

# WHAT IS EXEMPT EMPLOYMENT?

The following services considered exempt from employment, so the employer will not be required to pay unemployment insurance or make health care contributions.

Exempt employment includes:

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 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 and 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. Wages paid to a direct seller as defined by Act 136 of the 2006 Vermont Legislature.

## REQUEST A REFUND

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 quarterly contribution reports and Rate File Data Exchange (Pre-Edit File), 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 an employer would like to request a refund of the credit balance on their account, a written request can be submitted to the Vermont Department of Labor Attention Employer Services Unit, PO Box 488 Montpelier, VT 05601-0488, by fax at 802-828-4248 or emailed to [Labor.UlandWages@vermont.gov](mailto:Labor.UlandWages@vermont.gov).

## EMPLOYEE LEASING

Employee leasing is a business which by agreement and for a fee, places employees of the client company on the leasing company payroll. In turn, the leasing company “leases” these employees back to their original employer for an unlimited time. The employee may notice very little changed, with the exception of the signature on his/her paycheck. The client company however is relieved of many administrative tasks. Payroll, taxes, workers’ compensation, employee benefits and human resource management are all administered by the leasing company.

## UNDERSTANDING SUCCESSOR EMPLOYER / PARTIAL SUCCESSOR

Experience Rates and Business Acquisitions, Mergers, and Re-organizations

Experience rate transfer means that the tax rate of the company which was purchased 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 requires the Department to combine the rates when there is more than one predecessor account being acquired.

In the case where the employer was already an employer subject to the unemployment statute prior to the acquisition of the new company, the employer will keep its rate for the remainder of the rate year.

After, 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.

Entities with common ownership fall under Title 21, Chapter 17, Section 1325(d) and may, or may not, be eligible for experience rate transfer and/or combining.

Final determine of rate transfer or prohibited rate transfer cannot be made until all information and forms are completed and returned.

For more information see Title 21, Chapter 17, Section 1325(b),(c), & (d).

## EMPLOYER RESPONSIBILITY FOR UNEMPLOYMENT COVERAGE

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 which a worker performs services.

Examples which an entity can be determined liable to pay unemployment insurance tax or deemed an employer for purposes of furnishing unemployment insurance coverage include:

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 employ 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 furnishes 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 your domestic or agricultural workers even though it is not required, unless otherwise exempted by Vermont Unemployment Compensation law.
10. Begins employment again after a period of inactivity of less than 3 years.

If you have been determined liable for unemployment coverage, you will be required to file Quarterly Wage and Contribution ([link to pdf quarterly wage contribution](#)) reports to report gross wages ([link to def. of wages for UI page](#)) paid to all covered worker ([link to Employee vs. Independent Contractor](#)) who performed services during the reporting quarter.