TEAM KENTUCKY

EDUCATION AND LABOR CABINET

Employer Guide to Kentucky Unemployment Insurance

Approved 07-31-2026

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An Employer's Introduction to Unemployment Insurance

Kentucky's Office of Unemployment Insurance (OUI) connects employers and jobseekers and supports economic health in the commonwealth. This introduction gives a brief history of unemployment insurance and describes how the program benefits employers.

What is the unemployment insurance program?

Unemployment insurance pays benefits to qualified workers who are unemployed through no fault of their own and, in most cases, who are actively seeking work[1]. Unemployment benefit payments are intended to help unemployed workers avoid financial distress while searching for a new job, to maintain general economic stability, and to connect jobseekers to employers. Benefits are paid as a matter of right and are not based on need. To receive benefits, most claimants must provide evidence that they are actively seeking work.

Unemployment insurance has played an important role in the economic life of the United States since being established in response to the Great Depression of the early twentieth century. In 1933, **The Wagner-Peyser Act** created a national public Employment Service. By authorizing the federal government to work with individual states to establish and maintain public employment services, the act helped unemployed persons find work and referred jobseekers to employers. In his November 14, 1934, address to the Advisory Council of the Committee on Economic Security, President Franklin Roosevelt stated, "*Unemployment insurance must be set up with the purpose of decreasing rather than increasing unemployment.*" In January 1935, President Roosevelt proposed the **Social Security Act**, which he signed into law that August. The act provided for the creation of a joint federal-state coordinated program to fund and administer unemployment insurance.

[1] There are some exceptions to the work search requirement, including claimants who have a definite return-to-work date within one (1) year, claimants who find work through a union hiring hall, claimants in approved training, and claimants who are unemployed due to a labor dispute. See 787 KAR 1:090.

Who pays for unemployment insurance benefits?

Over the years, the program has evolved through a series of legislative reforms. Today, the federal program is implemented under the **Federal Unemployment Tax Act (FUTA).** Individual states administer separate unemployment insurance programs according to the guidelines established by federal statute. State-level programs determine who is eligible, the amount of benefits they can receive, and the period of time over which benefits are paid.

You, the employer, pay for this support through unemployment taxes on your payroll. Unemployment insurance programs are supported through a combination of federal and state taxes paid by employers. The proceeds from these taxes are deposited in the Unemployment Trust Fund (UTF), a collection of accounts maintained by the U.S. Treasury. Each state has a separate account in the fund. In the Commonwealth of Kentucky, the Office of Unemployment Insurance (OUI) administers the Unemployment Insurance Program.

What do employers receive in return?

Benefits paid to claimants support employers directly by helping to maintain a stable pool of valuable, trained workers in their area. But even more importantly, the dollars paid in benefits through unemployment insurance taxes are recycled into the local economy. Individuals out of work can continue to purchase goods and services, thus supporting the health of the local economy and enhancing your business's prospects even in times of economic downturn.

Unemployment Tax Liability

Am I liable for Unemployment Insurance tax?

If you pay someone for services in your business or to provide domestic help in your home, you may be liable—that is, required to pay unemployment insurance tax. There are various requirements related to how many workers you employed, the amount of wages paid, and the types of job(s) the workers performed.

For-Profit Businesses (Non-Agricultural) are liable if they (a) paid at least $1500 in gross wages in a single calendar quarter, or (b) had at least one worker performing service in any part of 20 different weeks of a calendar year (this does not have to be same worker in each week, and the weeks do not have to be consecutive).

Agricultural Employers are liable if they (a) paid at least $20,000 in gross wages in a single calendar quarter or (b) had at least 10 workers performing service in any part of 20 weeks of a calendar year (these do not have to be same workers in each week, and the weeks do not have to be consecutive).

Domestic Employers (e.g., work performed in a private home, including care for children, sick, or elderly) are liable if they paid at least $1,000 in gross wages in a single calendar quarter.

Employers Acquiring All /Part of an Existing Business are liable if the business they acquired was liable at the time of acquisition. When acquiring a business (the "predecessor"), the acquiring party ("the successor") assumes the predecessor's liability.

501(c)(3) Not-for-Profit Organizations are liable if they employ at least four (4) workers in the United States in any part of 20 weeks of a calendar year (these do not have to be the same workers in each week, and the weeks do not have to be consecutive) AND at least one (1) of these employees performs some work in Kentucky. If both conditions apply, any employees in Kentucky are covered; the employer is only required to report Kentucky employees' wages to OUI.

State or Local Government Employers are liable for any employment (with certain exceptions, including elected officials).

Employers with Federal and Out-of-State Liability are automatically liable for any employment in Kentucky.

Employers Previously Liable in Kentucky are automatically liable when resuming employment in Kentucky (unless the business was sold or the account was otherwise terminated).

Will I owe unemployment taxes on <u>all</u> the wages I pay?

You <u>must</u> report total gross wages paid in covered employment, but <u>you only pay taxes on the taxable wage amount</u> earned by each worker in a calendar year. This is known as the "taxable wage base." In 2026, the taxable wage base was $12,000.

For example: *a new employer in 2026 is assigned a tax rate of 2.7%; this employer would owe no more than $324 per covered employee (12,000 x .027 = 324) during the calendar year.*

The taxable wage base is established at the discretion of the Kentucky General Assembly and is subject to change pending future legislative action. Per KRS 341.030(7)(a), the maximum taxable wage base for covered employment in Kentucky shall not exceed $12,000.

Any wages paid beyond the taxable wage base for each employee are considered "excess wages." Excess wages are not subject to unemployment insurance tax.

Are all types of employment covered by unemployment insurance?

Most employment types are covered by unemployment insurance, but not all. Below, you'll find a description of covered and non-covered employment.

<u>Covered Employment</u>

This category of jobs is covered by unemployment insurance. Covered employment includes most types **of full-time, part-time, temporary**, and **seasonal** work. Service as a **corporate officer** is also covered (this includes S-Corps, as well as LLCs that are treated as corporations for income tax purposes).

In some cases, **casual labor** is covered. Casual labor is service performed for an employer that is not a part of the employer's normal business or trade (e.g., paying someone to wash windows or mow at a business property). To be covered, causal labor must involve payments of more than $50 in a calendar quarter and be performed by a worker who is regularly employed to provide this service. In this context, "regularly employed" means the worker performed casual labor on each of at least 24 days during the current or previous quarter. Any casual labor that does not meet these criteria is not covered.

Non-covered Employment

This category of jobs is not covered by unemployment insurance. Some examples appear below. Please note that **this list is not exhaustive—**there are also exemptions for certain employees of schools, hospitals, and not-for-profit and government employment. If you have further questions about non-covered employment, please contact OUI.

- **FAMILY MEMBERS**
  In some instances, work performed by family members of the employer is considered non-covered.

  If the business is a **proprietorship**, services performed by the proprietor's spouse, the proprietor's parent, or the proprietor's child (under 21 years old) are considered non-covered.

  If the business is a **partnership**, services performed by the spouse, parent, or child (under 21 years old) of all of the partners are considered non-covered. The relationship test for non-covered employment in a partnership must be met by all partners in relation to the worker in question. For example: *Two sisters are partners in a business through which they employ their father and one sister's spouse. Work performed by the spouse is covered, because the disqualifying relationship (marriage) only exists between the worker and the partner to whom they are married (not to all partners). Work performed by the father would be non-covered, as the relationship test indicates a disqualifying relationship (parent/child) between the worker and all partners.*

  NOTE: There are no family exemptions for corporations.

- **CO-OP STUDENTS**
  Students performing work for a co-operative are non-covered if enrolled in school and receiving academic credit for the services performed. Any work performed between school terms is considered covered employment.

- **INSURANCE SALESPERSONS WHO ARE SOLELY COMMISSION BASED**
  Insurance salespeople who are compensated only by commission are non-covered (see KRS 341.055(10)).

- **CHURCH EMPLOYEES**
  Church employees are non-covered; however, if an independent business (e.g., a school or daycare) operates on church property and performs services unrelated to the church's ministry, such employment may be covered.

What if my business uses independent contractors instead of hiring employees?

Because independent contractors are technically self-employed, you do not have to report their wages for unemployment insurance purposes. Workers must meet **specific criteria** to count as independent contractors. OUI determines if a worker is an independent contractor under "common law" rules. We may classify a worker as an independent contractor if they:

- Are in business for themselves and offer services to the public,
- Provide services that are not a part of their client's normal trade,
- Possess a special skill or ability, provide special tools required for the services performed, or perform services without additional training/supervision, or
- Provide services for a limited time and are paid per job completed.

These are general examples and guidelines. Each determination regarding independent contractor status must consider the worker and their relationship to the business/client for whom they perform services.

<u>Misclassification of employees as independent contractors is illegal</u>. If employees are misclassified as independent contractors, or vice-versa, OUI identifies the misclassified workers and reclassifies them, assesses the delinquent tax balance, and communicates this information to the employer in an official determination. The employer is liable for the resulting tax balance, as well as any fees or penalties.

<u>Note: Unlike the IRS, OUI does not offer any "safe harbor" or "safe haven" exemptions to the penalties we assess.</u>

Do I need to report leased or temporary employees?

In Kentucky, workers must be reported by the company for whom they performed services (with one exception for certain temporary workers).

- **EMPLOYEE LEASING**
  In Kentucky, employers may lease employees through certified Professional Employer Organizations (PEOs). If you lease employees from an entity other than a certified PEO, and these employees perform services in covered employment for your business, <u>you</u> must report them.

- **TEMPORARY EMPLOYMENT SERVICE**
  Whether or not you are responsible for reporting temporary employee depends on the type and duration of the services performed by the temporary employee.

  You <u>**must**</u> report temporary employees who perform regular, routine jobs for an unspecified amount of time.

  You are <u>**not**</u> responsible for reporting temporary employees who are hired to carry out a special project or function.

How do I report workers who perform services in more than one state?

If a worker performs services on a regular basis for your business in more than one state, you may report the wages for that employee in the business' "home state" (i.e., the state where your business is located or from which the business is controlled) as long as the employee performed some service(s) in that state.

Note: if most of the service was performed in one state (other than the business' home state) for an extended period of time, you may become liable in that state.

To verify reporting requirements for these employees, contact OUI.

The Kentucky Unemployment Insurance Portal (KUIP)

What is the Kentucky Unemployment Insurance Portal?

The Kentucky Unemployment Insurance Portal (KUIP) is Kentucky's Unemployment Insurance system. KUIP provides a single, integrated point of access for employers, TPAs, and claimants to view and manage their unemployment accounts. Beginning in Summer of 2026, KUIP replaces Kentucky's Electronic Workplace for Employment Services (KEWES) for Employers and TPAs.

You can access KUIP through the Kentucky Career Center website, kcc.ky.gov. Once you're registered, you'll use KUIP to complete all the necessary tasks under your employer account—reporting wages, making payments, managing users, updating business information, and more.

Do I need a KUIP employer account?

Yes, if you employ workers in Kentucky.

How do I register my business?

First, you need to create a user account. Open the KUIP self-service website, then click "**No account? Create one.**" Follow the onscreen instructions to create your account. Be sure to memorize your account login credentials and **do not share your login credentials** with anyone, even someone in your own organization. For security purposes, all authorized users must receive their own credentials.

Once you've created your account, you will register as an employer. To register, log into KUIP, and click "Employer Registration." Based on your responses, KUIP will determine if you are liable for Unemployment Insurance Tax in Kentucky. To register, you'll need the following information:

- **Federal Employer Identification Number (FEIN**). If you don't have a FEIN, you must first apply for and receive one from the IRS. The fastest and most convenient way to apply is through the IRS website.
- Type of legal entity (sole proprietor, partnership, LLC, corporation, etc.)
- Doing Business As (DBA) Name
- Date employees first performed services in Kentucky
- Date you (employer) first paid wages to those employees in Kentucky
- Owner/officer information (SSN, resident addresses, % of ownership, FEIN)
- Principal business activity or description of services performed in Kentucky
- Number of employees currently on payroll
- Quarterly gross summary of wages paid to date
- Predecessor Information (if applicable)
- NAICS code

What if I need help with the KUIP sign-up process?

Contact the Tax Enforcement Branch at (502) 564-2272 if you need any assistance with the registration process, or if you need proof of unemployment insurance tax compliance before employing workers in Kentucky.

What happens after I sign up for an employer account in KUIP?

Once you complete the registration process, the system automatically reviews your responses to determine if you are liable and the date you became liable (known as the **subjectivity date**). The system also assigns you a **Kentucky Employer Identification Number (KEIN)**. Your KEIN is the state counterpart to your FEIN. The system uses your KEIN to identify your business and store records of your activities in the system. You should record this number for your personal records.

If my business includes multiple locations or business types, do I need multiple KUIP accounts?

If **legal ownership is the same for all locations** and types, you'll only need one KUIP account and KEIN. A quick way to determine if this is the case is to look at your business' FEIN in relation to the multiple business locations. If your business (proprietor, LLC, or corporation) has **a single FEIN** and conducts its business from multiple locations, only one account/KEIN is needed for those locations.

However, if the multiple business types or **locations are legally owned by different entities** (proprietor, LLC, or corporation) with **different FEINs**, each location must have its own account and KEIN corresponding to its specific legal ownership.

Reporting and Payments

If I have multiple locations or business types, do I report wages for them separately?

Whether you report wages separately for separate locations depends upon the legal ownership of the business locations (see above).

If the **locations are owned by different entities with unique FEINs**, they must be reported separately using a different KUIP account/KEIN. If the **locations are owned by the same entity with a single FEIN**, you can report these under the same KUIP account using different "reporting units." To set up multiple reporting units for your account, log into KUIP, and go to the left-hand navigation menu. Then click *Account Maintenance* > *Maintain Employer Reporting Units*, **"Add New Reporting Units,"** and follow onscreen instructions.

What type of business records am I required to maintain?

Under federal and state law, <u>you must keep accurate records of all workers you employ, including wages paid.</u> These include routine payroll records and weekly records for each employee. You may also be required to provide additional records in case of an audit.

Routine payroll records should be retained for no less than six (6) years. They include:

- Beginning, ending, and pay date of each pay period,
- Total wages paid (before any pre-tax deductions) in covered employment during each pay period,
- The full name and Social Security Number (SSN) of each worker you paid during each pay period,
- Total wages (before any pre-tax deductions) in covered employment paid to each worker during the calendar quarter, and
- The date that each worker was hired and/or terminated from covered employment.

Weekly Employee Records must be retained for no less than two (2) years. These records must include the following information for each employee:

- The wages earned during the week,
- The number of hours worked during the week, and
- The number of hours of available work that was <u>not</u> accepted and the rate of pay for that work during the week, if any.

NOTE: OUI conducts regular audits of employer accounts to ensure that wage records are accurate. These consist of investigations to reconcile wages paid and wages reported by comparing wage reports, employer records, federal tax returns, Social Security reports, and federal unemployment tax returns. Under the law, you are required to provide these records to auditors upon request. When possible, OUI auditors will arrange to examine these records at a time and location convenient for you. All information provided during an audit is strictly confidential under state and federal law.

How do I file wage reports?

Filing wage reports online with KUIP is secure and simple. Simply log into KUIP, scroll down to the "Wage Reporting" section, and click "File a report." From there, you'll follow the onscreen instructions to select the reporting period and method and to submit your report. There are four (4) reporting methods:

- Zero Payroll Quarterly Wage Report,
- File upload (using the ICESA format or CSV file format),
- Manual Entry, and
- Copying and modifying data from a previously reported quarter.

The system will automatically calculate your tax liability based on your reported wages and assigned tax rate, and any new charges will appear on your Employer Homepage.

What if I owe no tax or have no payroll during a quarter?

You must file a report every quarter, even if (1) you owe no taxes, (2) paid no wages in covered employment, (3) or have zero payroll for the quarter.

If you owe no tax for the quarter, simply file your wage report as normal. You won't need to pay any tax.

If you paid no wages in covered employment or had zero payroll for the quarter, simply select "Zero Payroll Quarterly Wage Report" when filing and follow onscreen instructions.

What are "gross wages?"

A wage is any payment made for services performed (salaries, commissions, bonuses, hourly pay, and the cash value of items given in remuneration for non-agricultural and non-domestic services). "Gross wages" refers to the total amount of wages paid to employees prior to any withholdings for tax or benefits.

Some types of payment are excluded from gross wage calculation or only count as wages under specific circumstances:

- **Travel reimbursements** are not wages unless they exceed the actual out-of-pocket cost of travel to the worker. Any travel reimbursements in excess of the out-of-pocket cost are considered wages.
- **Room and board** (cash value) does not count as wages if it is furnished on the employer's property and for a legitimate business reason.
- **Sick pay** is not considered wages if the payment is received under worker's compensation law OR if the payment is made more than six (6) calendar months after the last calendar month of employment. In all other cases, sick pay is considered wages.
- **Tips** should be included in gross wages if the worker reports them to the employer in accordance with section 6053(a) of the Internal Revenue Code. If the tip is not reported, the employer is not responsible for including it in gross wage calculations.
- **Employer retirement contributions** (as defined by KRS 341.030(4)) are not considered wages if: (A) the plan makes provision for all the employer's workers, (B) the plan makes provision for all of a class of the employer's workers (e.g., "all salaried employees), or (C) the employee cannot elect to receive the payment instead of paying it into the plan.
- **Insurance premiums** do not count as wages if the following is true: (A) they are paid by the employer, (B) the plan makes provision for all the employer's workers or for all of a class of the employer's workers (e.g., "all salaried employees), and (C) the employee cannot elect to receive the payment instead of paying it into the plan.
- **Death benefits** are only considered wages if the employee is entitled to withdraw all or part of those benefits upon withdrawing from or terminating the plan.
- **Disability benefits** are not considered wages.
- Monies contributed to **"cafeteria plans" (Section 125), 401(K) plans, and deferred compensation** are considered wages if they result in a reduction in the employee's salary (KRS 341.030 (6)). However, matching or additional contributions made to such plans by an employer are <u>not</u> considered wages (unless the employee may elect to receive payment prior to retirement or termination due to age, sickness, accident, etc.).
- **FICA or MEDICAID payments** made by agricultural or domestic employers toward the employee's share of FICA or MEDICAID taxes are not considered wages.
- **Severance pay** is not considered wages, per KRS 341.030(4)(a). Severance is compensation after employment ends, paid at the discretion of the employer, and calculated with a formula based in part on the employee's length of service.

- **Company car** use is considered a wage to the extent reported to the IRS (e.g., on an employee's W-2); there are no special credits associated with company car use for the purpose of assessing UI tax liability in Kentucky.

Note: there are exemptions under tax laws that are not directly applicable to unemployment insurance. If you are unsure whether a payment should be reported as wages, contact the OUI Tax Enforcement Branch at (502) 564-2272 for assistance.

Why does OUI need employee wage information?

OUI maintains wage records for millions of Kentucky workers and uses these records to calculate benefit entitlements for those who become unemployed.

Why does OUI need to know the number of employees I paid during a quarter?

The agency needs this information to track the total number of workers covered by unemployment insurance. State and federal agencies use these numbers to generate labor statistics for the purpose of understanding the condition of the economy.

What are surcharges and SCUF?

You may notice charges labelled "surcharge" or "SCUF" listed on your quarterly calculations. These charges are assessed only during certain periods and never simultaneously.

The surcharge is added to Unemployment Insurance tax charges when high unemployment leads to insolvency in Kentucky's Unemployment Insurance Trust Fund and the state must obtain a federal loan to pay unemployment insurance claims. The surcharge is calculated to pay the interest charged against such debt. The surcharge rate is established by law and the amount of Trust Fund debt. Surcharge is not assessed when the Trust Fund is fully solvent.

During the 2018 Legislative Session, the General Assembly enacted the Service Capacity Upgrade Fund (SCUF) (HB 487, Section 139). Money diverted to SCUF is used "solely for acquisition and upgrading of the technology base, program integrity functions, and service delivery capacity in support of the programs administered by the Office of Unemployment Insurance" (KRS 341.243(2)). The Secretary of the Education and Labor Cabinet determines, per Kentucky statute, whether to instate the SCUF rate for any given year. SCUF does **not** represent an additional cost to the taxpayer—only the allocation of a small portion of your existing tax liability toward this specific cost. Below you will find a chart detailing historic SCUF deductions.

YEAR	CONTRIBUTION RATE SCHEDULE	SCUF RATE
2021	A	0.0%*
2022	A	0.0%*
2023	A	0.075%
2024	A	0.075%
2025, Q1 2025, Q2-Q4	A A	0.075% 0.0%^
2026	A	0.0%^
2027	A	0.0115%**

*SCUF contributions were suspended for years 2021 and 2022 due to the Coronavirus pandemic.

^SCUF contributions were suspended for Q2-Q4 in 2025 and all quarters of 2026 due to the fund meeting the statutory limit of $60 million.

**SB 129 reinstated SCUF rates for 2027, lowered the rate to 0.0115%, and established that annual adjustments may not increase the SCUF rate above 0.025%. SCUF will remain in effect until the fund reaches a capacity of $15 million, or the unemployment Trust Fund balance falls below $811,005,000.

How do I pay my UI Taxes?

Paying your UI taxes through KUIP is easy, fast, and secure. Employers can simply log into KUIP, then scroll to the Compliance section of the Employer Homepage—any balance appears in this section under “Amount Owed.” Click *Make a Payment* and follow onscreen instructions to indicate the payment amount, select payment method (ACH, credit card, or paper check), provide payment account details, and submit your payment. When you see the “Payment Confirmation” screen, the payment has been received.

Payments are applied starting with the oldest subject quarter in the following order: Contributions/Reimbursable charges, SCUF, surcharge, interest, penalties, and fees.

TPA who have been assigned the “Payments Update and Submit” role by client employers can make bulk payments for all their assigned employers and debt, or an **allocated payment** which stipulates how the amount of the payment should be broken down and applied across various employer accounts. You can save **one** allocation file at a time. The saved allocation file is used to process the transaction at the time of payment.

When are wage reports and payments due?

Wage reports and payments are due each quarter and must be paid by the final day of the first month of the subsequent calendar quarter. For example, if you are reporting wages and making payments for Quarter 1 (January-March), your reports and payments would be due no later than the last day of April. If the due date falls on a weekend or a holiday for which state offices are closed, the due date is extended to the next day offices will be open. The first filing due date in a calendar year falls on January 31st, the due date for Quarter 4 (October-December) of the previous year.

What happens if my report or payment is late?

Late report filing incurs **penalty** charges. Late payments incur assessment of **interest** on the overdue balance.

- <u>Late Report Penalties</u>
  The assessment of penalties depends on how many late reports you've filed during the calendar year, as well as how many days after the due date the late reports are filed.
  - First late report (filed within 30 days of due date): **$25**
  - First late report (filed more than 30 days after due date): **$75***
    *$25 plus additional $50 penalty
  - Additional late reports (filed within 30 days of due date): **$125**
  - Additional late reports (filed more than 30 days after due date): **$175***
    *$125 plus additional $50 penalty

  If all four quarters are filed late, the first quarter filed (no matter which) is subject to the standard $25 penalty, plus an additional $50 if filed more than thirty (30) days after the due date. The other three quarters are each subject to the $125 penalty, plus an additional $50 penalty if filed more than thirty (30) days after the due date.

  The total maximum late filing penalty for one calendar year is $600.

- <u>Late Payment Interest Charges</u>

  If an employer does not pay a balance owed (tax, surcharge, or SCUF) by the due date, they are assessed interest on the overdue balance (contributions and/or SCUF/surcharge) at a rate of 1.5% per month or for any portion of a month. **NOTE: Even if you cannot make a payment by the due date, you should report timely to avoid penalty charges.**

What if I cannot pay my balance?

OUI provides payment plan options for employers who need to pay down a balance over an extended period. Employers who default on two (2) payment plans within three (3) years are not eligible for a new payment plan.

Standard payment plans allow employers to pay down their outstanding balance over 12 monthly installments and require a 10% downpayment. For eligible employers, standard payment plans are automatically approved. If the standard payment plan terms are not acceptable, employers can apply for a **custom payment plan**, the terms of which are customized and requested by the employers. Custom payment plans require a downpayment greater than the monthly interest accrual and have a maximum repayment period of five (5) years. Custom payment plans must be manually reviewed and approved by OUI staff before going into effect.

To apply for a payment plan, log into KUIP, then go to the left-hand navigation panel and click *Payment Information* > *Request Payment Plan* > *New Standard Payment*. Review the terms of the standard payment plan and follow the onscreen instructions to accept the standard payment plan OR to request a custom payment plan.

What happens if I do not pay my Unemployment Taxes?

There is no provision under the law to reduce, compromise, or eliminate any portion of unemployment insurance tax obligations (including tax, surcharge, SCUF, interest, and penalties). If you fail to pay your unemployment insurance taxes, OUI will make every effort to collect the balance owed.

You will be notified in writing of the amount assessed against you. OUI staff may contact you directly to attempt to collect the balance and any overdue reports.

If you fail to pay your unemployment tax obligations, OUI will proceed with legal action to recover those amounts. Such actions include:

- Filing tax liens on real and personal property
- Issuing temporary injunctions on the operation of your business
- Initiating civil action for payment
- Placing a levy on assets (including bank accounts, wages, and accounts receivable)
- Seizing and selling property

What if I need to correct or amend a wage report?

You can easily amend or even replace wage reports in KUIP. Log into KUIP, then click *Wage Reporting Detail* > *Wage Adjustments* in the left-hand navigation menu. Select the year and quarter of the report you need to amend, then click "Search." Locate the wage report from the search results and click "Select" in the corresponding row. Then follow the onscreen directions to select the filing method and submit the amendment.

How do I report a change to my business?

Update primary business information directly through KUIP—log in, then go to the left-hand navigation panel and click *Account Maintenance*. From there, click the relevant links and follow onscreen instructions to update your account information:

- To change address, click *Address Information*
- To change business name, click *Maintain Employer Name*
- To update entity type, click *Maintain Entity Type*
- To update owners/officers, click *Maintain Owners/Officers*
- To report that you purchased a business or sold your business, click *Request Business Transfer*
- To inactivate your account, click *Inactivate Employer Account*

These are just some of the business changes you can update using your KUIP account. **Some of these changes can be processed immediately; others must be reviewed by OUI staff before they are reflected in our system**.

If you have questions about updating your business' information, contact the OUI Tax Enforcement Branch at (502) 564-2272 for assistance.

Employer Types, Tax Rates, and Reserve Accounts

Do unemployment tax rates and payment structures vary by employer?

Yes. Tax rates and payment structures are based on a variety of factors.

Most Kentucky employers are **contributory employers**. This means that each quarter, the employer must pay a certain amount in unemployment insurance tax. This tax is calculated by OUI based on the **wages reported** for each quarter and the employers' **annual contribution rate**. Payments are posted to the employer's individual **reserve account**. If the employer is chargeable on an unemployment insurance claim, any benefit payments made to the claimant are paid from this account.

Some Kentucky employers—such as 501(c)(3) non-profits and governmental entities—may choose to be **reimbursing employers**. A reimbursing employer does not pay quarterly unemployment insurance taxes. Instead, the employer reimburses OUI if they are chargeable for an unemployment insurance claim.

What do you do with the money I pay in unemployment tax?

OUI deposits all unemployment tax payments made by contributory employers in an Unemployment Trust Fund maintained in the U.S. Treasury, where they earn interest. By federal and state law, this money can be used only to pay benefits to unemployed Kentucky workers who meet eligibility requirements. Although OUI deposits all tax payments to the trust fund, and all benefits are paid out of that fund, OUI also keeps track of the individual tax payments of each employer. Most benefits paid are also charged to individual employers' reserve accounts—typically the most recent employer for whom the claimant worked in each of 10 weeks, consecutive or not (see the "Benefits" chapter for more information). As a contributory employer, your **reserve account** is an accounting record of your payments and charges, which is maintained for the purpose of calculating your **experience rating**.

How is my annual contribution rate calculated?

Contributory employers are charged quarterly unemployment insurance taxes based on their assigned tax rate. **Unemployment insurance tax rates are calculated as of July 31; this is known as the "computation date."** Rates vary by employer and depend on a variety of factors including wages paid, the employer's history of chargeable claims, and the employer's reserve account balance. These factors are used to calculate the employer's **reserve ratio**. This ratio is equal to your three-year taxable payroll divided by your reserve account balance. **The reserve ratio determines the rate you are assigned from the rate schedule.**

OUI has six (6) different **rate schedules** (see below). The balance of Kentucky's Unemployment Insurance Trust Fund determines which rate schedule is in effect. Only **one (1)** rate schedule is in effect at a time; by default, a rate schedule is in effect for one (1) calendar year. Pending legislative action, the rate schedule in effect can change.

Rate Schedules						
Reserve Ratio	Applicable Schedule					
	Trust Fund Adequacy	A	B	C	D	E
8.0% and over	0.000%	0.30%	0.40%	0.50%	0.60%	1.00%
7.0% but under 8.0%	0.000%	0.40%	0.50%	0.60%	0.80%	1.05%
6.0% but under 7.0%	0.008%	0.50%	0.60%	0.70%	0.90%	1.10%
5.0% but under 6.0%	0.208%	0.70%	0.80%	1.00%	1.20%	1.40%
4.6% but under 5.0%	0.508%	1.00%	1.20%	1.40%	1.60%	1.80%
4.2% but under 4.6%	0.808%	1.30%	1.50%	1.80%	2.10%	2.30%
3.9% but under 4.2%	1.008%	1.50%	1.70%	2.20%	2.40%	2.70%
3.6% but under 3.9%	1.308%	1.80%	1.80%	2.40%	2.60%	3.00%
3.2% but under 3.6%	1.508%	2.00%	2.10%	2.50%	2.70%	3.10%
2.7% but under 3.2%	1.608%	2.10%	2.30%	2.60%	2.80%	3.20%
2.0% but under 2.7%	1.708%	2.20%	2.50%	2.70%	2.90%	3.30%
1.3% but under 2.0%	1.808%	2.30%	2.60%	2.80%	3.00%	3.40%
0.0% but under 1.3%	1.907%	2.40%	2.70%	2.90%	3.10%	3.50%
-0.5% but under 0.0%	6.500%	6.50%	6.75%	7.00%	7.25%	7.50%
-1.0% but under -0.5%	6.750%	6.75%	7.00%	7.25%	7.50%	7.75%
-1.5% but under -1.0%	7.000%	7.00%	7.25%	7.50%	7.75%	8.00%
-2.0% but under -1.5%	7.250%	7.25%	7.50%	7.75%	8.00%	8.25%
-3.0% but under -2.0%	7.500%	7.50%	7.75%	8.00%	8.25%	8.50%
-4.0% but under -3.0%	7.750%	7.75%	8.00%	8.25%	8.50%	8.75%
-6.0% but under -4.0%	8.250%	8.25%	8.50%	8.75%	9.00%	9.25%
-8.0% but under -6.0%	8.500%	8.50%	8.75%	9.00%	9.25%	9.50%
Less than -8.0%	9.000%	9.00%	9.25%	9.50%	9.75%	10.00%

Rate Schedule by Calendar Year	
Calendar Year	**Schedule in Effect**
2026	A
2025	A
2024	A
2023	A
2022	A
2022	A
2021	A
2020	A
2019	A
2018	B
2017	D
2016	E
2015	E
2014	E
2013	E
2012	E
2011	E
2010	E
2009	E

The rate schedule in effect in any given year is based on the balance in Kentucky's Unemployment Trust Fund on September 30th of the preceding calendar year. For example, if the Trust Fund has a balance of at least $350 million on September 30th, but less than $500 million, then rate schedule "B" would be in effect for the following calendar year.

This means that high unemployment costs, which reduce the fund balance, may cause tax rates to increase even for businesses that did not directly experience benefit charges. Remember, the computation date is July 31 of the preceding year. If you failed to file any report for the 12 quarters preceding the computation date, OUI cannot accurately calculate a rate for your account and, by default, we will assign the highest positive or negative balance rate from the schedule in effect for that year. If you file the missing report(s) within 20 days of receiving your annual rate notice, we can recalculate your tax rate using the taxable wages from the missing report(s). Please contact the Employer Accounting Section at 502-564-2168 to request an amendment to your rate notice.

We cannot use delinquent tax payments in the rate calculation. If you are, or become, a successor employer by acquiring all or part of an existing business that is already covered by unemployment insurance, your rate calculation will include the experience of your predecessor (See the "Successorship" section of this guide for more details).

Reimbursing employers do not have an annual contribution rate. Instead, they repay the agency on a per-claim basis. Reimbursing employers pay 100% of regular unemployment insurance benefits. If extended benefits are enacted, reimbursing employers repay 50% of extended benefits paid (with the exception of reimbursing governmental entities, which repay 100% of extended benefits paid). Employers who elect to reimburse the state in lieu of quarterly contributions are subject to interest (based on the average rate of earnings in the Unemployment Trust Fund for the prior calendar year) on any benefits charged to their account on or after August 28, 2010. The statement of benefit charges will list this as "Trust Fund Interest," and payment of interest is due at the same time as benefit charges.

I am a new employer. How is my rate assigned?

Employers with fewer than three (3) years of experience with Kentucky Unemployment Insurance are automatically assigned a contribution rate of at least **2.7%** (with the exception of new construction businesses, see "What is the tax rate for new construction businesses?" below).

After an employer has accrued three (3) years of experience with Kentucky Unemployment Insurance, they are assigned a new rate from the rate schedule on the following computation date (July 31). The rate cannot go lower than 2.7% until three (3) years of experience have been accrued (though it may go higher during this time based on your reserve ratio).

What is the tax rate for new construction businesses?

New construction employers are assigned the highest rate on the applicable rate schedule. This is because construction projects are frequently short-term, and the industry has a high turnover rate that results in a high number of claims. The law pertaining to contract construction tax rates was enacted at the request of the construction industry in order to prevent new companies from receiving a lower rate than the average for the industry.

If you are a new contract construction employer, you will not be eligible for an experience rating less than the maximum rate until you have employed workers in Kentucky for at least **12 consecutive calendar quarters** preceding the computation date. Your rate may go up or down during this period if the tax rate schedule in effect changes. Once you have met the 12 consecutive quarter requirement, your rate for the following year will be based on your reserve ratio.

When do I learn my assigned rate?

Each December, the agency sends annual rate notices to employers or third-party administrators (TPAs) by mail. The notice explains the employer's annual rate for the following year.

If there are more claims paid than the balance of my reserve account, am I responsible for paying the difference?

You are <u>not</u> required to pay a deficit balance on your account. However, a deficit balance will cause your contribution rate to increase in the following year. You may opt to make a voluntary payment to reduce or eliminate a deficit balance.

What is a voluntary payment?

In addition to quarterly tax liability, contributory employers can make voluntary payments into their reserve account if the account shows a deficit balance, thus reducing or avoiding an increase of the annual contribution rate during the following year.

Who can make a voluntary payment?

Contributory employers who meet certain criteria can make voluntary payments. To make a voluntary payment, a contributory employer must:

- Have a calculated experience rating,
- Have not made a voluntary payment in the preceding calendar year, and
- Have a deficit balance on their employer reserve account.

Construction employers who are subject to the maximum tax rate may make voluntary payments to reduce or eliminate a deficit balance, but this will not reduce their tax rate until they have satisfied the minimum length of employment for computation of an experience rating (12 consecutive calendar quarters).

Successors who inherit a deficit reserve account balance from their predecessors are permitted to make a one-time voluntary payment (not to exceed the deficit) to reduce or eliminate the negative reserve (see “Successors,” below).

When can I make a voluntary payment?

Contributory employers (including construction employers) can make voluntary payments within 120 days from the mail date of the current year's annual rate notice or within 30 days from the mail date of a relevant determination, whichever is earlier.

Successor employers who inherit a deficit reserve balance can make a voluntary payment against that balance within 60 days of receiving notice of the deficit (see "Successors," below).

How do I make a voluntary payment? How much should I pay? Will it save me money?

For your convenience, KUIP automatically calculates voluntary payments and estimates the savings or losses that you can expect to incur if you submit that payment.

To make a voluntary payment, log into KUIP, then go to the left-hand navigation menu. Click *Account Maintenance > Make a Voluntary Contribution Payment*. Enter the Estimated Taxable Payroll for the upcoming year, then review the Voluntary Contribution Required and Estimated Savings (or Loss). Select your desired voluntary contribution, select your Payment Method, and follow onscreen instructions to complete the transaction. When you see the "Payment Confirmation" screen, the payment has been received.

Successorship

What happens if I buy (or sell) a business?

If a liable business changes ownership, either the new or previous owner of the business **must request a business transfer in KUIP** (see KRS 341.540). Once the transfer is approved, all (or part) of the reserve account of the previous owner (known as the "predecessor") is transferred to the new owner (or "successor"). This process is known as "Successorship." Successor employers inherit the balance of the reserve account, whether positive or negative. Accordingly, the successor's tax rate is affected by the predecessor's experience rating. The successor may also inherit liability for delinquent reports, unpaid tax, surcharge, SCUF, and interest.

How do I request a business transfer?

To request a business transfer, the new or previous owner of the business logs into KUIP, goes to the left-hand navigation menu, and clicks *Account Maintenance > Request Business Transfer.* The "Experience Transfer" screen appears. Follow the onscreen instructions to indicate if the transfer you are reporting is the **purchase** of a business (if you are the new owner) or the **sale** of a business (if you are the previous owner). Provide all other information about the transfer as prompted, then click "Next." You must provide additional information about the specific assets acquired/sold and may have to provide supporting documentation depending on the type of transfer you are requesting. Once you have provided all the required information, click "Submit." When you see the "Experience Transfer Confirmation Screen" the request has been successfully submitted. OUI will notify you if the transfer is approved or denied. OUI will notify you by mail whether the transfer is approved or denied.

How is successorship determined?

If there is substantially common ownership, management, or control of the business before and after the transfer (i.e., one or more individuals owns or exercises pervasive management of the business before and after the transfer), then by law the acquiring employer is the successor to the predecessor's reserve account.

If there is no substantially common ownership, the determination of successorship is more complicated. In such cases, the transfer of the business is the **result of a negotiation** between the new and previous owner (with or without a third party) AND must meet at least **two (2) of the following conditions**:

a. The business was a going concern at the time that negotiations to transfer began
b. The new owner continued (or resumed) operation of the same type of business in the same location as the previous owner
c. The new owner acquired work contracts or commitments from the previous owner
d. At least half of the predecessor's employees continued to work for the successor
e. At least half of the new successor's employees worked for the predecessor

At least one (1) of conditions a, b, or c must be met. If only conditions d & e are met from the list above, successorship does not apply, and the previous owner's reserve account and liability do not transfer to the new owner.

What if I only buy (or sell) part of a business?

When requesting the transfer in KUIP, the requestor can indicate an approximate percentage of the business transferred to the new owner, including the percentage of payroll and number of employees transferred. OUI staff will review this information and may contact the parties to the transfer to confirm before approving.

If a partial transfer is requested in KUIP and approved by OUI staff, KUIP uses the transferred percentage of the business to determine how much of the predecessor's reserve account and liabilities must be transferred to the successor and then completes the transfer.

The predecessor continues to operate the remainder of their business using the same KEIN. The portion of the business transferred to the successor is now associated with the successor's KEIN. This is known as a "successorship in part."

How does successorship affect the successor's tax rate?

How the predecessor's tax rate affects that of the successor depends on (A) whether the successor was liable in Kentucky prior to acquiring the business, (B) the percentage of the predecessor's business acquired by the successor, and (C) if there is substantial common ownership after the transfer. OUI provides information about how the successorship affects the successor's tax rate on the annual "Notice of Contribution Rate."

If the successor **did not** have liability in Kentucky before acquiring the business, they receive the tax rate of the predecessor's account. This rate may be higher or lower than the new employer rate (2.7%), depending on the predecessor's reserve account (even if the successor did not acquire the balance of the reserve account itself).

If the newly liable successor is a successor in part and did not receive any portion of the predecessor's reserve account, the transfer will no longer affect their rate after the first year of subjectivity. Otherwise, after the first year, the successor's rate will be calculated based on a combination of the predecessor's reserve balance and taxable payroll (D) with those of the successor (E). After a minimum of 3 years of subjectivity, the successor becomes eligible for a new tax rate based on their experience with the agency (which may be lower than the standard new employer rate); the agency includes the predecessor's experience when calculating the length of the newly liable successor's subjectivity. NOTE: If the predecessor was delinquent in filing reports during the 12 quarters immediately preceding the transfer of the business, this will result in a higher default rate. If this occurs, contact the OUI Tax Enforcement Branch at (502) 564-2272 for assistance in estimating and filing missing reports.

If the successor **did** have liability in Kentucky before acquiring the business (and there exists no substantial common ownership after the transfer), the transfer does not affect the successor's assigned rate during the calendar year in which the transfer occurred. Starting the following calendar year, the successor's assigned rate will be calculated by combining the predecessor's payroll and reserve totals (D) with those of their successor (E).

If the successor did have liability in Kentucky before acquiring the business (and there does exist substantial common ownership after the transfer), the successor's rate is recalculated as of the quarter that first follows the transfer date. The rate will be calculated by combining (F) the experience of the predecessor account and (G) that of the successor account.

When calculating excess wages, can a successor claim wages paid by the predecessor prior to the purchase of the business?

Yes. If you are a successor (even if no reserve balance was transferred to you as part of the acquisition) you may take credit for wages your predecessor paid your employees prior to the transfer when determining excess wages for those employees, as long as the predecessor wages were paid in the same calendar year as the transfer.

What are my liabilities as a successor?

In addition to predecessor benefit charges, successors may also be held liable for unpaid tax, SCUF, surcharge, and interest owed by the predecessor. Successors in part are only held liable for a percentage of such debts (based on the percentage of the business that they acquired).

OUI must notify the successor within six (6) months of discovering that the transfer occurred to hold the successor liable for any such debt. Note: this is <u>not</u> six (6) months from the date of the transfer itself.

OUI will make every reasonable effort to collect such debts from the predecessor. If OUI is unable to make a full collection, the successor will be held liable. Such debts are legally binding and cannot be reduced or eliminated by any negotiation or contract between the successor and the predecessor.

Inactivating and Terminating Accounts

What actions should I take in KUIP if I close my business?

If you close your business, you'll need to inactivate your account. Once you've inactivated your account, you will not be required to file quarterly reports after the last quarter during which you paid workers in covered employment. Note: if your last payroll occurred in a quarter after the last date of employment, you must still report payroll for that quarter. If you employ workers in the future, however, you will be liable under unemployment insurance law.

How do I inactivate my account?

To inactivate your account, login to KUIP and go to the left-hand navigation menu. Click *Account Maintenance* > *Inactivate Employer Account*. Select the reason for the inactivation, date of last wages paid, and provide other information as prompted, including contact information. Click "Next," to review the inactivation summary. If you are sure you wish to inactivate, click "Next." When you see the "Confirmation of Account Inactivation" message, your account has been inactivated.

Can I reactivate my inactive account?

You can request a reactivation of your account. Log into KUIP, click *Account Maintenance* > *Request Reactivation*, and follow onscreen instructions to provide required information and complete the request.

Will my reserve account balance be returned to me if I close my business?

No, this balance cannot be refunded; it can only be used to pay benefits.

Do I have to pay off any deficit balance in my reserve account when I close my business?

No. However, if you resume employment in the future and have not terminated your reserve account (see below), your future rate will be based on your deficit reserve balance.

Can I receive unemployment insurance benefits if I close my business?

If you are a proprietor or partner, you are <u>not</u> eligible to draw unemployment insurance benefits.

If your business was incorporated and you drew a salary, you may be able to draw benefits. You must first apply and be found eligible according to all other requirements under the law.

Do I have to file reports if I no longer have employees?

If your business is still in operation, but you no longer have employees, you must inactivate your account in KUIP (see directions above).

What is "Termination of a Reserve Account?"

If your business no longer has sufficient covered employment under KRS 341.070, you can request to terminate your reserve account. A terminated employer is no longer subject under Kentucky Unemployment Insurance Law as of January 1 of the current calendar year if they request termination on or before April 15. KUIP does not allow termination requests after April 15. If you wish to request termination after April 15, you must wait until January 1 of the next calendar year.

An employer whose account has been terminated will become subject again under Kentucky Unemployment Insurance Law if their experience in covered employment later meets the threshold of subjectivity indicated in KRS 341.070 (See *Unemployment Tax Liability* section, above).

How do I request termination of my reserve account?

To request termination, log into KUIP, then go to the left-hand navigation menu and click *Account Maintenance* > *Manually Terminate Employer Account*. From the dropdown menu, select "Employer Request" as the reason for termination, then click "Next." Review the confirmation screen, then click "Submit" to confirm the termination.

Does KUIP terminate accounts automatically?

KUIP automatically terminates inactive accounts that meet the following criteria:

- Amount due is zero dollars ($ 0.00),
- Account has no missing wage reports, and
- Account has been inactive for three (3) consecutive calendar years since the date of last wages paid.

Before automatically terminating an inactive account, KUIP sends a notification to the affected employer that their account is about to be terminated.

If I inactivate or terminate my reserve account, will I be liable for unpaid tax, interest, surcharge, SCUF, or penalties?

Yes. Inactivation or termination of your account does not relieve you of liabilities assessed when your account was active and accruing experience with the agency.

Can I reactivate a terminated account?

No. Once your account has been terminated, you no longer have an experience rating with OUI. If you become subject again under KRS 341.070 (See *Unemployment Tax Liability* section, above), you must sign up for a new employer account in KUIP. You will be assigned a standard rate for new employers.

Benefits

Who can file for unemployment benefits in Kentucky?

Unemployment insurance (UI) benefits are for individuals who:

- Are unemployed or working less than full-time through no fault of their own
- Earned sufficient wages in covered employment in Kentucky during the first four (4) of the last five (5) completed calendar quarters (the "base period")
- Are able to work and are available for work
- Are actively seeking work[2]

Claimants cannot file a claim in Kentucky if they have a valid claim in another state. If the claimant did not work in Kentucky in the last 18 months, they must apply in a state where they worked.

When is a worker eligible to receive unemployment benefits?

Claimants must first meet monetary requirements to establish a valid claim. However, a valid claim is not a guarantee of payment. Claimants must also continue to meet weekly eligibility requirements each week to receive benefit payments.

Monetary requirements are related to the wages that the claimant earned in covered employment during the base period. The Base Period is a one-year period made up of four (4) calendar quarters. In Kentucky, the base period is the first four (4) of the last five (5) completed calendar quarters. The wages the claimant earned during the base period will determine if their claim is valid and their weekly benefit amount (WBA).

To be considered part of a claimant's base period, wages must have been earned in covered employment. "Covered employment" does not include contract work, some types of self-employment, National Guard work, or work performed for religious institutions.

The Effective Date of a claim is the first Sunday of the week in which the claimant completed the initial claim application. For example, if a claimant files a claim with an Effective Date any time between January 5, 2026, and April 5, 2026, their Base Period will begin on October 1, 2024, and end September 30, 2025.

[2] There are some exceptions to the work search requirement, including claimants who have a definite return-to-work date within one (1) year, claimants who find work through a union hiring hall, claimants in approved training, and claimants who are unemployed due to a labor dispute. See 787 KAR 1:090.

To establish a valid claim, the claimant's base period wages must meet the following requirements:

- At least $1,500 earned in at least one (1) quarter;
- Wages earned during the base period must be at least 1.5 times the wages in the highest-earning quarter;
- Total wages outside of the highest quarter must be at least $1,500; and
- Wages in the last two (2) quarters must be at least eight (8) times the weekly benefit rate.

To receive benefit payments, the claimant must also meet weekly eligibility requirements and certify their eligibility for each week claimed by answering questions about their eligibility in KUIP. Eligibility questions cover topics like ability to work, availability for work, income and earnings, and required job search activities. Claimants may be required to provide evidence of these activities. Providing false, misleading, or incomplete responses to receive benefits is a crime and will be prosecuted.

How much can claimants receive in benefits?

There are limits to the amount of benefits a claimant can receive for each week and to the total number of weeks they can receive benefits.

The Weekly Benefit Amount (WBA) is the maximum amount of benefits a claimant is eligible to receive each week that that they request UI benefits. The WBA is calculated based on the amount of wages that the claimant earned during the base period. The basic benefit calculation is 1.1923% of the base period wages. The WBA is locked in for the entire benefit year (52 weeks after filing). Effective July 5, 2026, the minimum rate is $39 per week and the maximum rate is $746 per week.

The duration of benefit weeks is between 16 and 24 weeks, depending on the State Average Unemployment Rate (SAUR) in Kentucky.

The maximum benefit amount for the duration of a regular UI claim is equal to one of the following (whichever is less):

- 16 times the claimant's weekly benefit rate, or
- 1/3 of the claimant's base period wages.

What disqualifies workers from receiving benefits?

A worker may be disqualified from receiving benefits for the following reasons:

- **Voluntary Quit**: A claimant may be disqualified from receiving benefits for the duration of their unemployment if they voluntarily quit their most recent or next most recent suitable work without good cause attributable to the employment. If so, they must then work at least 10 weeks and earn 10 times their weekly benefit amount in covered employment to remove the disqualification. There are exceptions to the "voluntary quit" disqualification. A claimant who quits a job to accept a bona fide job offer with a reasonable expectation of continued work, or who quits a job more than 100 miles from their home to accept closer employment, will not be automatically disqualified. If otherwise eligible, such claimants will receive benefits, but the employer's reserve account is not chargeable. A worker who quits a job to follow a military spouse will not automatically be disqualified.
- **Work Refusal**: A claimant will be disqualified for the duration of their unemployment if they refuse, without good cause, to accept a bona fide offer of suitable work or to apply for available work when so directed by the Kentucky Career Center.
- **Labor Dispute**: A claimant will not receive benefits for any week of unemployment that is due to or is the result of a strike or other bona fide labor dispute in the establishment in which they are or were last employed. For the purpose of this disqualification, however, a lockout is not deemed to be a strike or labor dispute.
- **Misconduct**: A claimant who has been discharged for misconduct from their most recent or next most recent work may be disqualified for the duration of their unemployment. KRS 341.370(6) states that "discharge for misconduct" includes, but is not limited to:
    - Separation initiated by an employer for falsification of any employment application to obtain employment through subterfuge
    - Known violation of a reasonable and uniformly enforced rule of an employer
    - Unsatisfactory attendance if the worker cannot show good cause for the absences or tardiness
    - Damaging the employer's property through gross negligence
    - Refusing to obey reasonable instructions
    - Reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours
    - Conduct endangering safety of self or coworkers

    - Incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction, which results in missing at least five (5) days of work
- **Fraud**: A claimant will be disqualified if it is found that they knowingly made a false or misleading statement in order to obtain benefits or increase their benefit amount. Fraud cases may also be criminally prosecuted as a Class D felony. Conviction in court may result in a fine, jail sentence, or both.

What happens if the claimant refused to take a drug test?

If an employer instructs a worker to take a drug test, and the worker refuses, they may be disqualified from receiving benefits under certain circumstances:

- The worker must have agreed of their own free will to submit to a drug test
- The employer must have a reasonable suspicion of illegal drug use
- The employer must have a legitimate need to know based on safety or security reasons, or the drug test must be required by federal regulations
- The test is reliable and reasonable, both in itself and in the manner in which it is conducted
- The test is conducted by the least invasive method available
- The confidentiality and integrity of the test is ensured
- The worker was informed in advance of the testing policy

Employers should be prepared to provide the following information in writing or during a fact-finding interview conducted by OUI staff:

1. Whether you have a drug testing policy or a bargaining agreement that addresses drug testing, or as a government employer or its agent (such as employers in the river transport, railroad, and interstate trucking industries), and if you are required by federal regulations to test for drug use; attach a copy of the policy, agreement, or federal regulations to your response. We will need the date of the policy, the implementation date, as well as how and when workers were made aware of the policy, agreement, or regulation.
2. If there is a written policy or agreement, did this worker agree of his own free will to submit to the drug test?
3. Did you have reason to suspect that the worker was using illegal drugs? If yes, describe the reason for your suspicion.
4. If you did not suspect drug use, how was the worker selected for testing?

5. Do you believe you had a legitimate need to know for safety or security reasons if this worker was using illegal drugs? If yes, describe the basis of your belief.
6. When and how was the worker informed of the need for the test?
7. What date was the test administered?
8. Describe the test, including why this particular type of test was chosen and how it was conducted. If a test other than GCIMS (gas chromatography/mass spectrometry), EMIT (enzyme multiplied immunoassay technique), or RIA (radio immunoassay) was used, a detailed description is required.
9. Describe in detail the chain of custody of the sample (including both the circumstances under which the sample was taken and the measures taken to ensure the chain of custody was not broken). Give the name of the person responsible for the integrity of the tested material and the chain of custody. This person must be available to testify, if required.
10. How was the confidentiality of the test result ensured?

How will I know if a former employee has filed a claim?

When an unemployed worker files an initial claim, OUI will generate an Employer's Notice of Initial Claim (Form UI-412A). The **correspondence will be sent via USPS to the address of record**.

In addition to the UI-412A, you may also receive a Fact-Finding Report, Employer Statement (UI-408). This form contains general questions regarding the worker's employment as well as specific questions regarding the reason the worker is no longer employed. The **correspondence will be sent via USPS to the address of record** (this may be the employer's Mailing Address, the employer's Claim Forms address, or the Claim Forms address of an associated TPA). Complete and return the UI-408, along with the UI-412A, to OUI.

If a claimant has a monetarily valid claim, and you are the chargeable employer, you will receive a Notice of Potential Benefit Charges (Form UI-412). The **correspondence will be sent via USPS to the address of record** (this may be the employer's Mailing Address, the employer's Claim Forms address, or the Claim Forms address of an associated TPA). Upon receipt of this form, you will know the claim's potential effect on your reserve account. This form is **<u>not</u>** a notice that the claimant has been or will be paid benefits. It only means that the claimant has satisfied the requirements relating to qualifying wages.

To ensure that you receive correspondences timely, be sure to inform OUI if any of your addresses change.

What should I do if I think a worker should not receive benefits?

As an employer, you have the right to protest an employee's initial claim filing and any potential benefit charges. You can file these protests in response to correspondence from the agency notifying you of claim filing or potential charges.

To protest an initial claim: If the worker left your employ *for any reason other than lack of work* (even in cases of layoff) you should complete the Employer's Notice of Initial Claim (UI-412A) as soon as possible and submit your protest by paper documentation within ten (10) days after the date of the first notice or twelve (12) days after first notice if submitting the protest electronically. This is particularly important if you believe there is information the OUI needs to render an accurate determination (for example: if the claimant received separation pay, or if they have an expected return-to-work date).

If you receive a Notice of Potential Benefit Charges (UI-412) you must submit any protest by paper documentation within ten (10) days after the date of the first notice or twelve (12) days after first notice if submitting the protest electronically. Please note: If you received Form UI-412A (Employer's Notice of Initial Claim) and responded, you do not need to submit an additional protest upon receipt of Form UI-412; the agency will consider the protest you submitted in response to the UI-412A when determining if the claimant is qualified for payment.

NOTE: instructions for filing your protest (whether by mail or electronically) are found on UI-412A and UI-412.

When will I be charged for benefits, and how will I know?

The chargeable employer is the last employer the claimant worked for in each of 10 weeks (consecutive or not) back to the beginning of the workers' base period. A Statement of Benefit Charges to Employer's Reserve Account (UI-448-SM) is **sent via USPS to the address of record** (this may be the employer's Mailing Address, the employer's Benefit Charges, or the Benefit Charges address of an associated TPA). This statement lists all claimants paid benefits during that quarter which were charged to the employer's reserve account. If no claimant received benefits chargeable to the employer's reserve account, then a Statement of Benefit Charges is not mailed to that employer for the quarter involved.

To ensure that you receive correspondences timely, be sure to inform OUI if any of your addresses change.

Can I be relieved of charges?

A tax-paying employer's reserve account may be relieved of charges if the employer notifies OUI, in writing, of the alleged voluntary quit or discharge, or of continuing employment within the specified time limit.

What if a claimant goes back to work but continues to receive benefits?

OUI checks benefit claimant records against wage reports filed by employers and the State Directory of New Hires. If OUI finds a potential case of an individual drawing benefits while wages are reported or after a new hire date, OUI sends the employer who reported the wages or hire a Wage Audit (UI-203) by USPS to gather additional information.

If you receive a Wage Audit, complete the form and return it to the agency.

These crossmatch audits are very important in detecting improper benefit payments and keeping unemployment insurance taxes low. Even if the benefits are not being charged to your account, overpayments can cause all employers to pay higher taxes.

Does OUI follow up to see if claims are paid properly?

Yes. Although it is not possible to thoroughly investigate every claim, our quality control program conducts random audits of claims and uses the results to detect incorrect payments and improve the overall quality of the benefit process. Investigations are conducted involving wage audits and work search verification. If your company is selected to participate, you will receive (1) correspondence notifying you of the investigation and (2) Benefit Accuracy Measurement (BAM) Form 13A. Follow the instructions provided in that correspondence to respond to the investigation properly and timely. Your cooperation with these audits assists us to verify that claims are properly paid or denied and that wages are accurately reported. If you have questions about an investigation, contact the Benefit Accuracy Measurement team at UIBAM@ky.gov or 502-564-2369.

What can I do if I think a claimant is receiving benefits fraudulently?

OUI investigates all fraud tips. If you have evidence that a claimant is improperly receiving benefits, contact the OUI Integrity Branch at (502) 564-2387, or report an anonymous tip through https://kcc.ky.gov.

What happens if a claimant is overpaid?

Claimants are obligated to repay the improperly paid benefits, and employer reserve accounts are credited for benefits that are overpaid. Contributory employers will see the overpayment credited to their reserve accounts immediately, while reimbursing employers are not compensated until OUI successfully recoups the overpayment. OUI uses several methods to collect overpayments, including:

- Interception of annual Kentucky income tax refunds and federal income tax refunds to individuals with outstanding overpayments;
- Filing and pursuing criminal charges in court (UI fraud is a Class D felony);
- Filing liens against real and personal property;
- Civil action to collect overpayments;
- Reduction of future benefits for application against balance of overpayment;
- Imposition of monthly interest on the balance of overpaid benefits paid as a result of false statements, misrepresentation, or concealment of a material fact (if not repaid within one year from the date that the claimant is notified of the overpayment); and
- Intercepting benefits paid on claims in other states or federal unemployment programs with the assistance of other state agencies and the United States Department of Labor.

What happens if a claimant receives backpay for a period during which they were receiving benefits?

Workers are not eligible for periods covered by backpay. Accordingly, backpay will result in an overpayment which OUI will make every reasonable effort to recover.

Can I file a mass unemployment insurance claim (E-Claim) on behalf of my employees?

Under certain circumstances, you can file a mass electronic claim (E-Claim) on behalf of your workers. To be eligible for an E-Claim, an employer must:

- Have a workforce of at least 100 workers
- Furlough at least 25 workers
- Apply for an E-Claim only on behalf of workers who will remain job connected for the duration of the claim and have a return-to-work date within four (4) calendar weeks of the last day worked.

For more information on E-Claim filing, contact OUI at UIeclaims@ky.gov or (502) 564-4761.

Can I file claims for employees experiencing a temporary reduction in work (rather than a total furlough)?

If you are reducing the hours of at least two (2) employees for no less than 10% and no more than 40%, you can apply for a "Work Share" claim on their behalf. Work share claims pay partial benefits to employees who are experiencing a reduction in work hours. This program allows you to keep skilled workers during economic downturns and recover more quickly and cost-effectively as business returns to normal.

For more information about work share or to apply, visit Work Share Program - Kentucky Career Center.

How does the OUI prevent fraud and maintain data security?

In addition to quality control and fraud detection efforts, OUI follows rigorous internal security measures in full conformity with requirements established by the Internal Revenue Service (IRS), Social Security Administration (SSA), and United States Department of Labor (USDOL), as well as all applicable federal laws and state statutes. These measures protect against internal and external fraud, and ensure the security of employer and claimant data.

What is the State Information Data Exchange System (SIDES)?

The State Information Data Exchange System (SIDES) and E-Response (E-SIDES) offer employers and TPAs a free, secure, electronic, and nationally standardized format for:

- Responding to UI information requests
- Providing documentation
- Confirmation that their response(s) and documents were received

The **E-SIDES** website is a convenient portal for electronically responding to requests for information from state agencies like OUI. E-SIDES is available in participating states to any employer or TPA with internet access and is particularly useful for employers who expect a limited number of unemployment claims each year. **SIDES** provides a more automated data-sharing and file-tracking interface between employers' IT systems and state agency networks. SIDES is an integrated computer-to-computer interface designed for employers and TPAs that typically deal with a large volume of UI information requests. SIDES is especially helpful to those that operate in multiple states. Both options are completely free of charge for employers and TPAs, although there may be internal IT development costs to integrate SIDES into your system. Because of the sensitive nature of the data exchanged between state UI agencies, employers, and TPAs, both SIDES and E-SIDES have multiple layers of security implemented to the highest standards.

SIDES and E-SIDES allow employers and TPAs anticipate and supply the data needed for UI information requests, reduce paperwork and follow-up phone calls, and streamline their UI response processes, all while saving time and money.

Appeals

If I disagree with an OUI decision, can I file an appeal?

In most cases, yes. Almost every action taken by OUI that affects an employer or a worker can be appealed, including benefit and tax determinations. As a matter of law, appealable decisions are always sent to the affected parties by mail (though a copy of the determination will also be available in your KUIP account under *Correspondences*).

Appeals of benefit determinations may be made by either the employer or the claimant and are heard by an Appeals Branch referee. If either party is dissatisfied with the decision of the referee, a further appeal may be filed with the Unemployment Insurance Commission, and thereafter, through the courts.

Appeals of tax determinations (for example, employer-employee relationship, liability, tax rate, notices of assessments, etc.) are filed directly with the Unemployment Insurance Commission. Parties who are dissatisfied with a decision of the Commission may continue their appeals through the Franklin County Circuit Court.

How and when should I file an appeal?

Appealable decisions from OUI are sent by US Mail to the affected parties and always include directions that explain the party's appeal rights, how to submit an appeal, where to submit an appeal, and the latest date the party can submit an appeal.

You must file your appeal on time and in writing. Your right to appeal a decision by the agency, a referee, or the Unemployment Insurance Commission does not extend beyond the timeframe indicated on the decision.

Appeals submitted to the OUI Appeals Branch (e.g., an appeal of a benefit determination), must be filed in writing within **thirty (30) days of the date the determination was mailed.** See KRS 341.420(2) & 787 KAR 1:110(1a).

Appeals submitted to the Unemployment Insurance Commission (e.g., an appeal of a tax determination or a previous referee decision) must be submitted in writing within **twenty (20) days of the date the determination was mailed**. See KRS 341.430(2) & 787 KAR 1:110(1a).

Can I withdraw an appeal?

The appealing party may withdraw an appeal by informing the UI Appeals Branch, UI Tax Enforcement Branch, or UI Commission **in writing**. If you withdraw your appeal, the determination becomes final and there is no further right to appeal.

What is an appeal hearing?

When an appeal is submitted to the OUI Appeals Branch, agency staff schedule an appeal hearing. An appeal hearing is an administrative proceeding conducted by an OUI "referee." Referees are specially trained to conduct appeal hearings, assist both parties in presenting their cases, and evaluate evidence. During the hearing, all parties have a chance to present evidence, offer testimony, and cross-examine witnesses. Hearings may be conducted in person or by teleconference, and translation services can be provided if requested in advance. Hearings are digitally recorded to serve as the official record to the proceeding.

The referee renders a decision consistent with the evidence presented and all applicable laws, statutes, and regulations. This decision is made at a later date and sent to the affected parties as a written determination. If any party does not agree with the referee's decision, they are entitled to file a further appeal with the Unemployment Insurance Commission within twenty (20) days of the date that the referee's decision was mailed.

Do I need an attorney for my appeal hearing?

You have the right to be represented by an attorney or other duly authorized agent of your choosing, but this is not required.

Who should attend an appeal hearing?

All parties affected by the appeal should attend the hearing. In the case of appeals filed against benefit determinations, this means that both the employer and the claimant should be present. Any witnesses who are scheduled to testify must also attend. If you choose to retain legal representation, your attorney or duly authorized representative should attend the hearing (this is within your rights but is not required).

What are my rights with respect to an appeal hearing?

Before, after, and during a hearing, you have the following rights:

1. Right to an adequate and timely notice of hearing
2. Right to call witnesses (including the right to request subpoenas)
3. Right of representation at own expense
4. Right of confrontation (i.e., the opportunity to confront opposing witnesses)
5. Right of cross-examination (i.e., to ask questions of other parties and witnesses)
6. Right to receive a written decision based on the record of the hearing

What happens in an appeals hearing?

The referee has the sole authority for the conduct of the hearing and will swear in all parties and witnesses before they begin to give testimony. The appeals referee will:

1. Explain the issues and the meaning of any terms the parties do not understand.
2. Explain the order in which parties and witnesses will testify.
3. Assist parties in asking questions of witnesses as needed.
4. Question parties and witnesses to obtain necessary facts.
5. Determine on their own motion or the request of a party whether testimony and documents being offered should be received and considered.
6. Require parties to give a proper background or foundation for secondary evidence, documents, and opinion testimony.

What happens after the hearing?

The referee indicates that the hearing is concluded, and the parties disconnect from teleconference or leave the hearing location. Once the hearing is concluded, the referee is not allowed to discuss the case or any related matter with either party. The referee does not render a decision immediately.

How are appeals decisions made and communicated?

The referee reviews the evidence in keeping with applicable administrative regulations and issues a written decision. The decision is based solely on testimony and evidence presented at the hearing.

The written decision is promptly mailed to all parties to the appeal. The decision sets forth facts found from the evidence presented, reasons for the decision, and the decision itself.

How do I prepare for an appeals hearing?

The agency will contact you to schedule the hearing. Once scheduled, you will receive a "Notice of Administrative Hearing" that details the time and place of the hearing.

If a hearing is scheduled by teleconference, and you have any documents or written materials which you want the referee to consider in this hearing, you must send them immediately to the UI Appeals Branch or the UI Commission at the address on the top of the Notice of Administrative Hearing. You must also send copies of these documents to the other party (if applicable); if you fail to do so, the referee may deny you the ability to present these documents as evidence. Be sure to keep a copy of these documents for your own use at the hearing and include the Social Security number of the claimant (when applicable) if sending any documentation or communication.

Plan ahead and manage your schedule. It is very important that you are on time for the hearing. A delay may cause your case to be decided based on facts already presented. Hearings are only rescheduled in cases of emergency or other compelling reasons, such as claimant's inability to attend due to current employment, medical emergency, death of a family member, or act of God.

Be prepared to explain your position and to ask and answer questions regarding the issue being appealed. Bring all reports and records that might prove your case, such as records of absences, doctor's statements, information concerning pay rate, previous warnings, etc. In tax determination hearings, bring all business records related to the determination under appeal.

Any witnesses should be prepared to answer all questions. Subpoenas for witnesses or records may be issued prior to the hearings, if necessary. If you need to request a subpoena for witnesses or evidence, you must submit the request in writing no later than seven (7) days prior to the hearing. Requests for subpoenas must include the name and address of the party to be subpoenaed, the information the party may present at the hearing, and the need for the information.

Contact Directory

For your convenience, the *Employer Guide* contains a directory of useful contacts for employers and third-party administrators (TPAs). If you have a question, do not hesitate to contact the relevant branch for assistance.

Tax Enforcement Branch

If you have questions about tax liability, payment of delinquent taxes, wage reporting, refunds and adjustments, benefit charges, account maintenance, payment agreements, or legal proceedings, contact the OUI Tax Enforcement Branch by phone at (502) 564-2272, by fax at (502) 564-5442, or by email at UiTax@ky.gov.

Tax Audit Branch and Field Auditors

If you have questions concerning payroll audits or any other investigation of your business, contact the OUI Tax Audit Branch by phone at (502) 564-6838, by fax at (502) 564-5590, or by email at UiAuditors@ky.gov.

If you wish to contact a field auditor directly, you can find their contact information through the Kentucky Career Center website at kcc.ky.gov.

Appeals Branch

For questions concerning the appeals process, hearings, or the status of an appeal, contact the OUI Appeals Branch by fax at (502) 564-7850, or by email at UIAppeals@ky.gov.

Unemployment Services Call Center

If you have questions about benefits or individual claims, you may contact the OUI Unemployment Services Call Center at (502) 564-2900.