

## CHAPTER 63. RESPONSIBILITIES OF EMPLOYERS

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### Source

The provisions of this Chapter 63 adopted May 4, 1973, 3 Pa.B. 845, unless otherwise noted.

### Subchapter A. GENERAL FUNCTIONS

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**TRANSFERS OF EXPERIENCE RECORDS****§ 63.1. Successors-in-interest.**

- (a) *Comparisons.* A successor employer who, under the provisions of section 301(d)(1) of the Law (43 P. S. § 781(d)(1)), has made application for the transfer

of the whole or any appropriate part of the experience record and reserve account balance of a preceding employer shall be considered as continuing essentially the same business activity as his predecessor only if the Bureau finds that the anticipated employment risk of the succeeding employer with respect to such factors as unemployment has a direct relationship to the employment experience of the preceding employer. The determination shall be made by comparing the respective employers in matters such as the nature of the enterprises, the number of individuals employed by each and the wages paid or estimated to be paid to the employees.

(b) *Information required.* The successor employer shall submit whatever information the Bureau may request for the purpose of making its determination pursuant to subsection (a).

(c) *Disapproval of applications.* Whenever the Bureau finds that the anticipated employment risk of the successor is not substantially comparable to that of the predecessor for whose experience record and reserve account balance the successor has applied, his application shall be disapproved.

#### **§ 63.1a. Determining common ownership, control or management.**

For purposes of determining whether an employer was owned, controlled or managed by its successor-in-interest, whether an employer owned, controlled or managed its successor-in-interest, or whether an employer and its successor-in-interest were owned, controlled or managed by the same interest or interests under section 301(d)(1)(B) of the law (43 P. S. § 781(d)(1)(B)), common ownership, control, management or a combination thereof that exists at the time of the transfer of organization, trade, business or workforce will be disregarded if it commences immediately before the transfer and during a series of nearly contemporaneous business transactions culminating in the transfer.

##### **Source**

The provisions of this § 63.1a adopted June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094.

#### **§ 63.2. Part transfers of organization, trade or business.**

(a) *Applicability.* This section applies to part transfers of an organization, trade or business that occurred before July 1, 2005.

(b) *Wage ratios.* When an application for part transfer of an employer's experience record and reserve account balance has been approved, or where such a transfer has occurred as provided in section 301(d)(1)(B) of the law (43 P. S. § 781(d)(1)(B)), the Department will determine the ratio that the wages paid during the last 3 completed calendar years prior to the date of the transfer, in that part of the organization, bears to all wages paid by the predecessor in the corresponding period. If the part which is transferred has been in existence for a period of less than 3-calendar years, wages paid during that period shall be used to determine the ratio.

(c) *Application of ratio.* The wage ratio shall be used as the basis to reduce the reserve account of the predecessor and to establish the reserve account of the successor-in-interest, as follows:

(1) Apply the ratio to the reserve account of the predecessor beginning with the fiscal year in which wages were first paid in that part of the organization, trade or business for which records were transferred, and ending with the date on which the transfer occurred.

(2) Transfer the amounts determined pursuant to paragraph (1) from the experience record and reserve account balance of the predecessor to that of the successor-in-interest.

(d) *Benefit paid subsequent to transfer.* When an application for part transfer of the experience record and reserve account balance of an employer is filed and approved, benefits paid after the date of transfer based on wages paid before the date of transfer, in that part of the organization, trade or business transferred, shall be charged to the experience record and reserve account of the successor-in-interest.

#### Source

The provisions of this § 63.2 has been superseded by the act of June 15, 2005 (P. L. 8, No. 5) with regard to transfers of organization, trade, business or workforce that occur on or after July 1, 2005, amended June 17, 2011, to restrict its applicability to transfers that occurred before July 1, 2005, effective July 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial page (318295).

### § 63.3. Required forms and time limits for applications.

(a) An application for the transfer of the experience record and reserve account balance of a predecessor under the provisions of section 301(d)(1)(A) of the law (43 P. S. § 781(d)(1)(A)) shall be filed in the manner prescribed by the Department and containing the information that the Department requires. The application shall be signed by both the predecessor and the successor-in-interest.

(b) An application for the transfer of the experience record and reserve account balance of a predecessor, either in whole or in part, shall be filed within the time allowed under section 301(d)(1)(A) of the law.

(c) An application for the transfer of the experience record and reserve account balance of a predecessor that is filed beyond the time allowed under section 301(d)(1)(A) of the law is deemed to have been filed timely when the sole business of the successor-in-interest is that which the successor-in-interest acquires from the predecessor in a total transfer of the predecessor's business, and the successor-in-interest, through error or inadvertence, continues to file contribution reports and pay contributions under the account number of the predecessor and at the rate determined by the Department to apply to the predecessor.

#### Source

The provisions of this § 63.3 amended June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial page (318296).

**§ 63.4. Disapproval of applications for delinquency.**

If an application for transfer of the experience record and reserve account balance of a predecessor either in whole or in part, is filed and the predecessor is delinquent in the payment of contributions, interest or penalties due on wages paid by the predecessor as of the date the business was transferred, the Department will disapprove the application if the delinquency is not paid within 30 days of the request for payment by the Department.

**Source**

The provisions of this § 63.4 amended June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial pages (318296) to (235571).

**Cross References**

This section cited in 34 Pa. Code § 63.44 (relating to effect upon contribution rates).

**ASSIGNMENT OF CONTRIBUTION RATES****§§ 63.11—63.14. [Reserved].****Source**

The provisions of these §§ 63.11—63.14 amended October 22, 1971, 1 Pa.B. 2015; reserved June 17, 2011, applies to transfers of organization, trade, business or workforce under section 301(d)(1)(A) of the law (43 P. S. § 781(d)(1)(A)) that occur on or after June 18, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial pages (235571) to (235572).

**§ 63.15. Determination under combined experience provisions.**

If a successor-in-interest applies for a transfer of the experience record and reserve account balance of a predecessor, in whole or in part, under section 301(d)(1)(A) of the law (43 P. S. § 781(d)(1)(A)), the Department will combine the experience of the predecessor and the experience of the successor-in-interest, if any, for the purpose of determining the contribution rate of the successor-in-interest. The earliest calendar year for which a combination of experience under section 301(d)(1)(A) of the law will apply to the contribution rate of the successor-in-interest will be determined in accordance with this section.

(1) If the successor-in-interest files its application for a transfer of experience prior to the expiration of the rate appeal period for a calendar year, the year in which the application is filed is the earliest calendar year for which a combination of experience will apply.

(2) If the successor-in-interest files a timely application for review and redetermination of its contribution rate, and files its application for a transfer of experience within 30 days after the Department notifies the successor-in-interest that an application for a transfer of experience is required, the year for which the application for review and redetermination of contribution is filed is the earliest calendar year for which a combination of experience will apply.

(3) If the successor-in-interest files its application for a transfer of experience after the expiration of the rate appeal period for a calendar year, the calendar year following the year in which the application is filed is the earliest calendar year for which a combination of experience will apply.

(4) Notwithstanding paragraphs (1), (2) and (3), the earliest calendar year for which a combination of experience will apply is the year in which the transfer of organization, trade, business or work force occurred, if the successor-in-interest files its application for a transfer of experience within 90 days after the transfer of organization, trade, business or work force and any of the following apply:

(i) The successor-in-interest did not pay wages covered by the law prior to the transfer of organization, trade, business or work force.

(ii) The successor-in-interest most recently paid wages covered by the law prior to the year in which the transfer of organization, trade, business or work force occurred, and the reserve account of the successor-in-interest is terminated in accordance with section 302(d) of the law (43 P. S. § 782(d)) as of the computation date for that year.

(iii) The successor-in-interest most recently paid wages covered by the law prior to the year in which the transfer of organization, trade, business or work force occurred, and the reserve account of the successor-in-interest is not terminated in accordance with section 302(d) of the law as of the computation date for that year.

(5) If the earliest calendar year for which a combination of experience applies to the contribution rate of the successor-in-interest is the year in which the transfer of organization, trade, business or work force occurred, and paragraph (4)(i) or (ii) applies to the successor-in-interest, the rate of the successor-in-interest for the year in which the transfer of organization, trade, business or work force occurred is the rate of the predecessor for that year.

(6) Notwithstanding paragraphs (1)—(5), the experience record and reserve account balance acquired from the predecessor may not affect the contribution rate of the successor-in-interest for any period prior to the date on which the transfer of organization, trade, business or workforce occurs.

#### Source

The provisions of this § 63.15 amended June 17, 2011, applies to transfers of organization, trade, business or workforce under section 301(d)(1)(A) of the law (43 P. S. § 781(d)(1)(A)) that occur on or after June 18, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial page (235572).

**§ 63.16. [Reserved].****Source**

The provisions of this § 63.16 amended October 22, 1971, 1 Pa.B. 2015; reserved June 17, 2011, applies to transfers of organization, trade, business or workforce under section 301(d)(1)(A) of the law (43 P. S. § 781(d)(1)(A)) that occur on or after June 18, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial pages (235572) to (235573).

**§ 63.17. Binding effect of transfers.**

A transfer of an experience record and reserve account balance, in whole or in part, having been approved by the Department on the basis of an application for the transfer of predecessor experience record and reserve account balance, binds both the predecessor and the successor-in-interest.

**Source**

The provisions of this § 63.17 amended October 22, 1971, 1 Pa.B. 2015; amended June 17, 2011, applies to transfers of organization, trade, business or workforce under section 301(d)(1)(A) of the law (43 P. S. § 781(d)(1)(A)) that occur on or after June 18, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial page (235573).

**APPLICATIONS FOR REVIEW AND REDETERMINATION OF  
CONTRIBUTION RATES****§ 63.21. Notification of rate and prerequisites for applications for review and redetermination.**

(a) For purposes of section 301(e)(2) and (j) of the law (43 P. S. § 781(e)(2) and (j)), an employer is not notified of its rate of contribution for a calendar year until the Department issues a Contribution Rate Notice to the employer.

(b) The Department may consider an application for review and redetermination of contribution rate filed under section 301(e)(2) of the law only if it meets the following conditions:

- (1) It is filed within the time specified in section 301(e)(2) of the law.
- (2) The reasons set forth by the employer contain factual statements, not mere generalities, showing specifically where the contribution rate or reserve account balance is incorrect. The Department may not consider any factual or legal reason that the employer fails to assert in its application for review and redetermination.

**Source**

The provisions of this § 63.21 amended October 22, 1971, 1 Pa.B. 2015; amended June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial page (235574).

**Cross References**

This section cited in 34 Pa. Code § 63.24 (relating to unacceptable applications); and 34 Pa. Code § 63.44 (relating to effect upon contribution rates).

**§ 63.22. Supporting data.**

Employers who wish to file an application for review and redetermination of contribution rate shall furnish supporting data as follows:

(1) To contest a ruling of insufficient experience, the employer shall submit information to show that his employer experience record meets the eligibility requirements of section 301.1(b) of the law (43 P. S. § 781.1(b)) for a rate of less than the standard rate provided in section 301(a)(1) or (3) of the law (43 P. S. § 781(a)(1) and (3)), whichever is applicable.

(2) To contest a contribution rate assigned under section 301(a)(2) of the law, the employer shall submit information to show that it filed all reports establishing the amount of contributions and showing the amount of wages paid for calendar quarters through the second quarter of the preceding calendar year, and that it paid all contributions, penalties and interest due on wages paid to the end of the second quarter of the preceding calendar year.

(3) To contest a contribution rate assigned under section 301(a)(2.1) of the law, the employer shall submit information to show that it filed the reports required under section 315(a)(1), (2) and (3) of the law (43 P. S. § 715(a)(1), (2) and (3)).

(4) To contest the accuracy of any figures shown on the Contribution Rate Notice, the employer shall submit information obtained from his records to substantiate the alleged discrepancy.

**Source**

The provisions of this § 63.22 amended October 22, 1971, 1 Pa.B. 2015; amended June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial pages (235574) to (235575).

**Cross References**

This section cited in 34 Pa. Code § 63.24 (relating to unacceptable applications).

**§ 63.23. Unacceptable reasons.**

(a) The Department will not approve an application for review and redetermination of contribution rate based on the following reasons:

(1) *Questions of eligibility.* Claimants who caused the benefit charges were ineligible to receive unemployment compensation.

(i) Questions of eligibility for compensation shall be resolved conclusively under sections 501—512 of the law (43 P. S. §§ 821—832) and § 65.63 (relating to filing of appeals).

(ii) Appeals raising questions of eligibility for compensation shall be filed in the manner and within the time prescribed in the law and this subpart. (For detailed instructions, see Form UC-44F, Notice of Financial



Determination, which is mailed to base-year employers at the time the Department makes the financial determination on the application for benefits by the claimant.)

(2) *Claimants who caused benefit charges.* Claimants who caused benefit charges were separated from the applicant due to being discharged for willful misconduct connected with their work or due to leaving work without good cause attributable to their employment.

(i) Questions as to the right to relief from charges for these reasons shall be resolved conclusively under section 302(a) of the law (43 P. S. § 782(a)) and §§ 63.31—63.37 (relating to relief from benefit charges).

(ii) Requests raising these questions shall be filed in the manner and within the time prescribed in the law and this subpart. (For detailed instructions, see Form UC-44FR, Request for Relief from Charges, which is mailed to base-year employers with the Form UC-44F.)

(3) *Benefits charged to employer's reserve account.* Benefits charged to the reserve account of the employer as shown on Form UC-640, Monthly Notice of Compensation Charged, are incorrect.

(i) Questions regarding the accuracy of benefit charges on Form UC-640, shall be resolved conclusively under section 301(e)(1) of the law (43 P. S. § 781(e)(1)).

(ii) Protests contesting the accuracy of the charges shall be filed in the manner and within the time prescribed in the law and this subpart. (For detailed instructions, see Form UC-640, Monthly Notice of Compensation Charged, which is mailed to base-year employers following the payment of unemployment compensation to their former employees.)

(4) *Reserve account balance.* The reserve account balance as indicated on the Contribution Rate Notice is inaccurate, if the alleged inaccuracy is attributable to an error that occurred more than 4 years prior to the computation date for the contribution rate in question.

(5) *Payment plan default.* The rate of contribution assigned after the employer defaults on a deferred payment plan is incorrect for reasons unrelated to the payment plan or the default.

(i) Under section 301(a)(2) of the law, an employer that is delinquent in the payment of contributions, interest or penalty is assigned a rate of contribution that is the sum of 3% plus the employer's rate as otherwise determined. However, if the employer is complying with a deferred payment plan, section 301(a)(2) of the law provides that the Department will issue a rate of contribution that does not include the additional 3%. If the employer defaults on the payment plan, section 301(a)(2) of the law provides that the employer's contribution rate or rates for the period of the payment plan are retroactively revised to include the additional 3%.

(ii) If an employer with a deferred payment plan is assigned a rate that does not include the additional 3% and the employer is dissatisfied with the

assigned rate, the employer is responsible to timely contest the assigned rate. If an employer defaults on a payment plan and the employer's rate is revised to include the additional 3%, an application for review and redetermination of contribution rate filed in response to the rate revision is limited to the issue of whether a default on the payment plan occurred.

(b) An application for review and redetermination of contribution rate will not be disapproved under this section while the issues of benefit eligibility or charge relief are pending under the provisions specified, neither shall the application be disapproved pending such proceedings. In those cases, the employer's application shall be held in abeyance until final resolution of the issue of eligibility or relief from charges.

**Source**

The provisions of this § 63.23 amended April 26, 1974, 4 Pa.B. 826; amended June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial pages (235575) to (235576).

**§ 63.24. Unacceptable applications.**

(a) The Department will deny the following applications for review and redetermination of contribution rate:

(1) Applications which are not timely filed under § 63.21(1) (relating to notification of rate and prerequisites for applications for review and redetermination).

(2) Applications based upon the reasons in § 63.23 (relating to unacceptable reasons).

(b) The Department may deny applications for review and redetermination of contribution rate which do not furnish the information required in § 63.21(b)(2) or 63.22 (relating to supporting data).

(c) If an application is denied under this section, the Department will inform the employer and advise the employer of the reasons for the denial.

**Source**

The provisions of this § 63.24 amended October 22, 1971, 1 Pa.B. 2015; amended June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial page (235576).

**FILINGS AND APPEALS**

**§ 63.25. Filing methods.**

(a) *Applicability.* Except as otherwise provided in the law or this chapter, a document shall be filed with the UCTS in accordance with subsections (b)—(f).

(b) *United States mail.* The filing date will be determined as follows:

(1) The date of the official United States Postal Service postmark on the envelope containing the document, a United States Postal Service Form 3817 (Certificate of Mailing) or a United States Postal Service certified mail receipt.

(2) If there is no official United States Postal Service postmark, United States Postal Service Form 3817 or United States Postal Service certified mail receipt, the date of a postage meter mark on the envelope containing the document.

(3) If the filing date cannot be determined by any of the methods in paragraph (1) or (2), the filing date will be the date recorded by UCTS when it receives the document.

(c) *Common carrier.* A document may be delivered by a common carrier of property that is subject to the authority of the Pennsylvania Public Utility Commission or the United States National Surface Transportation Board. The date of filing is the date the document was delivered to the common carrier, as established by a document or other record prepared by the common carrier in the normal course of business. If the date of delivery to the common carrier cannot be determined by the documents in the record, the date of filing will be the date recorded by UCTS when it receives the document.

(d) *Fax transmission.*

(1) The filing date will be determined as follows:

(i) The date of receipt imprinted by the UCTS fax machine.

(ii) If the UCTS fax machine does not imprint a legible date, the date of transmission imprinted on the faxed document by the sender's fax machine.

(iii) If the faxed document is received without a legible date of transmission, the filing date will be the date recorded by UCTS when it receives the document.

(2) A party filing a document by fax transmission is responsible for delay, disruption, interruption of electronic signals and readability of the document and accepts the risk that the document may not be properly or timely filed.

(e) *Electronic transmission other than fax transmission.* The filing date is the receipt date recorded by the UCTS electronic transmission system, if the electronic record is in a form capable of being processed by that system. A party filing by electronic transmission shall comply with UCTS instructions concerning format. A party filing by electronic transmission is responsible for using the proper format and for delay, disruption, interruption of electronic signals and readability of the document and accepts the risk that the document may not be properly or timely filed.

(f) *Personal delivery.* The filing date will be the date the document was personally delivered to UCTS during its normal business hours.

#### Source

The provisions of this § 63.25 adopted June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094.

**Cross References**

This section cited in 34 Pa. Code § 63.33 (relating to request for relief from benefit charges); 34 Pa. Code § 63.60 (relating to mass layoff request); and 34 Pa. Code § 63.63 (relating to agreement to compromise).

**§ 63.26. Appeal to the Secretary.**

(a) If an employer files an application for review and redetermination of its contribution rate under section 301(e)(2) of the law (43 P. S. § 781(e)(2)) and the employer is aggrieved by the determination of the UCTS, the employer may appeal to the Secretary or the Secretary's designee within 30 days of the mailing date of the UCTS determination.

(b) If UCTS issues an assessment under section 304 of the law (43 P. S. § 784) and the person to whom the assessment is directed is aggrieved by the assessment, the person may appeal to the Secretary or the Secretary's designee by filing a petition for reassessment within the time allowed under section 304.

(c) If an employer applies for a refund or credit under section 311 of the law (43 P. S. § 791) and the employer is aggrieved by the determination of UCTS, the employer may appeal to the Secretary or the Secretary's designee within 30 days of the mailing date of the UCTS determination.

(d) The following provisions apply to an appeal under subsection (a), (b) or (c):

(1) The appellant shall file the appeal with the Unemployment Compensation Tax Review Office at the address indicated in the UCTS determination or assessment and in the manner prescribed by the Unemployment Compensation Tax Review Office, and serve a copy on UCTS.

(2) The appellant shall set forth in the appeal all factual assertions and legal arguments that are the basis for the appeal. The Secretary or the Secretary's designee may not consider any factual or legal grounds for relief that are not set forth in the appeal.

(3) The decision of the Secretary or the Secretary's designee is the final decision of the Department.

**Source**

The provisions of this § 63.26 adopted June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094.

**RELIEF FROM BENEFIT CHARGES****§ 63.31. Applicability and definitions.**

(a) An employer that pays contributions may be relieved of benefit charges in accordance with section 302(a) of the law (43 P. S. § 782(a)) and this chapter.

(b) If an employer that makes payments in lieu of contributions satisfies the requirements of section 213 of the law (43 P. S. § 773) for a calendar year, the

employer may be relieved of charges, in accordance with section 302(a) of the law and this chapter, for benefits paid on applications for benefits that take effect during that calendar year.

(c) The following words and terms, when used in §§ 63.31—63.37, have the following meanings, unless the context clearly indicates otherwise:

*Material change*—A substantial reduction in wages or in the number of hours or days ordinarily worked by the claimant employed in part-time work.

*Return to work*—Resumption of employment with an employer from whom the claimant had been separated, at the level of employment that existed immediately prior to the separation.

*Separation from employment*—A termination of the employment relationship, a suspension of active employment, or a reduction in the number of hours worked by the claimant.

#### Source

The provisions of this § 63.31 amended June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial pages (235576) to (235577).

#### Cross References

This section cited in 34 Pa. Code § 63.23 (relating to unacceptable reasons).

### § 63.32. Reasons for relief from benefit charges.

(a) Under section 302(a)(1) of the law (43 P. S. § 782(a)(1)), an employer may be granted relief from benefit charges in the following circumstances:

(1) When the claimant was separated from employment with the employer under conditions that would be disqualifying under section 402(e) of the law (43 P. S. § 802(e)), which provides that an individual is ineligible for benefits if the individual is unemployed due to willful misconduct.

(2) When the claimant was separated from employment with the employer under conditions that would be disqualifying under section 402(b) of the law, which provides that an individual is ineligible for benefits if the individual voluntarily left work without a necessitous and compelling reason.

(3) When the claimant was separated from employment with the employer under conditions that would not be disqualifying under section 402(b) of the law, but do not involve good cause attributable to the claimant's employment.

(4) When the claimant was separated from employment with the employer under conditions that would be disqualifying under section 3 of the law (43 P. S. § 752)), which provides that an individual must be unemployed through no fault of his own to be eligible for benefits.

(5) When the claimant was separated from employment with the employer under conditions that would be disqualifying under section 402(e.1) of the law, which provides that an individual is ineligible for benefits if the individual is unemployed due to failure to submit to or pass a drug test.

- (6) When the claimant was separated due to a major natural disaster declared by the President of the United States.
- (b) Under section 302(a)(2) of the law, an employer may be granted relief from benefit charges when the claimant continues to work part-time for the employer without material change after being separated from other employment.
- (c) Under section 302(a)(2.1) of the law, an employer may be granted relief from benefit charges when the claimant was separated due to a cessation of business of 18 months or less caused by a disaster.

#### Source

The provisions of this § 63.32 amended December 21, 1973, 3 Pa.B 2921; amended June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial page (235577).

#### Cross References

This section cited in 34 Pa. Code § 63.23 (relating to unacceptable reasons).

### § 63.33. Request for relief from benefit charges.

- (a) An employer shall file a request with the Department to be granted relief from benefit charges.
- (b) An employer's request for relief from benefit charges must contain the information required by the Department, including the following:
- (1) The name and account number of the employer.
  - (2) The name of the claimant.
  - (3) The social security account number of the claimant.
- (c) In addition to the information required under subsection (b), a request for relief from benefit charges based on a claimant's separation from employment must contain a statement of the facts surrounding the most recent separation of the claimant from the employer requesting relief and the date of the separation.
- (d) In addition to the information required under subsection (b), an employer making a request for relief from benefit charges based on continuing part-time work shall include a statement of the facts concerning the part-time employment of the claimant which contains the following information:
- (1) The date the claimant was hired.
  - (2) The number of hours or days of work and the pay available to the claimant before and after the claimant's separation from other employment.
- (e) An employer shall file a request for relief from benefit charges with the Department in the same manner that documents shall be filed with the UCTS under § 63.25 (relating to filing methods). The filing date of the request will be determined in accordance with § 63.25.
- (f) Notwithstanding subsection (e), the Department may prescribe additional filing methods that it determines, in its discretion, to be advisable or expedient. If the Department prescribes an additional filing method, it will designate the date on which a request is filed by that method.

**Source**

The provisions of this § 63.33 amended December 21, 1973, 3 Pa.B. 2921; amended June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial pages (235577) to (235578).

**Cross References**

This section cited in 34 Pa. Code § 63.23 (relating to unacceptable reasons); and 34 Pa. Code § 63.36a (relating to duration of relief from benefit charges and notice of changed circumstances).

**§ 63.34. [Reserved].****Source**

The provisions of this § 63.34 amended September 17, 1976, 6 Pa.B. 2278; reserved June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial page (235578).

**Cross References**

This section cited in 34 Pa. Code § 63.23 (relating to unacceptable reasons).

**§ 63.35. [Reserved].****Source**

The provisions of this § 63.35 amended through September 17, 1976, 6 Pa.B. 2278; reserved June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial pages (235578) and (259493).

**Notes of Decisions***Full-Time Work*

Claimant who 10 months after being laid off from a 40-hour per week job, accepts a 37 1/2 hour per week job is deemed employed full-time. *Watkins v. Unemployment Compensation Board of Review*, 491 A.2d 935 (Pa. Cmwlth. 1985).

**Cross References**

This section cited in 34 Pa. Code § 63.23 (relating to unacceptable reasons).

**§ 63.36. Time limits for requesting relief from benefit charges.**

(a) If an employer is requesting relief from benefit charges on the basis of a separation that occurs on or before the date the claimant files an application for benefits or on the basis of continuing part-time work, the employer shall file the request with the Department within 15 days after the date of the first eligible Notice of Financial Determination issued by the Department pursuant to the claimant's application for benefits.

(b) If an employer is requesting relief from benefit charges on the basis of a separation that occurs after the claimant files an application for benefits, the employer shall file the request within 15 days after the date of the Department's

earliest notice indicating that the claimant is claiming benefits subsequent to the separation and that the employer may request relief from benefit charges.

(c) The following apply to employer requests for relief from benefit charges:

(1) If an employer requests relief from benefit charges in accordance with subsection (a) and the Department grants relief, relief will begin with the earliest week for which the claimant is eligible for benefits pursuant to the claimant's application for benefits.

(2) If an employer requests relief from benefit charges in accordance with subsection (b) and the Department grants relief, relief will begin with the earliest week for which the claimant is eligible for benefits following the last day worked.

(3) A request for relief from benefit charges not filed within the time limitations prescribed in subsections (a) or (b) is effective only with respect to charges resulting from benefits paid for weeks ending on or after the date the late request is filed with the Department.

#### Source

The provisions of this § 63.36 amended through September 17, 1976, 6 Pa.B. 2278; amended June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial pages (259493) to (259494).

#### Cross References

This section cited in 34 Pa. Code § 63.23 (relating to unacceptable reasons).

### **§ 63.36a. Duration of relief from benefit charges and notice of changed circumstances.**

(a) Subject to the requirements of §§ 63.33 and 63.36 (relating to request for relief from benefit charges; and time limits for requesting relief from benefit charges), relief from benefit charges granted to an employer on the basis of a claimant's separation from employment remains in effect until the claimant returns to work for the employer or until the end of the period for which relief is authorized under section 302(a) of the law (43 P. S. § 782(a)), whichever occurs first.

(b) An employer that is granted relief from benefit charges on the basis of a claimant's separation from employment shall notify the Department within 15 days if the claimant returns to work for that employer. The employer shall include



with the notification the claimant's name and Social Security number, the employer's name and account number and the date when reemployment commenced.

(c) An employer that is granted relief from benefit charges on the basis of continuing, part-time work shall notify the Department within 15 days if the employment situation of the claimant changes. The employer shall include with the notification the claimant's name and Social Security number and the employer's name and account number.

**Source**

The provisions of this § 63.36a adopted June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094.

**§ 63.37. Determinations and appeals.**

The Bureau will notify employers in writing of the determinations made regarding their requests for relief from charges under section 302(a) of the Law (43 P. S. § 782(a)). Employers may appeal from these determinations in the manner provided under section 501 of the law (43 P. S. § 821) for appeals from benefit decisions.

**Cross References**

This section cited in 34 Pa. Code § 63.23 (relating to unacceptable reasons).

**READJUSTMENT OF RESERVE ACCOUNT BALANCES**

**§ 63.41. Requests.**

An employer who elects to have its debit reserve account balance adjusted under section 302(c) of the law (43 P. S. § 782(c)) shall submit a request for the adjustment to the Department, in the manner prescribed by the Department and containing the information required by the Department.

**Source**

The provisions of this § 63.41 amended June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial page (259494).

**§ 63.42. Time period for filing and revocability.**

(a) An employer shall file a request for adjustment of a debit reserve account balance on or after the date of the Contribution Rate Notice for the calendar year immediately following the computation date corresponding to the adjustment, but not later than April 30 of that calendar year.

(b) The employer may not revoke the request for any cause more than 10 days after the date of filing.

**Source**

The provisions of this § 63.42 amended June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial page (259494).

**§ 63.43. [Reserved].**

**Source**

The provisions of this § 63.43 reserved June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial page (259494).

**§ 63.44. Effect upon contribution rates.**

(a) When computing contribution rates for a calendar year, the Bureau shall consider those adjustments to the reserve account or average annual payroll of an employer which are posted to the reserve account prior to the cutoff date for computing contribution rates for the year.

(b) This section may not exclude the adjustments from a redetermination of a contribution rate filed in accordance with § 63.21 (relating to prerequisites for applications) as an application for predecessor's experience record and reserve account balance filed in accordance with § 63.4 (relating to disapproval of applications for delinquency).

**REPORTS TO BE FILED**

**§ 63.51. Initial and renewed registration.**

(a) Under section 315(a)(1) of the law (43 P. S. § 795(a)(1)), an employer shall register with the Department within 30 days after services are first performed for the employer.

(b) If an employer that has stopped filing reports in accordance with § 63.52(b) (relating to quarterly reports from employers) or has not provided employment for 1 year or longer resumes providing employment, the employer shall file a new registration with the Department within 30 days after it resumes providing employment.

**Source**

The provisions of this § 63.51 amended June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial page (235581).

**§ 63.52. Quarterly reports from employers.**

(a) *Required reports.* An employer shall file the following reports for each calendar quarter, regardless of whether the employer has paid wages during the calendar quarter:

(1) The periodic report to establish the amount of contributions due, known as the Employer's Report for Unemployment Compensation.

(2) The periodic report showing the amount of wages paid to each employe, known as the Employer's Quarterly Report of Wages Paid to Each Employee.

(b) *Termination of reporting.* An employer may stop filing reports required under subsection (a) if it certifies in writing that it no longer provides employment as defined in section 4 of the law (43 P. S. § 753) or the Department determines that the employer no longer provides the employment.

(c) *Contents of reports.* An Employer's Report for Unemployment Compensation must contain the total amount of wages paid during the calendar quarter, the amount of wages paid during the calendar quarter that does not exceed the limitation in section 4(x)(1) of the law, the amount of contributions due, and other information the Department requires. An Employer's Quarterly Report of Wages Paid to Each Employee must contain the following:

(1) The name and Social Security number of each employee to whom wages were paid during the calendar quarter.

(2) The amount of wages paid to each employee.

(3) The number of credit weeks for each employee.

(4) Other information the Department requires.

(d) *Due date.*

(1) An employer shall file reports required under subsection (a) on or before the last day of the month that immediately follows the end of the calendar quarter for which the reports are filed. If the day on which the reports are required to be filed is a Saturday, Sunday or legal holiday, the employer may file them on the first subsequent day that is not a Saturday, Sunday or legal holiday.

(2) The Department may require an employer that has discontinued operation of its organization, trade or business in this Commonwealth to file the reports required under subsection (a) immediately.

(e) *Reporting methods.* Except as otherwise prescribed by the Department under subsection (g), for calendar quarters beginning on or after the effective date of this subsection an employer shall make the reports required under subsection (a) through an electronic filing system that the Department prescribes.

(f) *Filing date.* The filing date of a report made under subsection (e) is the receipt date recorded by the electronic filing system.

(g) *Additional reporting methods.*

(1) The Department may prescribe additional methods for employers to make the reports required under subsection (a). If the Department prescribes an additional method to make a report, it will designate the date on which a report made by that method is filed. The Department may suspend use of one or more of the methods of making reports prescribed in subsection (e) or under this

paragraph when it determines, in its discretion, that the method is obsolete, impractical or infrequently used.

(2) The Department may limit a class of employers to one or more methods of making the reports required under subsection (a), or limit a method of making the reports to a class or classes of employers.

(h) *Waiver*. Upon a showing of good cause, the Department may allow an employer to make the reports required under subsection (a), to file the reports, or both, by a method other than as provided in subsections (e), (f) and (g).

#### Source

The provisions of this § 63.52 amended June 17, 2011, subsections (a)—(d) and (f)—(h) effective June 18, 2011, 41 Pa.B. 3094; subsection (e) amended June 17, 2011, effective January 1, 2014, and applies to calendar quarters and billing periods that begin on or after January 1, 2014, 43 Pa.B. 2438. Immediately preceding text appears at serial pages (357576) to (357578).

#### Cross References

This section cited in 34 Pa. Code § 63.51 (relating to initial and renewal registration); and 34 Pa. Code § 63.55 (relating to wages paid under Shipping Articles).

### § 63.53. Form UC-45.

(a) When an employer receives Form UC-45, Notice of Application and Request for Separation Information, or Form UC-45A, Notice of Registration Renewal and Request for Separation Information, he shall complete the form and return it to the local public employment office designated on the form within 4 days from the date on which the form is received.

(b) If an employer contemplates the separation at one time of a large number of employees a local office manager may, at his option, enter into an agreement with the employer to accept a list showing the required information, in lieu of Forms UC-45 and UC-45A.

### § 63.54. Form UC-785.

(a) When an employer receives Form UC-785, Low Earnings Report, and regardless of whether he is liable for the payment of contributions, he shall complete the form and return it to the local public employment office:

(1) Within 4 days from the date on which the form is received, if the payroll period (which includes the last day of the week being used as a basis for a claim for partial or part-total unemployment) has ended and the data required is available.

(2) Within 4 days from the date when the payroll period (which includes the last day of the week being used as a basis for a claim for partial or part-total unemployment) has ended and the required data are available.

(b) The Bureau shall indicate the last day of the week on the form before sending it to the employer, and shall indicate by the wording and form as instructions for completing the form, the information which the employer is required to supply, and the manner in which it is to be supplied.

**§ 63.55. Wages paid under Shipping Articles.**

(a) If wages are paid under Shipping Articles for services performed during one or more calendar quarters prior to the calendar quarter in which the Shipping Articles terminate, the wages shall be reported on Form UC-2A, notwithstanding § 63.52 (relating to Form UC-2), and filed with the Bureau on or before the last day of the month which immediately follows the end of the calendar quarter in which the Shipping Articles terminate.

(b) If the Bureau requests that the wages be reported prior to the due date mentioned in subsection (a), they shall be reported to the Bureau within 4 days of the receipt of the request.

(c) The report of wages covered by the provisions of this section shall include the name of the ship on which services were performed, the dates of the voyage, and the gross wages paid, including all allowances for the calendar year in which the wages were earned.

**§ 63.56. Other reports.**

Each employer, whether or not liable for the payment of contributions, shall file from time to time any other reports as may be required of him by the Bureau in order to determine his liability or for any other purpose necessary in the administration of the provisions of the Law.

**§ 63.57. Request for time extensions.**

(a) Employers desiring an extension of time in which to file reports or to pay contributions shall make their requests to the Bureau in writing stating reasons justifying the extension together with a statement of the period and terms of the extension desired.

(b) All requests shall be received by the Bureau on or before the date on which the report or the contribution for which an extension is being requested is regularly due.

(c) The Bureau may in its discretion grant or refuse the request and shall notify the employer accordingly.

**§ 63.58. [Reserved].****Source**

The provisions of this § 63.58 reserved June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial page (235583).

**§ 63.59. PEO quarterly reports.**

(a) *Method and content of report.* A report required under section 315(a)(4) of the law (43 P. S. § 795(a)(4)) shall be made through the electronic filing system prescribed by the Department for that purpose, and include the information required by that system.

(b) *Filing date.* The filing date of a report required under section 315(a)(4) of the law is the date indicated on the confirmation page displayed upon completion of the filing process.

**Source**

The provisions of this § 63.59 adopted June 17, 2011, applies to reports filed on or after June 18, 2011, effective June 18, 2011, 41 Pa.B. 3094.

**§ 63.60. Mass layoff report.**

(a) An employer that lays off or separates 50 or more individuals within any 7-day period shall provide the information that the Department requires for processing the individuals' applications and claims for unemployment compensation.

(b) The employer shall file the report required under subsection (a) in accordance with the following.

(1) The employer shall file the report no later than 5 business days prior to the first layoff or separation, unless the Department extends the due date for the report for good cause.

(2) The employer shall file the report in the same manner that documents shall be filed with the UCTS under § 63.25 (relating to filing methods). The filing date of the report will be determined in accordance with § 63.25.

**Source**

The provisions of this § 63.60 adopted June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094.

**MISCELLANEOUS PROVISIONS**

**§ 63.61. [Reserved].**

**Source**

The provisions of this § 63.61 reserved June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial page (235583).

**§ 63.62. [Reserved].**

**Source**

The provisions of this § 63.62 reserved June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial pages (235583) to (235584).

**§ 63.63. Agreement to compromise.**

(a) An employer's application for compromise of contributions, interest or penalties under section 309.1 of the law (43 P. S. § 789.1) shall be filed in the manner prescribed in § 63.25 (relating to filing methods). The employer shall provide all information requested by the Department to determine whether the application will be granted.

(b) An application for compromise is effective only if both of the following occur:

- (1) The Department notifies the employer that the application is approved.
- (2) The employer pays the contributions, reimbursement, interest, penalties and legal costs that it owes, other than those amounts the Department has agreed to forgo in the compromise, within the time and in the manner that the Department specifies.

**Source**

The provisions of this § 63.63 amended June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial page (235584).

**§ 63.64. Records to be kept by employer.**

(a) *Content of records.* Each employer, whether or not liable for the payment of contributions, shall keep clear, accurate and complete employment and payroll records. The records must contain the following information on each worker, including workers whom the employer considers to be independent contractors, workers whom the employer considers not “employees” under the law, and workers covered by an arrangement described in section 4(j)(2.1) of the law (43 P. S. § 753(j)(2.1)):

- (1) Social security account number.
- (2) Full name.
- (3) Wage rate (hourly, daily or piece rate, weekly, monthly or annual salary).
- (4) Total remuneration paid for each pay period by type of payment (cash and fair market value of noncash remuneration).
- (5) Traveling or other business expenses actually incurred and accounted for, and the dates such expenses were incurred and were paid by the employer.
- (6) Place of employment.
- (7) All scheduled hours and hours worked.
- (8) Daily attendance record, showing the dates on which the worker actually worked, and time lost due to reasons other than lack of work.
- (9) If separated, the date and the reasons for separation.
- (10) Number of credit weeks.
- (11) Documentation of payments made to the worker, including bank statements, cancelled checks, copies of cancelled checks, check stubs, and electronic funds transfer records.
- (12) If the worker is covered by an arrangement described in section 4(j)(2.1) of the law, the contract between the employer and the other party to the arrangement.
- (13) Any contract between the employer and the worker.

(14) If the employer considers the worker to be an independent contractor or otherwise not an “employee” under the law, all records, documentation and evidence supporting that position.

(15) Federal and State tax returns for the periods when the worker was employed.

(b) *Location, retention and inspection of records.*

(1) The employment and payroll records required under subsection (a) shall be retained either at the place of employment or at an established central recordkeeping office for at least 4 years after contributions relating to the records have been paid.

(2) Daily attendance records need not be retained for more than 2 years.

(3) The Department’s authorized representatives may inspect, transcribe or photocopy all employment and payroll records required under subsection (a) and all other business records, including, without limitation, cash books, journals, ledgers and corporate minutes at any reasonable time and as often as may be deemed necessary. The employer or entity in possession of the records shall keep the records in a condition that the information required may readily be obtained by representatives of the Department.

(c) *Scope.* For purposes of this section, the term “employer” includes any person for whom services are performed by an individual for remuneration.

#### Source

The provisions of this § 63.64 amended June 17, 2011, applies to employment occurring on or after June 18, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial pages (235584) to (235585).

### § 63.66. Power of attorney.

(a) *Power of attorney.* An employer may appoint an agent with full or limited power and authority to act on its behalf with the Department.

(b) *Form of power of attorney.* An employer’s appointment of an agent shall be made in the manner prescribed by the Department and contain the information required by the Department.

#### Source

The provisions of this § 63.66 adopted June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094.



**Subchapter B. MULTISTATE AGREEMENTS****MISCELLANEOUS**

- Sec.  
 63.71. Definitions.  
 63.72. Approval of coverage elections under the Interstate Reciprocal Coverage Agreement.  
 63.73. Effective period of elections.  
 63.74. Reports and notices by the electing unit.  
 63.75. [Reserved].

**TRANSFER OF CONTRIBUTIONS BETWEEN STATES**

- 63.81. Scope.  
 63.82. Prerequisites to transfer.  
 63.83. Amount of contributions transferred.  
 63.84. Transfer of wage records.  
 63.85. Interest on delinquent contributions.

**MISCELLANEOUS****§ 63.71. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Agency*—Any officer, board, commission or other authority charged with the administration of the unemployment compensation law of a participating jurisdiction.

*Covering state*—The state to which an employer has erroneously paid contributions under the unemployment compensation law of the state with respect to wages paid for such unemployment.

*Interested agency*—The agency of an interested jurisdiction.

*Interested jurisdiction*—Any participating jurisdiction to which an election submitted under the provisions of this subchapter is sent for its approval.

*Jurisdiction*—Any state of the United States, the District of Columbia, Puerto Rico, Virgin Islands or with respect to the Federal government, the coverage of any Federal unemployment compensation law.

*Participating jurisdiction*—A jurisdiction whose administrative agency has subscribed to the arrangement and whose adherence thereto has not terminated.

*Refunding state*—The state to which an employer has erroneously paid contributions under the unemployment compensation law of a participating jurisdiction.

*Services customarily performed by an individual in more than one jurisdiction*—Services performed in more than one jurisdiction during a reasonable period, if the nature of the services gives reasonable assurance that they will continue to be performed in more than one jurisdiction or if such services are required or expected to be performed in more than one jurisdiction under the election.

**§ 63.72. Approval of coverage elections under the Interstate Reciprocal Coverage Agreement.**

(a) Any employer may file an election on Form RC-1, Employer's Election to Cover Multistate Workers Under the Law (43 P. S. § 792) to cover under the law of a single participating jurisdiction all of the services performed for him by any individual who customarily works for him in more than one participating jurisdiction.

(b) An election may be filed with respect to an individual with any participating jurisdiction in which:

- (1) Any part of the services are performed.
- (2) The individual has his residence.
- (3) The employing unit maintains a place of business to which the services of the individual bear a reasonable relation.

(c) The agency of the elected jurisdiction shall initially approve or disapprove the election in compliance with the following:

(1) If the agency approves the election, it shall forward a copy thereof to the agency of every other specified participating jurisdiction under whose unemployment compensation law the individual or individuals in question might, in the absence of the election, be covered. Each interested agency shall approve or disapprove the election as promptly as practicable and shall notify the agency of the elected jurisdiction accordingly.

(2) If the agency of the elected jurisdiction or the agency of any interested jurisdiction disapproves the election, the disapproving agency shall notify the elected jurisdiction and the electing employing unit of its action and of its reasons therefor.

(3) In case its law so requires, any interested agency may, before taking action, require from the electing employing unit satisfactory evidence that the affected employees have been notified of and have acquiesced in the election.

(d) Elections shall take effect as to the elected jurisdiction only if approved by its agency and by one or more interested agencies. Elections approved in this manner shall take effect as to any interested agency only if it is approved by the interested agency. If election is approved only in part or is disapproved by some agencies, the electing employing unit may withdraw its election within 10 days after being notified of the action.

**§ 63.73. Effective period of elections.**

(a) *Commencement.* An election approved under the provisions of this subchapter shall become effective at the beginning of the calendar quarter in which the election was submitted, unless the election as approved specifies the beginning of a different calendar quarter.

(b) *Termination.* The application of an election to any individual under the provisions of this subchapter shall terminate if the agency of the elected jurisdiction finds that the nature of the services customarily performed by the individual for the electing unit has changed so that they are no longer customarily performed in more than one participating jurisdiction. The termination shall be effective on the closing date of the calendar quarter in which notice of the finding is mailed to all parties affected.

(c) *Normal effect.* Except as provided by subsection (a) each election approved under the provisions of this subchapter shall remain in effect through the close of the calendar year in which it is submitted, and thereafter until the close of the calendar quarter in which the electing unit gives written notice of its termination to all affected agencies.

(d) *Notification of termination.* Whenever an election under this subchapter ceases to apply to any individual under subsections (a) and (b), the electing unit shall notify the affected individual accordingly.

**§ 63.74. Reports and notices by the electing unit.**

(a) The electing unit shall promptly notify each individual affected by its approved election on Form RC-2 supplied by the elected jurisdiction, and shall furnish the elected agency a copy of such notice.

(b) Whenever an individual covered by an election under the provisions of this subchapter is separated from his employment, the electing unit shall again notify him forthwith as to the jurisdiction under whose unemployment compensation law his services have been covered. If at the time of termination the individual is not located in the elected jurisdiction, the electing unit shall notify him as to the procedure for filing interstate benefit claims.

(c) The electing unit shall immediately report to the elected jurisdiction any change which occurs in the conditions of employment pertinent to its election, such as cases where the services of an individual for the employer ceases to be customarily performed in more than one participating jurisdiction or where a change in the work assigned to an individual requires him to perform services in a new participating jurisdiction.

**§ 63.75. [Reserved].****Source**

The provisions of this § 63.75 reserved June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial page (235588).

**TRANSFER OF CONTRIBUTIONS BETWEEN STATES****§ 63.81. Scope.**

Sections 63.82—63.85 shall supplement section 312 of the Law (43 P. S. § 792) wherein the Bureau is authorized to enter into a reciprocal agreement with another State unemployment compensation agency for the transfer of contributions erroneously paid to one of the agreeing states.

**§ 63.82. Prerequisites to transfer.**

The refunding state shall transfer to the covering state the amount of contributions to be transferred as provided in § 63.83 (relating to the amount of contributions transferred) if all the following apply:

- (1) A request for the transfer of the contributions has been made by the covering state or by the employer with the approval of the covering state.
- (2) The refunding state has determined that the remuneration with respect to which the contribution was paid was not wages for employment as defined by the law of the refunding state.
- (3) The refunding state has received from the employer a release of claim with respect to all contributions thus transferred.

**Cross References**

This section cited in 34 Pa. Code § 63.81 (relating to scope).

**§ 63.83. Amount of contributions transferred.**

(a) *Amount of contributions in general.* The amount of contributions shall be as follows:

- (1) The amount of contributions to be transferred under the provisions of this subchapter shall be the amount of contributions erroneously paid by the employer to the refunding state.
- (2) The amount shall not be more than the amount of contributions payable by the employer to the covering state with respect to the wages on which such contributions are based.
- (3) The amounts shall be further adjusted as provided under subsection (b).

(b) *Adjustments.* If the agreement under which the transfer is made provides for adjusting the amount of money to be transferred on the basis of the earnings which have accrued during the period such monies were in the possession of the refunding state, the amount shall be adjusted accordingly. If such a provision is contained in the agreement, the agreement shall provide for the same adjustment to be made whether the Commonwealth is the covering state or the refunding state.

**Cross References**

This section cited in 34 Pa. Code § 63.81 (relating to scope); and 34 Pa. Code § 63.82 (relating to prerequisites to transfer).

**§ 63.84. Transfer of wage records.**

The refunding state will forward to the covering state all related wage records in its possession that may be required by the covering state for the purpose of making benefit determinations.

**Cross References**

This section cited in 34 Pa. Code § 63.81 (relating to scope).

**§ 63.85. Interest on delinquent contributions.**

(a) Contributions transferred under the provisions of this subchapter and agreements made pursuant thereto will be deemed to have been paid to the covering state on the date such contributions were actually paid to the refunding state.

(b) Amounts paid as interest or as penalties for late payment of contributions to refunding states will be transferred to the covering state if a request for the transfer of interest or penalties has been made by the covering state or by an employer with the approval of the covering state and if the refunding state has received a release of claim to all interest and penalties thus transferred from the employer.

(c) Transfers will only be made to the extent that interest or penalties may be payable under the law and regulations of the covering state covering the period commencing with the date the contributions were originally required to be paid to the covering state and ending with the date on which they were actually paid to the covering state.

**Source**

The provisions of this § 63.85 amended December 21, 1979, effective December 22, 1979, 9 Pa.B. 4168. Immediately preceding text appears at serial pages (32128) and (32129).

**Cross References**

This section cited in 34 Pa. Code § 63.81 (relating to scope).

**Subchapter C. NONPROFIT ORGANIZATIONS MAKING PAYMENTS  
IN LIEU OF CONTRIBUTIONS**

Sec.	
63.91.	Elections.
63.92.	Time for compliance.
63.93.	Filing of surety bond.
63.94.	Filing of security deposit.

- 63.95. Money or securities received.
- 63.96. [Reserved].
- 63.96a. Conversion to contributory status.
- 63.97. Return or sale of money or securities.
- 63.98. Refunds and adjustments.
- 63.99. Assignment of rate of contribution.
- 63.100. Supplements to payments.

**Source**

The provisions of this subchapter C adopted March 3, 1972, 2 Pa.B. 404, unless otherwise noted.

**§ 63.91. Elections.**

(a) *Duration.* A nonprofit organization electing to make payments in lieu of contributions shall make its election effective for a period of 2, 3 or 4 calendar years. This subsection does not prevent a nonprofit organization from filing one or more successive elections.

(b) *Transitional provision.* An election that is effective prior to June 18, 2011 terminates on the later of the following dates, unless sooner terminated in accordance with the law:

(1) December 31 of the third calendar year following the calendar year in which the election became effective.

(2) December 31 of the calendar year in which this regulation takes effect, if this regulation takes effect from January 1 through June 30, or December 31 of the calendar year immediately following the calendar year in which this regulation takes effect, if this regulation takes effect from July 1 through December 31.

**Source**

The provisions of this § 63.91 amended June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial page (235590).

**§ 63.92. Time for compliance.**

Nonprofit organizations electing to make payments in lieu of contributions shall comply with this subchapter within 30 days from the effective date of the election.

**§ 63.93. Filing of surety bond.**

Nonprofit organizations subject to this subchapter electing to file a surety bond shall file with the Department a surety bond issued by an insurance company with a certificate of authority to provide such coverage in the Commonwealth. The term of the security bond shall coincide with the period for which the employer elects to make payments in lieu of contributions. The surety bond must secure reimbursement of benefit payments that are based on wages paid during the period of the election, including benefit payments made after the period of the election, together with interest and penalties.

**Source**

The provisions of this § 63.93 amended September 24, 1976, 6 Pa.B. 2395; amended June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial page (235590).

**Cross References**

This section cited in 34 Pa. Code § 63.94 (relating to filing of security deposit).

**§ 63.94. Filing of security deposit.**

(a) In lieu of a surety bond, as prescribed in § 63.93 (relating to filing of surety bond), nonprofit organizations subject to this subchapter may deposit money, in a form acceptable to the Department or securities of a kind acceptable to the Department.

(b) If a nonprofit organization deposits money or securities in connection with an election to make payments in lieu of contributions, it shall file a surety bond or deposit new collateral in connection with any subsequent election.

(c) Money or securities deposited with the Department in connection with an election to make payments in lieu of contributions secures reimbursement of both of the following, together with interest and penalties:

(1) Benefit payments that are based on wages paid during the period of the election, including benefit payments made after the period of the election.

(2) If the money or securities constitute new collateral in accordance with subsection (b), benefit payments that are based on wages paid during the period of the previous election, including benefit payments made after the period of the previous election.

**Source**

The provisions of this § 63.94 amended June 17, 2011, applies to elections to make payments in lieu of contributions that take effect on or after June 18, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial page (235591).

**§ 63.95. Moneys or securities received.**

(a) *Money received.* The Department will deposit all money received with the State Treasurer, Commonwealth of Pennsylvania. Any interest paid by the State Treasurer on money received from an employer shall accrue to the employer, subject to § 63.97 (relating to return or sale of money or securities).

(b) *Securities received.* Securities received will be deposited with the State Treasurer of the Commonwealth. The securities shall be assigned to the Department and be negotiable by the Department at any time. Interest or dividends accruing thereon shall be the property of the owner of the securities, subject to § 63.97.

**Source**

The provisions of this § 63.95 amended June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial page (235591).

**§ 63.96. [Reserved].****Source**

The provisions of this § 63.96 reserved February 29, 1980, effective March 1, 1980, 10 Pa.B. 912.

**§ 63.96a. Conversion to contributory status.**

(a) If an employer that elects to make payments in lieu of contributions fails to provide a surety bond, money or securities in accordance with section 1106(d) of the law (43 P. S. § 906(d)) and this subchapter, the employer's election is void.

(b) If an employer that elects to make payments in lieu of contributions provides a surety bond that ceases to be effective during the period of the election, and the employer does not provide a replacement bond for the remainder of the period of the election within 30 days after the Department requests the replacement bond, the Department will terminate the election. The Department will specify the effective date of the termination, which may be retroactive to the first day of the calendar quarter in which the bond ceases to be effective. A termination of an election under this subsection is not governed under section 1107(b) of the law (43 P. S. § 907(b)).

(c) If an employer who elects to make payments in lieu of contributions subsequently becomes a contributory employer, and the employer owes reimbursement for benefit payments, or interest or penalties, the unpaid reimbursement, interest or penalties constitute unpaid contributions, interest or penalties for purposes of section 301(a)(2) of the law (43 P. S. § 781(a)(2)). The date when benefits are paid is used to determine if the unpaid reimbursement, interest or penalties correspond to the period through the second calendar quarter of the preceding calendar year.

(d) If an employer who elects to make payments in lieu of contributions subsequently becomes a contributory employer, the employer remains liable to reimburse the Department for benefit payments made after the period of the election that are based on wages paid during the period of the election, in addition to the employer's liability for contributions on wages paid after the period of the election.

**Source**

The provisions of this § 63.96a adopted June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094.

**§ 63.97. Return or sale of money or securities.**

Any deposit of money or securities received will be held until the organization's liability for payments is terminated. Upon termination of liability the deposit will be returned, minus any amount, including interest and penalty, due the Department. The Department is authorized to sell securities deposited to satisfy any amount due, in which event any interest and increase in value accruing on the securities will be applied to the amount due to the Department.

**Source**

The provisions of this § 63.97 amended June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial pages (235591) to (235592).



**§ 63.98. Refunds and adjustments.**

Reimbursement payments in lieu of contributions collected from an employer for the amount of benefits charged to his account may not be deemed to be erroneously collected and subject to refund or credit of any amount paid until the amount is recovered from the claimant.

**§ 63.99. Assignment of rate of contribution.**

If an employer who elects to make payments in lieu of contributions subsequently becomes a contributory employer, the employer's rate of contribution shall be determined in accordance with the following:

(1) Wages paid by the employer during the period of the election, employee contributions paid on those wages, and benefit payments based on those wages are not taken into account for purposes of experience rating.

(2) If the employer was a contributory employer before the period of the election and the employer's reserve account has not been terminated under section 302(d) of the law (43 P.S. § 782(d)), the employer is assigned a rate of contribution in accordance with section 301(a)(1) or 301.1 of the law (43 P.S. § 781(a)(1) and § 781.1)), whichever is applicable.

(3) If the employer was a contributory employer before the period of the election and the employer's reserve account has been terminated under section 302(d) of the law, or the employer was not a contributory employer before the period of the election, the employer is assigned a rate of contribution in accordance with section 301(a)(3) or (4) of the law, whichever is applicable, until the employer is no longer subject to those provisions.

(4) A rate of contribution determined in accordance with paragraph (2) or (3) is subject to any adjustments required under the rate provisions of the law.

**Source**

The provisions of this § 63.99 amended March 7, 1975, 5 Pa.B. 441; amended June 17, 2011, effective June 18, 2011, 41 Pa.B. 3094. Immediately preceding text appears at serial page (235592).

**§ 63.100. Supplements to payments.**

This section shall supplement the list of payments made into the Unemployment Compensation Fund under section 601 of the Law (43 P.S. § 841), as follows:

(1) Payments in lieu of contributions collected under the law.

(2) Moneys collected from the Federal Government as reimbursements under section 204 of the Federal-State Extended Compensation Act of 1970 (26 U.S.C.A. § 3301 et seq.).

**Cross References**

This section cited in 34 Pa. Code § 63.94 (relating to filing of security deposit).

**Subchapter D. PAYMENT BY ELECTRONIC TRANSFER**

Sec.

- 63.111. Definitions.
- 63.112. Electronic transfer requirement, waiver and penalty.
- 63.113. Voluntary participation.
- 63.114. Date of payment.
- 63.115. Miscellaneous provisions.

**Source**

The provisions of this Subchapter D adopted June 17, 2011, effective on the date designated by the Department in a notice published in the *Pennsylvania Bulletin*, 41 Pa.B. 3094; effective January 1, 2017, and applies to calendar quarters and billing periods that begin on or after January 1, 2017, 46 Pa.B. 5083, unless otherwise noted. Immediately preceding text appears at serial pages (357592) to (357594).

**§ 63.111. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*ACH—Automated clearing house*—A Federal reserve bank, or an organization established by agreement with the National Automated Clearinghouse Association, which operates as a clearing house for transmitting or receiving entries between financial institutions and financial institution accounts, and which authorizes an electronic transfer of funds between the financial institutions or financial institution accounts.

*ACH credit*—A transaction in which the payer, through its own financial institution, originates an ACH transaction crediting the Department's financial institution account and debiting its own financial institution account for the amount of the payment to the Department.

*ACH debit*—A transaction in which the Department, through its designated depository financial institution, originates an ACH transaction debiting the payer's financial institution account and crediting the Department's financial institution account for the amount of the payment to the Department.

*Card processor*—An entity which provides credit card and debit card payment services on behalf of the Department.

*Credit card*—A device or instrument which entitles the holder to obtain money, goods, services or anything of value on credit and is accepted by the card processor.

*Debit card*—A device or instrument which entitles the holder to obtain and transfer money from an account or accounts with a financial institution and is accepted by the card processor.

*Electronic transfer*—A transfer of funds by ACH credit, ACH debit, credit card or debit card.

**§ 63.112. Electronic transfer requirement, waiver and penalty.**

(a) An employer shall make payment for a calendar quarter by electronic transfer if the employer's liability for contributions, interest and penalty for that calendar quarter equals or exceeds \$5,000 and continue to pay by electronic transfer thereafter regardless of whether the liability threshold is reached or exceeded for any subsequent quarter.

(b) An employer that has elected to make payments in lieu of contributions shall make payment for a billing period by electronic transfer if the employer's liability for reimbursement, interest and penalties for that billing period equals or exceeds \$5,000 and continue to pay by electronic transfer thereafter regardless of whether the liability threshold is reached or exceeded for any subsequent billing period.

(c) Upon a showing of good cause, the Department may exempt an employer from the electronic transfer payment requirements of this subchapter.

(d) If an employer subject to the electronic transfer payment requirements of this subchapter makes payment other than as required, the Department will charge a penalty of 10% of the payment, up to a maximum of \$500 with a minimum of \$25 per occurrence. The sums will be collectible in the manner provided in sections 308.1, 308.2, 308.3 and 309 of the law.

**§ 63.113. Voluntary participation.**

An employer that is not required to make payments by electronic transfer, and an individual liable for an overpayment of unemployment compensation benefits, may make payments by electronic transfer in accordance with this subchapter.

**§ 63.114. Date of payment.**

(a) A payment by ACH debit is made on the earliest date when the following apply:

(1) The Department may exercise the payer's authorization to debit its financial institution account.

(2) The information necessary to process the payment has been received by the Department in the manner prescribed by the Department.

(b) A payment by credit card or debit card is made on the date when the information necessary to effectuate the payment is given to the card processor in a manner prescribed by the card processor.

(c) A payment by ACH credit is made on the date when the payment is received in the Department's financial institution account.

(d) If the date when a payment is made by electronic transfer, as determined under subsections (a)—(c), is delayed as a result of a human error or a technological failure by the Department, the Department's agents or the banking system that is beyond the employer's control, the Department will redetermine the date of payment as if the error or failure had not occurred.

**§ 63.115. Miscellaneous provisions.**

(a) Information necessary to effectuate a payment by ACH debit includes the name of the financial institution, the financial institution's routing number and the account number of the account to be debited. Information necessary to effectuate a payment by credit card or debit card shall be determined by the card processor.

(b) If a payment is made by electronic transfer and subsequently the transfer of funds to the Department is rescinded, the liability to which the payment was applied will be reinstated as if the payment was not made.

(c) The Department will provide one or more methods for payers to verify that payments by electronic transfer have been received by the Department.

(d) The Department may provide refunds by ACH credit.

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