

Introduction

The *Employer Guide to Reemployment Tax* contains information employers need to comply with Florida's Reemployment Assistance Program Law. This guide provides simplified explanations of the taxing procedures of the law. It is not intended to take precedence over the law or rules.

Background

Every state has an Unemployment Compensation Program. In Florida, legislation passed in 2012 changed the name of Florida's Unemployment Compensation Law to the Reemployment Assistance Program Law. Reemployment benefits provide temporary income payments to make up part of the wages lost by workers who lose their jobs through no fault of their own, and who are able and available for work. It is job insurance paid for through a tax on employee wages. The Reemployment Assistance Program supports reemployment services through local One-Stop Career Centers located throughout the state.

The Federal Unemployment Tax Act provides for cooperation between state and federal governments in the establishment and administration of the Reemployment Assistance Program. Under this dual system, the employer pays payroll taxes levied by both the state and federal governments.

Classification of Workers

Employers must understand how to determine whether a worker is an employee or an independent contractor, so they can correctly include all employees on their *Employer's Quarterly Report* (RT-6). One main distinction is that an employee is subject to the will and control of the employer. The employer decides what work the employee will do and how the employee will do it. An officer of a corporation who performs services for the corporation is an employee, regardless of whether the officer receives a salary or other compensation.

An independent contractor is not subject to the will and control of the employer. The employer can decide what results are expected from the independent contractor, but cannot control the methods used to accomplish those results. How the worker is treated, not a written contract or issuance of a Form 1099, determines whether the worker is an employee or an independent contractor.

Misclassification of workers is not just a tax reporting issue; it also affects claims for reemployment assistance benefits. If a person files a claim for

benefits and the employer has not been including the person on the quarterly report, this can cause a delay in benefit payments. In addition, the intentional misclassification of a worker is a felony.

State Unemployment Tax Act (SUTA)

All reemployment tax payments are deposited to the Florida Unemployment Compensation Trust Fund for the sole purpose of paying benefits to eligible claimants. The employer pays for this Reemployment Assistance Program as a cost of doing business. Workers do not pay any part of the Florida reemployment tax, and employers must not make payroll deductions for this purpose. Employers with stable employment records receive credit in reduced tax rates after a qualifying period.

Federal Unemployment Tax Act (FUTA)

Federal unemployment taxes are deposited to the FUTA Trust Fund and administered by the United States Department of Labor (USDOL) for funding the administrative costs of state reemployment assistance, One-Stop Career Centers, and part of Labor Market Statistics Programs. The USDOL is also charged with monitoring state Reemployment Assistance Programs and can withhold funds from a state if it does not comply with federal standards.

Reporting Wages and Paying Reemployment Taxes

General Liability Requirements

A business is liable for state reemployment tax if, in the current or preceding calendar year, the employer: (1) has paid at least \$1,500 in wages (which includes paying \$800 each to two workers) in a calendar quarter; or (2) has had at least one employee (does not need to be the same employee) for any portion of a day in 20 different weeks within the same calendar year; or (3) is liable for federal unemployment tax.

Special Liability Requirements for Specific Employer Types

Nonprofit Employers

Coverage is extended to employees of nonprofit organizations (such as religious, charitable, scientific, literary, or education groups) that employ four or more workers for any portion of a day in 20 different calendar weeks during the current or preceding calendar year.

Exceptions to this coverage include churches and church schools. For purposes of the Florida Reemployment Assistance Program Law, a nonprofit organization is defined in section (s.) 3306(c)(8) of the Federal Unemployment Tax Act and s. 501(c)(3) of the Internal Revenue Code (IRC).