from your own recollections as refreshed by the notes. Hearsay testimony is admissible evidence, but may be less believable or creditable.

Did You Personally Observe the Incident?

One of the biggest mistakes employers make in presenting their case to the Administrative Law Judge is that the personnel manager participates in the hearing with second hand or hearsay testimony as to the events that occurred. You should make sure that first hand witnesses, such as the employee or foreman who observed the incident, present testimony in the hearing. Remember, the claimant will be presenting first hand information and if all you have to offer is "I was told that," you will be at a legal disadvantage. Present documents relevant to the hearing as exhibits, but do not bury the Administrative Law Judge in documents. You need those documents that bear directly on the incident(s) you are trying to prove. These documents may include time cards, warnings, company policies and the like. Make sure that you send a copy of the documents well in advance of the hearing to the appeals office, and if the case involves a question of benefit eligibility, to the claimant as well. If the claimant has not received them, they cannot be considered. If there was a series of incidents leading up to the final act, be prepared to discuss these incidents also.

The Importance of Witnesses & Subpoenas

It is extremely important to have relevant witnesses available for the hearing. Interview your witnesses before the hearing so that you know that their information will be useful to your case. In the event that a witness is unable to participate in the hearing, your best option is to have the witness prepare and sign a statement about the events. But you should be aware that such statements are generally less persuasive and have less evidentiary weight than credible direct testimony from a witness at the hearing.

If a witness refuses to appear at the hearing, you may request that the Administrative Law Judge issue subpoena. You must make such a request in writing. It must include the witnesses name and street address (no P.O. Box), a statement that you have requested the witness to participate and s/he has refused, and a detailed statement of what you expect the witness to testify to and why that testimony is necessary for your presentation.

Once the hearing is concluded, the Administrative Law Judge will issue a written decision which will be sent to all interested parties.

Contacts with the Administrative Law Judge Outside of the Hearing

The Administrative Law Judge generally will have no contact with you or any party outside of the hearing. This is to avoid the appearance of unfairness or of accepting evidence outside the hearing. Other members of the Appeals Office will advise or assist you with procedural questions. In the State of Vermont, Appeal Hearings are CONFIDENTIAL and are not open to the public.

Postponement of a Hearing

You should make every attempt to participate in the Appeal Hearing when scheduled. Either party may request a postponement but the postponement must be for good cause. Good cause is determined by the Administrative Law Judge who makes the decision on a case by case basis. If you wish to have a postponement, you should immediately call the appeals office to request one.

Withdrawal of an Appeal

If you wish to withdraw your appeal, you may do so in writing, or by calling the Appeals office. You should notify the Appeals office as soon as possible prior to the date of the hearing. If the claimant has filed the appeal, you cannot withdraw the appeal and the hearing will take place. If the appeal is withdrawn, the initial determination or decision becomes final and cannot be changed.

Appeals to the Employment Security Board

If you do not prevail with the Administrative Law Judge, you can file an appeal to the Employment Security Board. This Board generally reviews only the record created by the Administrative Law Judge and they do not take new testimony. The Employment Security Board will schedule a hearing, which is conducted in-person in Montpelier only, and will review the transcript of the hearing before the Administrative Law Judge as well as all documents which have been entered into the record before the Administrative Law Judge. The Employment Security Board can sustain, modify or reverse the decision of the Administrative Law Judge or in some cases will remand the case for further hearings. Being unavailable for the hearing before the Administrative Law Judge is not considered “good cause” to remand a case back to the Administrative Law Judge. The Board will make its decision and issue a written decision.

Appeals to the Supreme Court

The last step in the appeals process is to file an appeal with the Vermont Supreme Court. The Court may ask the parties to file a legal brief in support of their position, and may schedule oral arguments before the bench. You should probably consult with an attorney before proceeding to the Supreme Court, although there is no Court requirement to be represented by an attorney. The Court will only review the record that was before by the Employment Security Board. While the Court will generally defer to the judgment of the Employment Security Board, it can also reverse the decision of the Employment Security Board or remand a case for further hearing.

OTHER PROGRAMS AND DIVISIONS WITHIN THE DEPARTMENT

Wage and Hour Program

Vermont's Wage and Hour Program has a wide verity of responsibilities. Its primary functions include:

- investigation and attempted resolution of disputes involving wages, benefits and wage supplements;
- education and enforcement concerning minimum wage and overtime requirements;
- education and enforcement concerning child labor laws;
- providing employers with legally required posters and policies;
- responding to inquiries and providing information concerning employer/employee related issues including Vermont's family and parental leave act, fair employment practices act, sexual harassment act, and laws addressing military, legislative and juror duty leave.

Child Labor information

There are specific rules and regulations governing employment of individuals under the age of 18 who are employed in non-agricultural or agricultural employment. If you are employing or considering employing individuals under the age of 18, pertinent child labor information is available on our website under "Businesses" heading or by calling (802) 828-0267.

Mandatory Postings

All employers with two or more employees shall prominently post the mandatory postings so that employees may refer to them. You may obtain copies of them on our website at www.labor.vermont.gov or by calling (802) 828-0267.

Deductions from Employees Pay

An employer may apply wage deductions as follows:

1. Deductions for goods or services

An employer may deduct for goods and services provided by the employer to the employee if the following conditions are met:

a) The deduction does not reduce an employee's wages below the hourly minimum wage;

b) The employee provides written authorization or the employer sufficiently documents the employee's intention to repay;

c) The deduction is not prohibited by state or federal law or these rules; and

d) The deduction shall not exceed the amount the employee agreed to.

2. Deductions authorized by law

An employer may make deductions specifically authorized by state or federal law including deductions for state/federal taxes and child support. The employer may, with written authorization from the employee, make deductions for contributions for health insurance or retirement plans.

Employers may not deduct or withhold wages for such things as: an employee's refusal or inability to provide or sign documents such as I-9 forms, tax withholding forms, etc.; an employee's refusal to provide a notice of or reason for termination; an employee's refusal to sign a document written by the employer, etc.; an employee's inability or refusal to accept the wages in person (postal delivery is an acceptable means for the employer to comply with the timely payment of wage law); uniforms or the maintenance thereof; poor job performance; alleged shortages, bad checks or credit cards; destruction of or missing property; etc. Allegations of damages and improper payment of wages are separate issues and must be dealt with, if necessary, in separate court actions. Recovery of alleged damages may be possible through civil action, whereas illegal withholding of wages is in violation of Vermont's criminal statutes and criminal prosecution is possible.

Benefits or Wage Supplements

An employer is not required to provide its employees with paid or unpaid holidays (such as Memorial Day or Thanksgiving), paid or unpaid sick leave (except under Parental or Family Leave Act), paid or unpaid vacation time or severance pay when an employee leaves a business. However, employers who are parties to written agreements, which can be in the form of an employee handbook, memorandum, correspondence, etc., providing for vacation time, sick leave, holidays and /or severance pay are liable to their employees for those benefits.

Minimum Wage

Vermont's minimum wage law covers employers employing two or more employees, unless exempted by statue. Exemptions include, but are not limited to:

- full-time high school students
- agriculture workers
- taxi cab drivers
- outside salespersons

- newspaper or advertisement home delivery persons
- persons employed in the activities of a publicly supported non-profit organization (except laundry employees and nurses aides or practical nurses)
- a person employed in a bona fide executive, administrative, or professional capacity
- a person employed in domestic services in or about a home
- a person employed by the United States government.

Although full time high school students are exempt from Vermont's minimum wage requirement, federal law provides for a minimum compensation for these students. If you are a federally covered employer interested in the federal youth minimum wage, contact the U.S. Department of Labor at (802) 951-6283 for more information.

Effective January 1, 2007 and annually thereafter, minimum wage will increase from previous year plus 5% or the percentage increased of the Consumer Price Index, CPI-U U.S., city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1st, whichever is smaller. Additionally, effective January 1, 2008 the Basic Wage Rate for "service or tipped employee" will increase at the same rate as the minimum wage rate. A "service or tipped employee" means an employee of a hotel, motel, tourist place, or restaurant who customarily and regularly receives more than $120.00 a month in tips. For the most up-to-date minimum hourly wage rates, please visit our website at www.labor.vermont.gov or call 802-828-0267.

Labor Market Information

The Labor Market Information program, is a major source of economic and career information for Vermont. Other state agencies, private enterprises, educational institutions, and job seekers often tap the department's labor market resources for information on selected towns and industries.

The industrial employment estimates, occupational employment estimates, labor force estimates and wage data are used by a number of organizations to evaluate the economic health of Vermont and its substate areas. The wage data is a primary input into the U.S. Department of Commerce's per capita income estimates. Out-of-state banks use the information when setting municipal bond rates. Businesses consider labor force estimates when selecting plant locations. Workers moving to Vermont frequently write for labor market information. Information is also provided to Vermont schools to help students in their career decision making.

We also publish economic-demographic county profiles annually. This series incorporates data from several agencies and provides a summary narrative of the trends and social dynamics occurring within each county. Any questions, please call 802-828-4202. Or, you can access information at our website at: www.vtlmi.info.

Workforce Development Services and Programs

The Vermont Department of Labor's Workforce Development Division, through its statewide network of Resource Centers, provides services intended to maintain the highest possible level of employment by Vermont workers. Unemployment benefits provide partial wage replacement to eligible workers thereby,

helping to stabilize the local economy. Long-term economic stability can best be achieved by helping jobseekers find suitable work, and employers find qualified workers.

Employers can help conserve unemployment insurance funds by listing all job openings with VDOL, which is the state's largest single source of labor. By listing your job openings with the VDOL Resource Center closest to you, you can access qualified workers with experience in the full range of occupations, including professional, clerical, technical, service, skilled trades and production. Employer Services available through each of our Resource Center's include:

- Applicant screening for posted job openings;
- Assistance with recruitment, including scheduling of appointments, as well as accommodations for interviewing applicants;
- Labor Market Information to help you make informed decisions on hiring, compensation and benefits;
- Information on worker training, including strategies and resources;
- Rapid Response – timely and comprehensive outplacement support services in the event of layoffs or plant closures.

Vermont JobLink

Vermont JobLink is an Internet-based no-fee job matching and workforce information system for employers and jobseekers. Employers and jobseekers can access and utilize a variety of services through management of an individual self-service account.

Access Vermont JobLink from our home webpage at www.labor.vermont.gov or www.vermontjoblink.com.

Vermont Joblink Services for Employers

By listing your job openings with Vermont JobLink, you can gain access to a large number of jobseekers. Additionally, an employer can:

- Create and manage job orders, search jobseeker resumes, and access useful occupational and labor market information;
- Utilize a Quick Search feature on the Home Page to preview active jobseeker resumes by geographic location and keywords prior to logging into their self-service account;
- Search All Resumes: Employers may set criteria to search jobseeker resumes utilizing geographic location, experience and education requirements, type of employment, preferred shift, and travel requirements and can exclude candidates desiring temporary work. Employers may save these criteria and create a profile for later resume searches.
- Search by Type of Job: Employers may search jobseeker resumes utilizing keyword(s) that identify the job classification related to the job order;
- Saved Resume Search Profiles: Employers may search jobseeker resumes based on the profile created and saved from an earlier search for all resumes;

Vermont JobLink Services for Jobseekers

Jobseekers can create a complete on-line, printable resume available to employers who have approved

access to jobseeker information. Resumes can be automatically e-mailed to employers at the jobseeker's request. Eight different methods are available to jobseekers to conduct a job search:

- **Quick Search:** Quickly preview job openings available using keywords and geographic area, prior to creating or logging in to their self-service account;
- **Basic Search:** Set job search criteria with factors such as geographic area, job title keywords, type of job and age of job order. Jobseekers may save these criteria and create a profile for subsequent job searches;
- **Search by Type of Job:** Use keywords to search from a list of job classifications;
- **Search by Employer Name:** Search based on the employer name, if interested in a specific company;
- **Search by Resume Objective:** Search by resume objective, with a completed on-line resume;
- **Search by Job Order ID Number:** With a job order number from a previous search, locate a specific job order;
- **Search by Saved Job Search Profile:** Search from a saved Basic Search profile;
- **Job Spidering:** Enter keyword and zip code to see all Internet postings within a 25-mile radius.

Other JobLink services available to job seekers include:

- **Career Information:** Jobseekers can view a listing of growth occupations, highest paying jobs, and a comparison of various occupational categories;
- **Eligibility Screening:** Jobseekers can self-screen to assess potential eligibility for additional career-related services.

Other Workforce Development Programs

In addition to the services available to employers, there are several programs available through the Workforce Development Division that can help employers with specific training or recruitment needs, or provide financial incentives to hire certain eligible workers. These programs include:

- **On-the-Job Training (OJT)** can help to defray some of the costs associated with hiring and training new workers. Your local Resource Center staff can explain the program and help you decide whether OJT is an appropriate workforce development resource for your business;
- **Vermont Registered Apprenticeship** combines classroom instruction with OJT training under the supervision of a skilled journey-level worker. Apprenticeship programs last from 1 to 6 years. For more information, visit our website, or call (802) 828-5082 in Montpelier;

- The **Work Opportunity Tax Credit** (WOTC) is a program recently reauthorized through August 31, 2011 by the Small Business and Work Opportunity Tax Act of 2007. It provides incentives to businesses who hire members of certain groups, who traditionally have had difficulty obtaining and holding jobs. The WOTC can potentially be as much as $2,400 for each new adult hire and up to $9,000 for each new long-term family assistance recipient hired (this is claimed over a two-year retention period). For more information, contact the WOTC Unit at 802-828-5277.

Workplace Safety Programs

The **Vermont Occupational Safety and Health Administration** (VOSHA) conducts inspections of both Public and Private sector employers to assure they are complying with the safety and health standards adopted by the State. VOSHA is authorized to issue citations and penalties for violations of the adopted standards. Inspections are unannounced and can result from a fatality, an event that hospitalizes 3 or more workers, a complaint, a referral or random selection. The standards for General Industry and Construction are available from VOSHA at minimal charge or on the Federal OSHA website at www.osha.gov. Persons that have questions about the safety and health standards may contact VOSHA at 802-828-2765 or Project WorkSAFE Consultation at 1-888-SAFE YES.

VOSHA has programs to assist employers and employees in making their workplaces safer. A Compliance Assistance Specialist (CAS) provides training and information to groups so they can improve the safety and health of their workers. The CAS works to form Alliances with associations to facilitate the sharing of information. Through Alliances, trade associations agree to disseminate information to their constituents.

The **Green Mountain Voluntary Protection Program** (VPP) recognizes employers that have superior safety and health programs. These programs include full participation of both management and workers. Where there is involvement by both of these groups, workplaces are safer and more productive. Safer workplaces reduce injuries and illnesses which can lead to a reduction in the employer's Workers' Compensation costs.

Project WorkSAFE is a free, confidential, occupational safety and health consultation program providing business assistance to small Vermont Industries. Typically less than 250 employees per site, 500 corporate, however we will provide services to larger firms depending on resources. WorkSAFE seeks to work with Vermont employers to develop and or maintain safe and healthy conditions in the workplace. Based on a company's request these services are provided with a variety of options. This may include help over the phone or a site visit to help conduct training and or perform a site hazard assessment. Our consultants can help you with safety audits covering topics such as electrical, machine point of operation and power transmission apparatus guarding, lock out tag out, fall protection and confined spaces. The health audits cover topics as blood borne pathogens, chemical evaluations including air monitoring, also no cost, ergonomics, noise monitoring, non-ionizing radiation evaluations, emergency response, and other health related hazards. All the consultants on staff can provide help in developing Safety and Health Programs. Consultants provide clear interpretation of Vermont OSHA and Federal OSHA regulations and help identify violations of these acts and other potential hazards. Consultants then provide helpful information on how to correct these violations. Companies who use this service must agree to fix serious safety and health hazards identified by consultation staff.

Project WorkSAFE staff have a variety of backgrounds in environmental health, occupational health, fire prevention, electrical, chemical, safety management, construction, utility as well as other related fields

and work with over a hundred businesses on a yearly basis. If we cannot help you solve your unique problems we can assist you in obtaining other recourses that will address your concerns. Partnerships have been developed with a variety of interested parties and Vermont employers. Examples include, a very successful partnership in safety, offering a free training seminar, with Green Mountain Coffee Roasters Foundation and the Small Business Development Center (SBDC).

Project WorkSAFE is a separate stand-alone program from the Vermont OSHA program to insure confidentiality of clients.

The **Safety and Health Achievement Recognition Program** (SHARP) recognizes outstanding companies for their hard work and commitment. See our web page for more information. We continue to work on certifying and finding new companies with outstanding safety and health programs to be involved in the SHARP program. Vermont companies are encouraged to work with this program and provide feedback and input to the program. The benefit of this collaboration will assist Project WorkSAFE in gathering information that will be utilized to improve overall professional health and safety services provided.

Staff are also involved in safety and health seminars around the state. This keeps the consultants informed of Vermont Business needs and concerns regarding safety and health issues and the costs of workers compensation rates. We continue to work with SBDC as part of the very successful Vermont Safety and Health Conference, typically held in February in Burlington, and the annual Governors award for work place safety.

Further information about the above programs or safety and health standards can be obtained on our website under “Businesses”, “Workplace Safety” or by calling the VOSHA office at 802-828-2765 or Project WorkSAFE Consultation at 1-888-SAFE YES (1-888-723-3937). The Project WorkSAFE webpage allows anyone to ask confidential occupational safety and health questions by email, along with the ability to register for a list serve that will notify you of upcoming safety and health trainings.

The **Vermont Passenger Tramway Program** was established to prevent unnecessary hazards in the operation of ski lifts in Vermont. There are three Passenger Tramway Technicians that conduct inspections of ski lifts throughout the summer and winter seasons. Operation and maintenance logs and procedures are reviewed regularly to assure that the ski areas are complying with the codes adopted by the program. Vermont has over 30 ski areas and more than 150 lifts ranging from rope tows to chairlifts and detachable chairlifts to gondolas. Regular inspections of lifts by tramway technicians not affiliated with the ski areas helps to provide a high level of safety for the many skiers and boarders that enjoy Vermont ski areas.

Passenger tramways in Vermont carry more than 4 million riders annually. The Division inspects each of the 184 operating ski lifts, which total over 544,000 lineal feet of lift line, prior to operation each season and at least four other times during the ski season. Safety standards are set by the Tramway Board, consisting of two ski area and two public representatives and the Commissioner of Labor. Since its inception the inspection program has been funded by ski area fees based on the lineal footage of ski lifts at each area (31 V.S.A. §§ 701-712).

The Passenger Tramway division plays an important role in assuring that skiers and snowboarders have a safe journey up Vermont’s mountains. The Tramway division inspects the construction, operation and

maintenance of ski lifts in the state. Our three tramway inspectors have the important role of providing extra sets of eyes and a clear set of standards for overseeing safety issues. Ski lift safety is something that the state, ski areas and lift manufacturers take very seriously. The Tramway division is a fee funded program paid for directly by ski areas. The fee is assessed per lift based on the type and complexity of the lift and the distance it covers.

Further information about the Tramway Program can be obtained on our website under "Businesses", "Workplace Safety" or by calling 802-828-5084.

Workers' Compensation Program

Workers' compensation insurance is mandatory for all Vermont employers. Workers compensation law is intended to provide employees a speedy, no-fault remedy and for employers liability which is limited and determinate. The Workers' Compensation & Safety Division's primary role is to adjudicate disputes between injured workers and the employer's insurance company. It is also charged with enforcing Vermont's workers' compensation laws, including investigating and, if warranted, penalizing fraud and penalizing employers who fail to purchase workers' compensation insurance.

What is a Work Injury?

A work injury is an injury that arises out of and in the course of employment. It may be an injury or an occupational disease and it may occur instantaneously or over time.

Statutory Benefits

An injured worker may be entitled to one or more of these specific benefits:

- Medical care/treatment that is reasonable and necessary to treat injury
- Lost time if disabled due to work injury; roughly 2/3 of usual work wages
- Permanent impairment only if injury results in permanent impairment; per AMA Guides to the Evaluation of Permanent Impairment
- Vocational rehabilitation if unable to return to suitable employment
- Death benefits if evidence supports the death arose due to work injury

First Report of Injury

Employers must report all work injuries that result in either any medical attention or one lost day of work or more. Filing a first report does not impose liability upon the employer for that injury. The first report of injury must be reported to the department and to the employer's insurance carrier. It is up to the insurance adjuster to deny the claim.

Denial of a Claim

The insurance adjuster is responsible for denying and adjusting the claim. All Vermont workers compensation adjusters must be licensed and must receive annual training, thus ensuring familiarity with the law and procedures. The adjuster has a duty to investigate the claim and must provide evidence to support the denial. Every claim is unique, therefore the adjuster must be able to contact the employer and to obtain or communicate essential information about a claim. The adjuster may ask the employer

to provide relevant information about the injury or other pertinent work place information. The employer, in turn, has the right to request from the insurance carrier information about the claim and/or the carrier's investigation.

Burden of Proof is On Employee

The employee has the burden of proving that they suffered a work injury. Their statement alone is not sufficient. The employee must submit evidence supporting their claim. If the employee submits evidence, the employer, through its carrier, may submit contrary evidence. Evidence may include medical records, witness statements, or documentation of other information relevant to the claim. If both the employee and the carrier submit contrary evidence, the employee's evidence must be more persuasive for their claim to succeed.

More detailed information can be obtained on our website under “Businesses”, “Workers' Compensation” or by calling 802-828-2286.

ATTN: Employer Services
P.O. Box 488
Montpelier, VT 05601-0488
802-828-4344
FAX: 802-828-4248

VT Unemployment Account Number
Federal Identification Number
Client Number

Limited Power of Attorney and Tax Information Authorization

(Business, Estate or Trust)

Taxpaper's Legal Business Name: ____
Trade Name(s): ____
hereby appoints ______________________ as its agent to perform the following acts on its behalf:

(check all that apply):

- ☐ Receive, prepare and file new and amended Vermont Employer's Quarterly Wage & Contribution Report forms.
- ☐ Obtain from and provide to this agency information regarding its returns filed for periods on or after the date below.
- ☐ Discuss matters as they pertain to the rate assignments and experience rating.
- ☐ Process all necessary forms/inquiries as they pertain to claims potentially filed against its rating/account.
  *(If this box is **NOT**Á•^|^&c^åÊÁ]|^æ•^Á•]^&ã~ˆÁc@^Á&|ã^}cÁæååi^••Á¸@^i^Áà^}^,cÁ&|æã{Ái^|æc^åÁã}~[i{æcã[}Á•@[ˇ|åÁà^Á{æã|^åD*

Address in Fact: ____________________
(C-101 Forms, Rate ____________________
Notices, Statements) ____________________
Telephone Number: ____________________

Client Address: ____________________
ÇU}|ˆÁÓ^}^,cÁÔ|æã{ ____________________
Related Information) ____________________
Telephone Number: ____________________

This Limited Power of Attorney form is effective for the period beginning ________________ and will remain in effect until this department is otherwise notified.
(Quarter/Year)

It applies only to the items which have been selected above as they pertain to the Unemployment Insurance Tax and/or Benefit related matters for the client.

This limited Power of Attorney revokes all prior Powers of Attorney on file with the Vermont Department of Labor.

______________________________________ ______________________
Person Completing and Signing Power of Attorney *Date*

______________________________________ ______________________________________
Signature *Title of Person Signing Power of Attorney*

AFFIRMATION OF WITNESS

I, ______________________________ affirm that ______________________________ appeared to be of sound mind and free from duress at the time this Limited Power of Attorney was signed, and that (s)he affirmed that (s)he was aware of the nature of this document and signed it freely and voluntarily.

______________________________________ ______________________
*Signature of Witness (**Cannot** be same as Notary)* *Date*

FOR USE BY NOTARY

STATE OF ____________________________________
COUNTY OF ________________________________, SS.

At _______________________ on the ____ day of _____________________________ personally appeared ________________________________ who acknowledged this Instrument and signed by him/her to be the free act and deed, and the free act and deed of ________________________________ before me,
_________________________________ . My Commission expires: __________________________
Signature of Notary Public

(PLEASE COMPLETE PAGE 2)

ATTESTATION OF AGENT

I, ______________________________________ do hereby attest that I accept appointment as agent for ____ (hereafter “principal”) and:

that I understand my duties under this Limited Power of Attorney and under the law;

that I understand that I have a duty for the principal as to the specific transactions and types of transactions if expressly required to do so in this Limited Power of Attorney;

that I hereby specifically acknowledge and accept such duties to act in signing this Limited Power of Attorney;

in the case of such a duty to act, my agreement to act on or behalf of the principal is enforceable against me regardless of whether there is any consideration to support a contractual obligation;

that I understand and acknowledge in signing this Limited Power of Attorney, that if I have been selected as agent
with the expectation that I have special skills or expertise I will use those skills on behalf of the principal.

____ ______________________________

Signature of Agent Date Signed

VERMONT DEPARTMENT OF LABOR
ATTN: EMPLOYER SERVICES, P.O. Box 488
Montpelier, Vermont 05601-0488

Telephone: (802) 828-4344
Fax: (802) 828-4248

VERMONT EMPLOYER NO.

NOTICE OF CHANGE C-36 (10/06)

Indicate name of business and address in box below and Vermont Employer Number in box in upper right-hand corner.

Complete all items applicable to your organization, trade, business or employment in Vermont.

Nature of Change: ☐ Change of Address/Trade Name , Complete Part A, D & E ☐ Ceased Employment , Complete Part B, D & E

☐ Sale/Lease/Reorganization of Business , Complete Part C, D, E

A

CHANGE OF ADDRESS/TRADING AS: Corrections to Name and/or Address of record. **(NO CHANGE IN OWNERSHIP OR BUSINESS TYPE)**

Name: ____________________ Contact: ____________________

Trading As: ____________________ Telephone: ____________________

Address: ____________________ Fax & Email: ____________________

B

CEASED EMPLOYMENT

Date Employment Ended: ____________ Final Pay Date: ____________

☐ No Longer Have Vermont Employees Explain: ____________________

☐ Discontinued Operations in Vermont Explain: ____________________

☐ Out of Business Reason: ☐ Ceased Business / Closed ☐ Filed for Bankruptcy ☐ Foreclosure

Location of all employment records:

Address: ____________________

Contact: ____________ Telephone: ____________ Fax: ____________

Email Address: ____________________

If your business is a Corporation, are your officers receiving any wages or draws after the effective date? ☐ Yes ☐ No

C

SALE / LEASE / REORGANIZATION OF BUSINESS *(PLEASE PROVIDE THE FOLLOWING INFORMATION)*

1. Date of Change ____________ 2. Date Final Wages Paid ____________
3. Nature of change: *(Please specify)*

   ☐ **ALL** of Vermont Business Sold ☐ **PART** of Vermont Business Sold

   ☐ **ALL** of Vermont Business Leased ☐ **PART** of Vermont Business Leased

   ☐ Reorganization of Vermont Business

4. Did you retain title or control of any assets? ☐ No ☐ Yes *If "Yes"* ☐ ALL ☐ PART (Specify percentages below)

LAND	BUILDINGS	INVENTORY	MACHINERY	VEHICLES	OFFICE EQUIPMENT	FURNITURE & FIXTURES	ACCOUNTS RECEIVABLE	FRANCHISE	OTHER-SPECIFY TYPE & PERCENTAGE ON ATTACHED SHEET.

5. Other Assets retained: ____________________ Percentage Retained: _______%
6. Enter the complete name, trading as, address and telephone number of the new owners/operators of the business:

   Legal Business Name ____________________

   Trading As ____________________

   Mailing Address ____________________

   City, State, Zip ____________________

   Contact: ____________ Telephone Number: ____________ Email Address: ____________

7. Is there any common ownership between the two businesses? ☐ Yes ☐ No If Yes, attach explanation.

SECTION C CONTINUED ON PAGE 2

C

8. Will the new entity continue to operate this business? WYes WNo If No, Explain:

____

____

9. Will you continue to pay wages after the change to your business occurs? WYes WNo

If "Yes", please provide reason: ____

____

10. Will you continue to operate a business under this legal entity? WYes WNo

If "Yes", please give the name and the nature of the business retained/continued: ______________________

____

11. Will you be starting a new business under this legal entity? WYes WNo

If "Yes", provide the following: Name of Business: ____

Nature of Business: ____________________ Start Date: __________ Date First Wages to be Paid: __________

12. Will direction and control of the business remain the same? WYes WNo

FOR LEASED BUSINESS ONLY

13. Did the title to any assets go to the lessee? WYes WNo If, "Yes", please provide information on the assets:

____

____

____

14. Please describe in detail the nature of the leased business:

____

____

____

D

15. Please describe any other changes not specified above: ____

____

____

____

E

I CERTIFY THE ABOVE IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Contact Name: ____________________ Telephone: __________ Ext. _____ Fax: ______________

Signature: ______________________ Title: ____________________ Date: ______________

NOTES

UNEMPLOYMENT INSURANCE AND WAGES DIVISION FIELD AUDIT STAFF INFORMATION

Area	Phone
Montpelier Area	802-828-1147
White River / Barre Area	802-828-4200
Morrisville Area	802-888-2542
Rutland Area	802-786-8806
Burlington	802-863-7480
Middlebury	802-652-0328
St. Albans	802-951-5147
Bennington Area	802-447-2867
Springfield / Brattleboro Area	802-885-1411
Newport / St. Johnsbury Area	802-334-3303

DIRECTORY OF VERMONT DEPARTMENT OF LABOR REGIONAL RESOURCE CENTERS

Central Vermont
BARRE
McFarland State Office Building
5 Perry Street, Suite 200
Barre, VT 05641
Tel.: (802) 476-2600
Fax: (802) 476-2628

South West Vermont
BENNINGTON
150 Veterans Memorial Drive, Suite 2
Bennington, VT 05201
Tel.: (802) 442-6376
Fax: (802) 447-2726

North West Vermont
BURLINGTON
63 Pearl Street
Burlington, VT 05401
Tel.: (802) 863-7676
Fax: (802) 863-7655

Southern Vermont
RUTLAND
200 Asa Bloomer Building
Rutland, VT 05701
Tel.: (802) 786-5837
Fax: (802) 786-5896

North East Vermont
ST. JOHNSBURY
1197 Main Street, Suite 1
P. O. Box 129
St. Johnsbury, VT 05819-0129
Tel.: (802) 748-3177
Fax: (802) 748-6620

South East Vermont
SPRINGFIELD
56 Main Street, Suite 101
Springfield, VT 05156
Tel.: (802) 885-2167
Fax: (802) 885-2728