

Alaska Department of Labor & Workforce Development
Research and Analysis Section ~ Unemployment Insurance Research

Alaska Unemployment Insurance Tax System

Alaska Statutes covering the Calculation of UI taxes

Title 23. Labor and Workers' Compensation
Chapter 23.20 Alaska Employment Security Act
Article 04 Experience Rating

Section

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Sec 23.20.280. Eligible employer.

(a) An employer is eligible for a rate determination in accordance with the provisions of AS 23.20.280 - 23.20.310 and the department regulations if the employer has been subject to this chapter throughout not less than the four consecutive calendar quarters ending with the computation date and remains subject to this chapter into the calendar quarter which immediately precedes the effective date of the rate. An employer is not eligible for a rate determination under AS 23.20.280 - 23.20.310 if, with respect to a calendar quarter in or preceding the employer's qualifying period, the employer has failed to file contribution or payroll reports or to pay contributions, interest, and penalties required by this chapter within 60 days after the computation date or within 10 days after the department has mailed the employer written notice of the delinquency or of failure to file reports, or of both, by registered or certified mail to the employer's last address of record, whichever is the later date.

(b) A report made arbitrarily for an employer by the department under AS 23.20.230 does not entitle an employer to a rate determination under AS 23.20.280 - 23.20.310, but the report may be used to establish a rate determination in the discretion of the commissioner.

(c) An employer who, because of failure to pay contributions or file reports timely, does not qualify for a rate determination under AS 23.20.280 - 23.20.310 shall pay contributions at the highest rate provided in AS 23.20.280 - 23.20.310.

Sec. 23.20.281. Ineligible employer.

An employer who has been subject to this chapter less than four calendar quarters immediately preceding the computation date is not entitled to a rate determination under AS 23.20.280 - 23.20.310 and the employer shall pay contributions at the standard rates specified in AS 23.20.170(b).

Sec. 23.20.285. Quarterly decline quotients.

(a) The department shall determine each eligible employer's contribution rate by the procedures set out in AS 23.20.280 - 23.20.310. The department shall put the employer's quarterly payrolls in chronological order beginning with the first calendar quarter in the qualifying period and ending with the last calendar quarter in the period. If an employer's payroll in a calendar quarter is less than the payroll in the preceding quarter in the qualifying period, the quarterly decline quotient shall be computed to at least nine decimal places by dividing the amount of the decline by the amount of the payroll in the preceding calendar quarter.

(b) For the purpose of computing quarterly decline quotients, the department may, by regulation, prescribe (1) the manner in which wages paid in the form of annual bonuses or other lump-sum payments for service performed over a period of more than three months are apportioned among the calendar quarters of the calendar year in which the service was performed; and (2) the method for making adjustments in quarterly payrolls to eliminate the effect upon quarterly decline quotients resulting from unemployment which would not be compensable by reason of the labor dispute provision of AS 23.20.383.

(c) The department shall determine the sum of each eligible employer's decline quotients and shall weight the sum by adding to it 1.000000000 for each quarter in the employer's qualifying period in which the employer has no payroll, which quarter immediately follows a quarter in which the employer has no payroll. Each eligible employer's average quarterly decline quotient shall be computed to the ninth decimal place by dividing the sum of the quarterly decline quotients for the employer, weighted when required by this section, by the number of quarters in the employer's qualifying period less one.

Sec. 23.20.290. Rate determination.

(a) The department shall determine each eligible employer's ratable payroll. The department shall then put all eligible employers in the order of their average quarterly decline quotients beginning with the smallest average decline quotient and shall determine, with respect to each employer, the cumulative ratable payroll during the four consecutive quarters ending with the computation date of the employer together with all employers who precede the employer on the list.

(b) The department shall segregate the employers into groups in accordance with cumulative ratable payroll. The limits of the groups are those set out in column B of the

table in (c) of this section. Each of these groups shall be identified by the rate class number in column A which is opposite the figures in column B which represent the percentage limits of each group. An employer shall be assigned the experience factor in column C which is opposite the rate class in which the greater part of the employer's ratable payroll falls. If one-half of the employer's ratable payrolls fall in one class, and one-half in another, the employer shall be assigned to the lower numbered rate class. An employer may not be assigned to a higher numbered rate class than is assigned to another employer with the same average quarterly decline quotient.

(c) The rate of contributions for each employer is a percentage of the average benefit cost rate multiplied by the employer's experience factor set out in column C of the table in this subsection opposite the employer's applicable rate class set out in column A plus the fund solvency adjustment required under (f) of this section. That percentage is 76 percent beginning January 1, 2009, and 73 percent beginning January 1, 2010. However, the rate of contributions for an employer may not be less than one percent or more than six and one-half percent. The rate of contributions for an employer in rate class 21 may not be less than 5.4 percent. The rate of contributions for an employer must be rounded to the nearest 1/100th of one percent.

| COLUMN A Rate Class | COLUMN B Cumulative Ratable Payroll | | COLUMN C Experience Factor |
|------------------------|---|----------------------------|----------------------------------|
| | at least (percent) | but less than (percent) | |
| 1 | | 5 | .40 |
| 2 | 5 | 10 | .45 |
| 3 | 10 | 15 | .50 |
| 4 | 15 | 20 | .55 |
| 5 | 20 | 25 | .60 |
| 6 | 25 | 30 | .65 |
| 7 | 30 | 35 | .70 |
| 8 | 35 | 40 | .80 |
| 9 | 40 | 45 | .90 |
| 10 | 45 | 50 | 1.00 |
| 11 | 50 | 55 | 1.00 |
| 12 | 55 | 60 | 1.10 |
| 13 | 60 | 65 | 1.20 |
| 14 | 65 | 70 | 1.30 |
| 15 | 70 | 75 | 1.35 |
| 16 | 75 | 80 | 1.40 |
| 17 | 80 | 85 | 1.45 |
| 18 | 85 | 90 | 1.50 |
| 19 | 90 | 95 | 1.55 |
| 20 | 95 | 99.99 | 1.60 |
| 21 | 99.99 | | 1.65 |

(d) The rate of contributions payable by each employee of an employer who is subject to AS 23.20.165 is a percentage of the average benefit cost rate as determined in (e) of this section rounded to the nearest 1/100th of one percent. That percentage is 24 percent beginning January 1, 2009, and 27 percent beginning January 1, 2010. However, the rate of contributions for an employee may not be less than one-half percent or more than one percent.

(e) The department shall determine the **average benefit cost rate** as follows:

(1) the department shall determine the amount of **benefits paid** to insured workers during the last three computation years;

(2) the department shall subtract from the amount determined in (1) of this subsection the amount of any benefits reimbursed to the fund and the amount of interest earned on the trust fund balance during those computation years;

(3) the department shall divide the amount determined in (2) of this subsection by the **total wages paid** by all employers required to pay contributions under this chapter during the first three of the last four computation years;

(4) the department shall determine the amount of **total wages subject to contributions** under this chapter paid during the preceding computation years;

(5) the department shall determine the amount of all **wages paid to insured workers** during the preceding computation year;

(6) the department shall subtract from the amount determined in (5) of this subsection the amount of wages paid during the preceding computation year by employers who elect to reimburse the department under AS 23.20.276 and 23.20.277;

(7) the department shall divide the amount determined in (4) of this subsection by the amount determined in (6) of this subsection; and

(8) the department shall divide the amount determined in (3) of this subsection by the amount determined in (7) of this subsection.

(f) An employer shall pay a **fund solvency adjustment** surcharge if the reserve rate is less than three percent. The surcharge is a percentage equal to the difference between three percent and the reserve rate, rounded to the nearest 1/100 of one percent. An employer shall receive a fund solvency adjustment credit if the reserve rate is greater than 3.3 percent. The credit is a percentage equal to the difference between 3.3 percent and the reserve rate rounded to the nearest 1/100 of one percent. The solvency surcharge may not be greater than 1.1 percent, and the solvency credit may not be greater than 0.4

percent. However, an employer's fund solvency adjustment surcharge may not increase more than 0.3 percent from one year to the next year.

Sec. 23.20.295. Rates for successors in business.

(a) When an employing unit, whether or not an employer within the meaning of AS 23.20.520, succeeds to or acquires substantially all of the operating assets of an organization, trade, or business of another employing unit which at the time of acquisition was an employer subject to this chapter, the payroll records of the predecessor employer shall be transferred as of the date of acquisition to the successor employer for the purpose of determining an employer's qualifying period and for all other purposes of rate determination.

(b) If the successor employer was an employer subject to this chapter before the date of acquisition, the rate of contributions for the remainder of the calendar year of acquisition is the successor employer's rate for the period immediately preceding the date of acquisition; the rate for the succeeding years is based on the total of the successor employer's payrolls consolidated with those of the predecessor.

(c) If the successor was not an employer before the date of acquisition, the rate is the rate applicable to the predecessor employer for the period immediately preceding the date of acquisition provided there was only one predecessor or there were only predecessors with identical rates. If the predecessor rates were not identical, the successor's rate is the highest rate applicable to any of the predecessor employers with respect to the period immediately preceding the date of acquisition.

(d) This section does not apply to an acquisition if the acquisition is determined by the commissioner

(1) to have been primarily for the purpose of obtaining a more favorable rate of contributions under AS 23.20.280 - 23.20.310,

(2) to be inequitable to the parties, or

(3) to be contrary to the public interest.

Sec. 23.20.300. Corrections and adjustments.

Corrections or modifications of an employer's payroll may be taken into account within two years after the computation date for the purpose of a reduction or increase in the employer's rate. When an adjustment is made in an employer's payroll or in an employer's average quarterly decline quotient after rates have been assigned, the adjustment may not alter the position of another employer on the schedule or the contribution rate of another employer. The employer for whom the adjustment in decline quotients is made shall be placed in the class in which another employer with the nearest similar average quarterly decline quotient is placed.

Sec. 23.20.305. Application for review.

(a) The department shall promptly notify each employer of the rate of contributions for the employer as determined for a calendar year under AS 23.20.280 - 23.20.310. The determination becomes conclusive upon the employer unless within 30 days after the notice is mailed to the employer's last address of record or delivered to the employer, the employer files an application for review and redetermination, setting out the reasons for the application.

(b) If the commissioner grants review, the employer shall be promptly notified and shall be granted a reasonable opportunity for a fair hearing. The commissioner shall make a redetermination and shall notify the employer of the redetermination and the reason for it.

(c) If the commissioner denies a review, the commissioner shall notify the employer of the denial and the reasons for the denial. A redetermination or a denial of review becomes final, unless within 30 days after the notice is mailed to the last address of record of the employer, or delivered to the employer, the employer initiates judicial review in accordance with AS 23.20.445.

Sec. 23.20.310. Definitions for AS 23.20.280 - 23.20.310

(1) "**computation date**" means June 30 of the year immediately preceding the calendar year for which the contribution rates are effective;

(2) "**computation year**" means the 12 months beginning July 1 and ending June 30;

(3) "**payroll**" means all wages paid by an employer to individuals in the employ of the employer for service in employment as defined in this chapter;

(4) "**qualifying period**" means the three-year period of 12 consecutive calendar quarters ending on the computation date; for an employer who has not been subject to this chapter during each of the 12 calendar quarters ending with the computation date, "qualifying period" means the period ending with the computation date and beginning with the first calendar quarter in the 12 quarter period in which the employer was subject to this chapter, but in no event shall an employer's qualifying period be less than the four consecutive calendar quarters ending with the computation date; an employing unit is subject to this chapter beginning with the start of the first quarter in which the employing unit pays wages under this chapter, and ending with the end of the calendar quarter in which either the employing unit files closing contribution and wage reports under regulations adopted by the department, or the account is closed by the independent action of the commissioner;

(5) "**quarterly payroll**" means all wages paid by the employer during a calendar quarter;

(6) "**ratable payroll**" means that part of an employer's payroll for the four consecutive calendar quarters ending on the computation date as is subject to payment of contributions; for the purpose of determining the rate for a newly subject employer under AS 23.20.280 - 23.20.310 the definition of employment in force at the time that the employer becomes subject to this chapter applies to service performed for the employer before the date on which the employer becomes subject;

(7) "**reserve rate**" means the ratio of the total amount available for benefits in the unemployment trust fund on September 30, immediately following the computation date, to the payroll of employers required to pay contributions under the provisions of AS 23.20.165 for the 12 consecutive calendar months ending on the computation date, expressed as a percentage.

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