

UNEMPLOYMENT INSURANCE

---

# Employer Handbook



Your workforce experts.

[www.sdjobs.org](http://www.sdjobs.org)



Revised July 2016

# Table of Contents

<b>Introduction</b> .....	1
<b>Employer Liability and Coverage</b> .....	1
Definition of an Employer.....	1
Covered Employer .....	1
Covered Employment .....	2
Day Labor .....	2
Corporate Officer Remuneration .....	2
Multi-State Employer .....	2
Exempt Employment .....	2
Operating More Than One Establishment .....	3
Seasonal Employers .....	3
Independent Contractor or Employee?.....	4
IRS or Other State Determination of Exempt Employment .....	5
Reportable Wages .....	5
Records You Must Keep .....	6
Your Responsibility to Keep Us Informed .....	6
Duration and Termination of Liability .....	6
<b>Employers' Contributions</b> .....	7
Tax Rates .....	7
Reports Required.....	8
Protesting Charges .....	9
When and Where to Pay .....	9
Online Reporting.....	10
Cost Reimbursement .....	10
FUTA Payments .....	11
<b>Experience Rating</b> .....	13
Rate Determination .....	13
Experience-Rating Account Activity.....	13
Investment Fee .....	14
Negative Account Balances .....	14
<b>Staying Informed/Getting Help</b> .....	15

Notifications to Employers .....	15
Field Representatives.....	15
Still Have Questions?.....	15
<b>Benefit Payment Policy and Practices .....</b>	<b>15</b>
Definitions .....	16
Benefits.....	17
Eligibility and Disqualifications.....	17
Quality Control Program/Benefit Payment Control.....	20
<b>New Hire Reporting .....</b>	<b>21</b>
<b>Labor Market Information .....</b>	<b>22</b>
<b>Department of Labor and Regulation Local Offices .....</b>	<b>22</b>
Recruitment .....	22
Screening .....	22
Online Services .....	22
Skilled and Professional Employees .....	23
<b>DLR Local Offices .....</b>	<b>23</b>
<b>UI Division Administrative Office .....</b>	<b>24</b>
Unemployment Insurance Division, Tax Unit Field Representatives.....	24
<b>Important Points to Remember.....</b>	<b>25</b>
<b>Important Links.....</b>	<b>25</b>
<b>Appendix: Examples of Forms.....</b>	<b>A-1</b>

## Introduction

South Dakota's unemployment insurance program is financed by employers through payroll taxes. It is exactly what the name implies — insurance — and benefits are paid to eligible claimants who meet the conditions fixed by law, as a matter of right, without regard to need.

As an employer, if you are liable under the state law, you will also pay federal unemployment taxes directly to the federal government. This federal tax helps finance various South Dakota Department of Labor and Regulation workforce and training programs, such as job placement, labor market information and training of workers to meet industry needs. Your federal tax also pays the administrative costs of the state unemployment insurance program and provides funds that may be loaned to states whose unemployment insurance reserves are depleted.

To protect your investment in this program, you should understand your rights and know your responsibilities under South Dakota law. Cooperation with the department will help ensure the unemployment insurance (UI) program is administered efficiently and economically.

This handbook will help you and others in your organization who are responsible for hiring and/or discharging workers, examining and completing unemployment insurance claim notices and preparing payrolls and tax forms. This handbook also provides information on other department programs. We hope it will be useful.

Statements in this handbook are for general information and do not have the effect of law or regulation. The actual unemployment insurance laws and regulations are contained in South Dakota Codified Law, Title 61 (<http://legis.state.sd.us/statutes/DisplayStatute.aspx?Statute=61&Type=Statute>) and South Dakota Administrative Rules, Article 47:06 (<http://legis.state.sd.us/rules/DisplayRule.aspx?Rule=47:06>).

Be advised that wage information and other confidential information may be requested and utilized for other governmental purposes including, but not limited to, verification of an individual's eligibility for other governmental programs in accordance with federal regulations.

If you have a question not covered in this handbook, please contact any UI Field Representative (see p. 24), or write to:

South Dakota Department of Labor and Regulation  
Unemployment Insurance Division, Tax Unit  
PO Box 4730  
Aberdeen, SD 57402-4730

Or visit our website, [www.sdjobs.org](http://www.sdjobs.org), and choose "Unemployment Insurance" from the menu on the right.

## Employer Liability and Coverage

### Definition of an Employer

An employer is an individual, partnership, corporation, limited liability company (LLC), association, trust, organization or political subdivision, etc., which has in its employ one or more individuals performing services in South Dakota.

### Covered Employer

You become a covered employer when you incur liability and are required to pay taxes into the Unemployment Insurance Fund. You must pay UI taxes if you meet one of the following criteria:

- Employed one or more individuals (full- or part-time) in 20 different calendar weeks in the current or preceding calendar year.
- Paid wages of \$1,500 or more in a calendar quarter in the current or preceding calendar year.
- Are covered under the Federal Unemployment Tax Act (FUTA).

- Acquired all or a portion of a covered business.
- Paid wages for agricultural employment of \$20,000 or more in a calendar quarter or employed 10 or more individuals for some portion of a day in each of 20 different calendar weeks in the current or preceding calendar year.
- Paid wages for domestic employment of \$1,000 or more in a calendar quarter in the current or preceding calendar year.
- Have proof of 501(c)(3) non-profit status with the Internal Revenue Service (IRS) and employed four or more individuals in 20 different calendar weeks in the current or preceding calendar year.

## **Covered Employment**

### **Definition**

**Covered employment** is an individual's entire service (including service in interstate commerce), performed for wages or under any contract of hire, written or oral, expressed or implied.

### ***Day Labor***

Day Labor, temporary labor and part-time labor all count as employment and need to be reported to the Unemployment Insurance Tax Division by covered employers. Under South Dakota statute, there is no unemployment insurance tax exemption for part-time wages (including short-term or day labor). If you are a covered employer under South Dakota's unemployment insurance tax laws, you must report all wages paid, including those of part-time/short-term employees.

### ***Corporate Officer Remuneration***

Corporate officers are considered employees for unemployment insurance tax purposes. When a shareholder employee of an S corporation provides services to the S corporation, reasonable compensation generally needs to be paid. Reasonable compensation to shareholder employee(s) must be declared before a non-wage distribution may be made to that shareholder employee. This compensation is subject to unemployment taxes.

### ***Individuals Hired by Your Employee***

Any individual engaged to perform or assist in performing the work of any person in your service is considered your employee. It does not matter whether that individual was engaged or paid directly by you or one of your employees, so long as you have actual or constructive knowledge of the work.

### ***Multi-State Employer***

To be considered covered employment under the South Dakota law, the worker must perform services entirely within the state or perform most of the services in the state with only temporary tasks outside the state.

However, if a worker's service is not localized in any state, all employment is reportable to the state in which the base of operation is located.

If you have any doubt as to where to report wages, contact a tax representative of the UI Division, listed on p. 24.

## **Exempt Employment**

- Services performed by a sole proprietor, the sole proprietor's spouse, the sole proprietor's minor children under the age of 21 years and sole proprietor's parents. The term "child" has been defined to include stepchildren and foster children.
- Service performed by a partner in a partnership comprised of two or more individuals or businesses.
- Services performed by elected officials, members of legislative and judicial bodies, members of the state national or air national guard, temporary employees hired during an emergency, and nontenured policy-making or advisory positions. State and local government employees who do not fall under these

exclusions are covered employees.

- Service performed by a student hired as part of a cooperative education program.
- Service performed by an individual under 18 years of age in the delivery or distribution of newspapers.
- Service performed by an individual as an insurance agent or a solicitor, if all such services are performed for remuneration solely by way of commission. See p. 2 for an exception for corporate officers.
- Service performed:
  - In the employ of a church or convention or association of churches, primarily for religious purposes, or an organization which is operated, supervised, controlled or principally supported by a church, convention or association of churches.
  - By a duly ordained, commissioned or licensed minister of a church in the exercise of the ministry or by a member of a religious order in the exercise of duties required by such order.
- Service performed in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age, or physical or mental deficiency or injury, or providing remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed into the competitive labor market, by an individual receiving such rehabilitation or remunerative work.
- Service performed as part of an unemployment work-relief program or as part of an unemployment work-training program assisted or financed in whole or in part by a federal agency or an agency of a state or political subdivision, by an individual receiving work relief or work training.
- Service performed by a non-resident alien temporarily present in the United States with a F-1, J-1, M-1, Q-1 or H2A visa. Note: you must report all wages for individuals with any other type of visa, including H2Bs, if you are a covered employer.

## **Operating More Than One Establishment**

If you operate more than one establishment under the same ownership in South Dakota, two separate account numbers may be assigned. One reason for maintaining separate accounts is for cost accounting. Experience-rating accounts will be consolidated for rating purposes. See p. 11 for more information.

If each of the establishments is operated by a separate employing entity, an account must be established for each business. For example, two corporations would be separate legal entities, even though individual "A" owns the majority of the stock in each corporation.

If "A" is a partner of "B" in operating one store and a partner of "C" in operating a second store, the two partnerships would each be separate employing entities.

## **Seasonal Employers**

A seasonal industry or employing unit is one that customarily suspends its operations for revenue for a period of five months or more within a calendar year except for basic caretaking activities.

A seasonal employer is one who is operating in a seasonal industry as defined above and who, upon application, is designated by the department.

### ***Duration of Seasons***

The following industries have been designated as seasonal industries in South Dakota:

- Summer hotels, inns, camps, curio shops, roadside restaurants, ice cream/soft drinks stands, and stable/trail ride operations: May 1 to October 1
- Tourist souvenir stores, tour buses, information centers and other operations in the tourist industry: May 1 to October 31

- Drive-in theatres and concessions: April 15 to November 1
- Racetracks and racetrack concessions: May 15 to October 1
- Baseball teams/ball park concessions: May 1 to September 15
- Carnivals: May 1 to October 1
- Seasonally operated country clubs/golf courses: April 1 to November 1
- Seasonally operated chair lifts: May 1 to November 1
- Seasonally operated ski resorts: November 1 to May 1
- Outdoor swimming pools: May 15 to September 15
- Seasonally operated small game cleaning services, hunting preserves/game lodges: September 1 to February 1
- Retail nurseries classified in industry number 444220 as enumerated in the North American Industrial Classification Manual (NAICS): May 1 to October 31
- Retail fireworks stands: May 1 to September 15

### **Applying to Become a Seasonal Employer**

Applications for designation as a seasonal employer (Form 26) may be downloaded at [www.dlr.sd.gov/ui/forms/form26.pdf](http://www.dlr.sd.gov/ui/forms/form26.pdf), or obtained by contacting us at:

South Dakota Department of Labor and Regulation  
 Unemployment Insurance Division, Tax Unit  
 PO Box 4730  
 Aberdeen, SD 57402-4730

### ***Benefit Eligibility of Seasonal Employees***

If you are a designated seasonal employer, your former employees who were engaged in other than year-round work will be eligible to draw benefits based on wages earned with you **only** for weeks of unemployment when the major portion of such week falls within the defined season of operation of your industry.

### ***Reporting Requirements***

Employers approved for seasonal designation will still need to file a quarterly report for all four quarters by regular due dates.

### **Independent Contractor or Employee?**

Contract labor is perhaps the most misused category of workers in the business world. You cannot assume casual labor, temporary or part-time labor, or individuals who sign independent contractor agreements can be considered independent contractors. Issuing 1099s and not withholding taxes does not make an individual an independent contractor.

South Dakota Codified Law 61-1-11 states to be considered an independent contractor, a worker must be **both**:

- Free from your control or direction, **and**
- Customarily engaged in their own independently established business.

Otherwise, the worker is your employee. Any contractual agreement as well as the actual working relationship must be examined to support a finding that a worker is an independent agent and not an employee.

The courts have defined both portions of the South Dakota statute. The first part of the statute concerns control. Although individuals may have freedom of action in the way the work can be performed, control can still be exercised through other means such as written or verbal agreements or a contract. What really

matters is who has the legal right to control the outcome of the work. If you direct and control the services of an individual, or have the right to direct and control the individual's services, that individual is your employee. The fact that the individual is paid on a commission, share of the profits, fee, job or piecework basis does not necessarily mean that worker is an independent contractor.

The second portion of the statute concerns whether the individual is customarily engaged in an independently established trade, occupation, profession or business. The word "independently" means a trade, occupation, profession or business must be established **independently** of, and separate from, the services rendered to the alleged employer. The present tense of "is" indicates the individual must be engaged in such independent activity at the time of rendering the service to the alleged employer. If your attorney or accountant draws up a contract labor agreement and the worker signs the agreement, you may think you have complied with the law. This is not so! By law, a worker cannot sign away their rights to unemployment insurance. The worker **must** meet the independent contractor criteria to be considered anything other than your employee.

If you have misclassified workers as independent contractors and a determination is made that they are employees, you may be subject to back taxes, penalty and interest. In addition, you may also be liable for FUTA taxes. If you have questions about whether an individual is an employee or an independent contractor, and would like to request a written determination, please contact the South Dakota Department of Labor and Regulation at 605.626.2312 or complete Form 23 found at [www.dlr.sd.gov/ui/forms/form23.pdf](http://www.dlr.sd.gov/ui/forms/form23.pdf).

## **IRS or Other State Determination of Exempt Employment**

Even if the Collector of Internal Revenue or another state determines that certain services constitute exempt employment, you **cannot** assume those services will be exempt under South Dakota law. While the laws are often similar, the federal and state laws do differ. Also, court decisions and precedent cases are not always the same at the federal level or in different states.

## **Reportable Wages**

**Wages** are all payments for personal services from all sources, including cash, commissions, bonuses, gift cards/certificates and cash value of any payment in anything other than cash. Cash value would include items such as goods, board and lodging, working out a debt, etc. Tip and gratuity income must be reported if it totals \$20 or more per month. These tips must be included in the gross wages of the employee.

Sick pay and medical leave pay are considered wages and are reportable unless they are payments received under a workers' compensation law.

Some exceptions to reportable wages are:

- Dismissal or severance payments which you are not legally required to make.
- Payments made to yourself, your parents, or your children under the age of 21, if you are a sole proprietor.
- Services performed by a partner in a partnership comprised of two or more individuals or businesses.
- Business expenses if expenses are reasonable and ordinary and if the expenses are well documented.
- Employer contributions for life and health insurance and payments made under a workers' compensation plan. Note: Employee-paid premiums for life and health insurance are reportable. Employers must report the gross wage (amount before any deductions are taken out).
- Employer contributions to retirement or pension plans authorized in 26 U.S.C. §401(k), §403(b), §408(k), §457 and §408(p), the Simple IRA.

The above explanation is not all inclusive. If you have a question regarding wages, contact an Unemployment Insurance Tax Representative (p. 24).



## Records You Must Keep

You must keep the following records for each employee:

- Full name and Social Security number
- Places of work within the state
- Date hired, rehired or returned to work after temporary or partial layoff
- Date of termination of employment
- Information covering the termination, stating if the termination occurred by voluntary action of the individual, or by discharge, and complete reason for such termination
- The cause of all time lost due to unavailability for work occurring within any week
- Hours worked and wages earned in each pay period, and total wages for all pay periods ending in each quarter of the year, including the cash value of other remuneration, and the amount of all bonuses or special commissions
- Hours worked and wages earned in exempt employment

## Covered Versus Exempt Employment Records

You must keep records of exempt employment wages and hours separate from those for covered employment for each worker. If you do not keep such records separate, you will be required to report and pay on **all** wages, including the exempt wages.

## Your Responsibility to Keep Us Informed

It is your responsibility to inform the UI Division when you become a covered employer or when there has been any change in ownership or legal adjustment in operating a business.

We request that you tell us about:

- Purchase or sale of a business or a portion of a business
- Wages paid to each individual employed
- Total wages paid
- Any possible errors, especially errors which may result in payment of incorrect benefits

To register for your Unemployment Insurance Tax account, you may go online at [www.sdjobs.org](http://www.sdjobs.org).

1. Go to “Log-in for Online Services”
2. Choose “Unemployment Insurance Business Registration”
3. Click on “Take me to the Employer Registration website”

A domestic employer may apply to report annually to the UI Division by submitting form DE - Domestic Employer Election to Report Wages and Pay Contributions Annually by December 31st for the following calendar year. The request, if approved, remains in place as long as the domestic employer continues to employ only domestic employees. For more information visit our [Domestic Employer](#) Web page.

Download any [UI Forms](#) Web page or call 605.626.2312.

## Duration and Termination of Liability

Once you become a covered employer, liable under South Dakota law, you must continue to report and pay contributions on any wages paid until your account is terminated by the Division.

You can ask for termination prior to July 1 if:

- No individuals have performed services for you in covered employment in the previous calendar year.
- During the prior year, you did not have one employee in 20 calendar weeks and did not pay \$1,500 or more in one calendar quarter.

Your coverage will be terminated upon notification of sale of your entire business, and your entire experience-rating account (see p. 11) may be transferred to your successor. If, however, you have any employment during the remainder of the year, you must report it.

## Employers' Contributions

As a covered employer, you are required to pay taxes on taxable wages at the rate assigned to you.

### Tax Rates

If you are a new employer, or an employer who is not eligible for a reduced rate, you will pay tax at the rate of 1.2 percent, plus an investment fee of 0.55 percent, for a total of 1.75 percent the first year. The rate then **decreases** to 1.0 percent plus an investment fee of 0.55 percent for a total of 1.55 percent for the second and third year until you are eligible for a rate based on experience (see p. 11; see also p. 14 for an explanation of the investment fee). You must maintain a positive unemployment insurance account balance to receive the 1.0 percent rate for the second and third year.

### Exception for Construction Industry

All new employers classified in construction industries will pay tax at the rate of 6.0 percent plus an investment fee of 0.55 percent, for a total of 6.55 percent the first year. The rate then **decreases** to 3.0 percent plus an investment fee of 0.55 percent for a total of 3.55 percent for the second and third year until the employer is eligible for a rate based on experience. You must maintain a positive unemployment insurance account balance to receive the 3.0 percent rate for the second and third year. If further information is needed, contact your local UI Tax Representative (see p. 24).

**Table 1. Taxable Wage Base\***

Year	
2009	\$9,500
2010	\$10,000
2011	\$11,000
2012	\$12,000
2013	\$13,000
2014	\$14,000
2015 and thereafter	\$15,000

\*All rates and wage bases subject to change by the South Dakota Legislature

### Surcharge

An additional surcharge goes into effect when the UI Trust Fund balance is below \$11 million at the end of any quarter and remains in effect until the Trust Fund balance reaches \$16.5 million at the end of a quarter. Effective January 1, 2012, any surcharge rate increase will remain in effect for four consecutive calendar quarters. The rate for the second, third and fourth quarters may increase based on the fund balance on the last day of the immediately prior quarter, but may not decrease from the prior quarter during the four consecutive quarters. The unemployment insurance tax surcharge is a permanent part of South Dakota law (SDCL 61-5-28). The surcharge is in addition to any other payments due. Surcharge payments do not credit to the employer's

**Table 2. New Employer Tax Rate\***

UI Tax			
	Non-Construction	Construction	Investment Fee
Year 1	1.2%	6.0%	0.55%
Years 2 & 3 (with positive account balance)	1.0%	3.0%	0.55%

experience rating account. Any applicable surcharge rate is announced by the Division at the end of each calendar quarter. For more information contact a tax representative (see p. 24).

## **Reports Required**

The two most common reports you are required to file are the Employer's Quarterly Contribution, Investment Fee and Wage Report (Form 21; see appendix) and Notice to Base Period Employer (Form 238; see appendix). Other reports may be required depending on your particular circumstances.

## **Employer's Quarterly Contribution, Investment Fee and Wage Report**

Covered employers must file these reports quarterly by the last day of the months of April, July, October and January. You must file your report during these months even if no wages were paid.

The proper reporting forms are mailed during the last week of each quarter to all employers who:

- Filed a paper report for the previous quarter.
- Are filing a report for their first quarter in business.

Employers who file electronically will not receive a form in the mail. If the employer has provided the Division with an email address, a reminder will be sent to the email address provided. It is your responsibility to file a report during the month it is due, even if you do not receive a form in the mail. Employers have the option of filing their Employer's Quarterly Contribution reports online at [www.sdwagereport.com](http://www.sdwagereport.com). See p. 9 for details.

The Employer's Quarterly Contribution, Investment Fee and Wage Report (Form 21) may also be obtained from our website as an Excel spreadsheet (recommended; [www.dlr.sd.gov/ui/forms/form21.xls](http://www.dlr.sd.gov/ui/forms/form21.xls)) or as a pdf document ([www.dlr.sd.gov/ui/forms/form21.pdf](http://www.dlr.sd.gov/ui/forms/form21.pdf)). You may also contact your nearest UI Tax Unit Field Representative (see p. 24) or write to us at:

South Dakota Department of Labor and Regulation  
Unemployment Insurance Division, Tax Unit  
PO Box 4730  
Aberdeen, SD 57402-4730

If approved in advance, domestic employers may report annually. Annual reporting must be done by submitting the Annual Employer's Contribution, Investment Fee and Wage Report, 21D & E form available on our [UI Forms](#) Web page. For more information visit our [Domestic Employer](#) Web page.

## **Types of Information Required**

There are two main sections of the quarterly report:

- The employer's contribution report totals and general statistical information.
- The listing of individual wage details.

An example of the Employer's Quarterly Contribution, Investment Fee, and Wage Report is on p. A-1.

**Note: Wages should be reported in the quarter they were actually paid to the employee, even if they were earned or the work was done in a different quarter.**

## **Submitting Reports**

We encourage employers to file their reports online at [www.sdwagereport.com](http://www.sdwagereport.com). Filing online will calculate your taxable wages for you, and will allow you to either pay online or mail in your payment. See p. 9 for details. Or you can send your paper report and remittance by mail to the Aberdeen address listed on the form.

## **Notice to Base Period Employer**

When a former employee files a claim for unemployment insurance, notice of a claim having been filed is sent to each employer whose unemployment insurance account is potentially chargeable. The form is called the Notice To Base Period Employer (Form 238). If the reason for this unemployment is anything other than lack of work, you should give complete details concerning the reason for separation in the space provided on the form. This form also provides space for separation payment information.

You need to return the form to our office within 15 calendar days of the date appearing on the notice. Prompt return of this separation notice helps protect your right to a reduced contribution rate and limits the charges to your account to only those benefits paid to former employees who are involuntarily unemployed. This also prevents payment of unemployment insurance benefits to individuals not entitled to benefits. If a controversy arises regarding this separation, we will request additional information, either by mail or telephone. See an example of a Notice To Base Period Employer on p. A-2.

Your account cannot be relieved of charges if an erroneous payment has been made because you were at fault for failing to respond timely or adequately to the department's request for information. An erroneous payment is a payment that would not have been made but for the failure to fully respond.

## **Protesting Charges**

All employers within a claimant's base period will receive notice of potential charges and have the right to protest those charges. If you think benefit payments should not have been charged because of the reason for separation of the claimant, contact us for information on how to file a protest. When writing to us in reference to a claim of a former employee, you should be sure to include the employee's social security number.

## **When and Where to Pay**

State unemployment insurance contributions are to be paid **quarterly** to:

South Dakota Department of Labor and Regulation  
Unemployment Insurance Division, Tax Unit  
PO Box 4730  
Aberdeen, SD 57402-4730

All quarterly reports are due 30 days after the end of the quarter. Contributions must be paid quarterly by the end of the month following the calendar quarter covered. If you are unable to make a payment in full, file your report by the due date and contact our office to set up a payment plan or complete and return Form 10 found at [UI Forms](#).

### **Quarter**

January 1 to March 31  
April 1 to June 30  
July 1 to September 30  
October 1 to December 31

### **Due No Later Than Midnight**

April 30  
July 31  
October 31  
January 31

If approved in advance, a domestic employer must pay contributions annually. Annual reports are due by January 31 for the prior calendar year.

### **Online Reporting**

You can submit your quarterly report online with the option of making your payment using electronic funds transfer or sending a check. The online method will automatically calculate excess wages and tax due, and also allows you to update important account information. Upon completion of the filing process, you will get a confirmation number with a date and time the report was filed. You may print a copy of the report for your records.

Go directly to [www.sdwagereport.com](http://www.sdwagereport.com) or go to our department home page, [www.sdjobs.org](http://www.sdjobs.org), and go to “Log-in for Online Services,” choose “Unemployment Insurance Quarterly Report for Businesses.” See online help for further instructions or call 605.626.2312 or your area field representative (see p.24).

Domestic employers who report annually must submit the Annual Employer’s Contribution, Investment Fee and Wage Report, 21D & E form available on our Forms Web page.

### **Remittance**

Your check, money order or other remittance should be made payable to the South Dakota Unemployment Insurance Division.

### **Payment Date**

Contributions are due by the end of the month following the quarter end. To avoid interest and penalty, any payment must be received by the UI Division on or prior to the last day of the month.

### **Late Contributions or Reports**

A penalty may be assessed when the quarterly report is not submitted by the due date. The penalty accrues separately on each quarterly report due.

A penalty of \$25 per month (or fraction of a month) is assessed for each delinquent report and an additional penalty of \$25 for each delinquent contribution. The maximum penalty is \$150 for each delinquent report and \$150 for each delinquent contribution, for a total possible penalty of \$300.

Interest of 1.5 percent for each month (or fraction of a month) is also computed from the due date of the report.

***NOTE: A report is required even though you may not have had employment during the quarter.***

### **Adjustments and Refunds**

If, at the time of filing a quarterly contribution report, you find that a mistake was made on a previous quarterly report, you may make adjustment by showing the tax underpayment or overpayment on the lines provided on the contribution report. A complete explanation of the error made must be attached to the adjusted report. You may also complete and return Form 21C, Statement to Correct Information Previously Submitted, found on our [UI Forms](#) Web page.

If the adjustment involves an employee’s wages, the explanation should include the worker’s name, social security number, wages originally reported, correct wages, and the quarter and year in which the error was made. You should notify us as soon as the error is discovered. The notification may be made by letter, or by submitting Form 21C, supplying full information concerning the error. If the error resulted in an underpayment, you should forward remittance with your letter or Form 21C. If the error resulted in an overpayment, we will correct the account and refund any amount more than \$25.

## **You May Contest Your Charges**

All employers have the right to contest charges made to their account. If you do not agree with a decision that has been made, you may request a hearing. For more details, see p. 20.

## **Cost Reimbursement**

South Dakota law allows certain employers to elect the “Cost Reimbursement” alternative as a means of financing benefit payment costs.

Nonprofit organizations as defined by Section 501(c)(3) of the Internal Revenue Code, hospitals and institutions of higher education operated by political subdivisions may be eligible to elect to repay benefit costs, instead of making the regular contributions required of other covered employers. This election must be made for a period of at least two years. The election can be initiated or terminated by filing written notice with the Unemployment Insurance Division no later than 30 days before the beginning of a calendar year.

There are two methods of repayment:

- Reimburse the actual cost of benefit payments based on wages reported by the organization(s). The organization will be billed for benefit costs each quarter and payment must be made within 30 days after the date of billing.
- Pay equal amounts each calendar quarter, with an adjustment being made at the end of each calendar year. This determination shall be based each year on the average benefit costs during the preceding calendar year.

Eligible employers electing the cost-reimbursement method may be required to provide a surety bond. However, in most cases, the “payments in advance” option will satisfy this requirement. A group of cost-reimbursement employers may elect, with the approval of the Secretary of Labor and Regulation, to act as one entity in electing the cost-reimbursement option.

For additional information regarding cost reimbursement, contact us at:

South Dakota Department of Labor and Regulation  
Unemployment Insurance Division, Tax Unit  
PO Box 4730  
Aberdeen, SD 57402-4730

## **FUTA Payments**

FUTA (Federal Unemployment Tax Act) taxes are a federal tax and are paid to the Internal Revenue Service (IRS). For more information, call the IRS Business and Specialty Tax Line at 800.829.4933 or go to [www.irs.gov](http://www.irs.gov).

**Table 3. SD Reserve Ratios and Unemployment Insurance Rates\* (Beginning 2015)**

Reserve Ratio	Contribution Rate
Less than -7.00%	9.50%
-7.00% and Less than -6.50%	9.00%
-6.50% and Less than -6.00%	8.50%
-6.00% and Less than -5.50%	8.00%
-5.50% and Less than -5.00%	7.50%
-5.00% and Less than -4.50%	7.00%
-4.50% and Less than -4.00%	6.50%
-4.00% and Less than -3.50%	6.00%
-3.50% and Less than -3.00%	5.50%
-3.00% and Less than -2.50%	5.00%
-2.50% and Less than -2.00%	4.50%
-2.00% and Less than -1.50%	4.00%
-1.50% and Less than -1.00%	3.50%
-1.00% and Less than -0.75%	3.00%
-0.75% and Less than -0.50%	2.50%
-0.50% and Less than -0.25%	2.00%
-0.25% and Less than 0.00%	1.50%
0.00% and Less than 0.50%	1.00%
0.50% and Less than 0.75%	0.75%
0.75% and Less than 1.00%	0.60%
1.00% and Less than 1.25%	0.40%
1.25% and Less than 1.50%	0.30%
1.50% and Less than 1.75%	0.20%
1.75% and Less than 2.25%	0.10%
2.25% and Over	0.00%

**Table 4. SD Reserve Ratios and Investment Fee Rates\***

Reserve Ratio	Investment Fee Rate
Less than 1.00%	0.53%
1.00% and less than 1.20%	0.50%
1.20% and less than 1.30%	0.40%
1.30% and less than 1.40%	0.30%
1.40% and less than 1.50%	0.20%
1.50% and less than 1.60%	0.10%
1.60% and over	0.00%

\*All rates and wage bases subject to change by the South Dakota Legislature

## Experience Rating

**Experience rating** is the method used to determine your assigned contribution rate based on both your experience as a covered employer (unless you are a cost-reimbursement employer) and the status of the Unemployment Insurance Trust Fund balance.

### Rate Determination

Rates are determined strictly according to statute. We are prohibited from arbitrarily determining your reserve ratio or your resulting contribution rate. Rates are computed annually and are assigned for the calendar year. A Notice of Rate Determination will be mailed to you no later than November each year.

### Reserve Ratio

We determine this ratio in the following way. The employer's reserve ratio for calendar year 2012 and thereafter is the result obtained by dividing the balance of credits existing in the employer's experience-rating account (as of June 30 of the preceding year for which the rate is to be computed) by the total taxable payroll

**Table 3. SD Reserve Ratios and Unemployment Insurance Rates\* (Beginning 2015)**

### Eligibility for a Reduced Rate

You may be an "eligible employer" if you are a covered employer (not electing cost-reimbursement) who has qualifying experience as specified by unemployment insurance law, such as:

- You must have filed all reports and paid all money due prior to the cutoff date (July 31).
- You must have been a covered employer for three fiscal years (ending June 30) to have your rate based on experience for the following year.
- You may be able to reduce your contribution rate for the following calendar year by making a voluntary contribution to your account prior to December 31.

### Rate Increases

South Dakota law provides for increases in all employer rates if the state Unemployment Insurance Trust Fund balance falls below the minimum reserve level of \$11 million. If this occurs, the additional rate information will be provided to employers advising them of any applicable increase. Rate increases do not apply to nonprofit or governmental employers that elect the cost-reimbursement to self-insure their unemployment insurance costs.

### Experience-Rating Notice

No later than November each year, we mail an Experience-Rating Notice to all covered employers (except cost-reimbursement employers). The notice sets forth your rate for the following calendar year, information about experience, methods used in calculating the rate and the period of time during which a valid protest may be filed.

### Review and Redetermination of Rate

Because clerical error is possible when we calculate tax rates, you have the right to request a review and re-determination within 15 days of the date the notice is mailed. Such requests should be made in writing, contain an explanation of why you think the rate assigned is incorrect, and mailed to our Aberdeen office.

### Experience-Rating Account Activity

As a covered employer, you will have a unique experience-rating account recording your accumulated paid contributions, the accumulated benefit payments charged to your account, and your total taxable payroll. These three totals are used each year to compute your reserve ratio. See p. 12 **for reserve ratios and corresponding rates.**



## **Charging of Benefits**

Benefit payments to your former employees are charged to your account in inverse chronological order. In other words, the most recent employer is charged first, then the next most recent, etc.

These charges will match the corresponding percentage of wages from each of the claimant's employers. In other words, if you paid only 30 percent of the claimant's wages during his or her base period, your account will be charged only 30 percent of the benefit payment.

## **Probationary Period**

You may establish a probationary period for new employees for unemployment insurance purposes. You will be exempt from unemployment charges if the new worker is terminated within 90 days after his or her hire date because the worker lacks ability to do the work. You must establish the 90-day probationary period **at the time of hire**.

You may **not** use a probationary period to gain exemption from unemployment benefit charges if you have elected to be a **reimbursing employer** (see p. 10).

## **Voluntary Contribution**

You may be able to reduce your contribution rate for the following calendar year by making a voluntary contribution to your account prior to December 31. Please contact us for details at 605.626.2312.

## **Investment Fee**

The investment fee is not credited to your experience-rating account. The proceeds from this fee are used for one-time research grants and economic development projects.

## **Negative Account Balances**

Starting in 2009, if your experience rating account has a negative balance, you may be assessed interest on the negative balance.

### **Background**

In 2006, the South Dakota Legislature adopted a comprehensive package to put the South Dakota Unemployment Insurance Trust Fund on a path to improved solvency. One of the pieces was an assessment of interest on experience-rating accounts that have maintained a negative balance.

The South Dakota Unemployment Insurance Trust Fund is held by the U.S. Treasury, where it earns interest. The South Dakota Legislature decided that employers whose experience-rating account balances were negative and had become more negative compared to the balances as of December 31, 2006, will be charged interest equivalent to the interest rate earned by the Trust Fund.

### **Details**

If your experience-rating account has had a negative balance at the end of each quarter for the last two calendar years and the balance is more negative now than it was as of December 31, 2006, your account will be assessed interest at a rate equal to the rate the U.S. Treasury pays on the Trust Fund.

During March of each year, you will receive notice of interest due. The interest is payable in four equal payments due on the last day of each quarter. Effective July 1, 2011, the interest payment will be deposited in the South Dakota UI Trust Fund, as in the past, but will also be credited to your UI employer account. Negative account balances prior to December 31, 2006, will be not charged.

### **Example**

If your account balance on December 31, 2011, is a negative \$2,000 and if your account balance on December 31, 2006, was a negative \$1,000, you will pay interest on the \$1,000 difference. The average 2011 interest rate earned by the Trust Fund (3.57 percent) times \$1,000 equals \$35.70.

## Staying Informed/Getting Help

### Notifications to Employers

We will notify you about:

- Your experience rating
- Any decisions made affecting your experience-rating account
- Amounts charged to your account to pay benefits
- Potential benefit charges
- Any errors detected during processing of reports

### Field Representatives

Field personnel of the Unemployment Insurance Division Tax Unit who work directly with employers are available at most local Department of Labor and Regulation offices listed on p. 23. See p. 24 for the addresses of Unemployment Insurance Division Tax Unit field representatives.

### Still Have Questions?

If you have questions about:

- Workers you consider to be exempt, independent contractors, or who work in more than one state
- How wages of employees should be reported
- The effect of a provision of the unemployment insurance law
- Any other matter related to unemployment insurance or new hire reporting

You should:

- Forward a complete statement of facts regarding the matter in question to the South Dakota Department of Labor and Regulation, Unemployment Insurance Division, PO Box 4730, Aberdeen, SD 57402-4730
- Contact the UI Tax Representative in your area (p. 24) and discuss the question
- Call 605.626.2312

**NOTE:** *If you do not submit your question to us, and it is later determined that you must report additional wages, you may be required to pay penalty and interest for late reporting, in addition to the tax. So when in doubt, ask. We will work with you to answer all your questions.*

## Benefit Payment Policy and Practices

Unemployment insurance benefits provide temporary aid to workers who have lost their jobs through no fault of their own. These benefits are not meant to be a total replacement of wages, but rather to be a protection against a total loss of wages. An individual can file an initial claim or reopen a claim at [www.sd.uiclaims.com](http://www.sd.uiclaims.com) or call 605.626.3179.

The payroll tax you pay as a covered employer provides unemployment benefits for not more than the equivalent of 26 weeks in a 52-week benefit year.

## Definitions

### Effective Date

This is the starting point of a claim. Under South Dakota law, the effective date of a claim is the (Sunday proceeding) the date a person establishes a claim.

### Base Period (Standard)

The time period used to determine a claimant's eligibility for unemployment insurance benefits is the individual's base period. This includes the **first four** of the last **five** completed calendar quarters immediately preceding the application for benefits. See the example below.

Base Period				Lag Period	
Jan	Apr	Jul	Oct	Jan	Apr
Feb	May	Aug	Nov	Feb	May
Mar	Jun	Sep	Dec	Mar	
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	Incomplete

In the example, the claimant filed a claim in the month of May. His or her base period includes the four completed calendar quarters of the preceding year. The first quarter of the current year (January, February, March) plus April and part of May combine to make the **lag period**.

### Alternate Base Period

There is a special base period for persons who are not monetarily eligible because they have not worked for an extended period due to a work-related injury. This base period can only be used if a claim is filed within 24 months after the injury.

### Alternative Base Period (aka Lag Quarter Base Period)

South Dakota adopted a new policy, starting July 1, 2009, that allows a different base period if the claimant is not eligible for benefits during the standard base period. This Lag Quarter Base Period counts the first four previously completed quarters. When this type of base period is used, an employer may be asked to provide the claimant's wage information immediately, in addition to the Employer's Quarterly Contribution, Investment Fee and Wage Report.

Lag Quarter Base Period				Claim Filed	
Apr	Jul	Oct	Jan	Apr	
May	Aug	Nov	Feb	May	
Jun	Sep	Dec	Mar		
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>		Incomplete

### Lag Period

The length of time between the end of the base period and the beginning of the benefit year is the lag period. Wages earned during the lag period are **not** used in figuring the amount of benefits a claimant may receive.

### Benefit Year

This is a one-year period starting with the effective date of the claim. During this period a claimant cannot receive more than the equivalent of 26 full payments at the weekly benefit rate established when the claim was filed. However, during periods of high unemployment, up to 13 additional weeks of benefits may be paid

to a claimant at the claimant's regular benefit rate, and such payments may be made beyond the expiration of the claimant's benefit year.

### **Waiting Period**

The first week a claimant files a valid claim for benefits is his or her waiting period week. All claimants must serve this week before receiving any benefits and are not compensated for this week.

## **Benefits**

### **Weekly And Maximum Benefits**

The weekly benefit amount is 1/26 of the wages paid in the highest quarter of the claimant's base period, up to a maximum amount determined by the state's average weekly wage.

The maximum amount of benefits payable within a claimant's benefit year is one third of his or her total base period wages. This must not exceed 26 times the weekly benefit amount.

### **Partial Benefits**

A claimant working less than full-time may receive partial benefits. His or her paid benefits are reduced by 75 percent of the amount by which the wages or earnings exceed \$25 per week. However, if the claimant's wages or earnings equal or exceed the weekly benefit amount, the claimant is ineligible for benefits that week. A calendar week is a full seven days from Sunday to Saturday. All wages (whether actual payment is received or not) must be reported by the claimant for the week in which they were earned.

### **Reduction Of Benefits**

In addition to a claimant's weekly benefit amount being reduced because of earnings, the following types of payment will also reduce the individual's weekly benefit amount.

- Termination, holiday, vacation, severance or dismissal payments, sick leave or wages in lieu of notice.
- Compensation for temporary partial disability under a workers' compensation law. Other disability payments are not deductible.
- Compensation for retirement or pension if the payments were made under a plan contributed to by a base-period employer.

## **Eligibility and Disqualifications**

### **Qualifying for Benefits**

To qualify for benefits each claimant must exhibit all of the following:

- Total or partial unemployment through no fault of his or her own
- Ability and availability for work
- Reasonable effort to find work on his or her own

These eligibility requirements have been established through law, court decisions, secretary appeals, appeal judge decisions and central office policies and regulations. Not meeting these requirements may mean losing rights to all or a portion of benefits.

### **30-Calendar-Day Rule**

When a claimant is filing a new claim for unemployment insurance benefits, the reasons for the separation from the most recent employer of at least 30 calendar days are used to determine eligibility for benefits. Should the claimant file another claim within one year of filing the initial claim, after returning to work, the 30-calendar-day requirement is not applied when determining eligibility.

### **Availability for Work**

A claimant must be willing and ready to accept employment during the period of time benefits are being

drawn. He or she should not have any personal reasons that would prevent him or her from accepting a job (e.g., caring for children or adults, lack of transportation, vacation, etc.). Application of this policy is often difficult, since it requires findings about a claimant's state of mind. However, a claimant must certify availability for work and penalties are imposed for fraudulent statements. A claimant is informed of this policy and all other policies at the times of establishing an initial claim and reopening a claim.

### ***Ability to Work***

A claimant who is sick, incapacitated or under detention (in jail, etc.) may be held not eligible for benefits. A medical statement will be requested as needed to prove ability to work.

### ***Restrictions Imposed by the Claimant***

A claimant may be held available for work even if limiting the kinds of jobs, hours or wages that will be accepted, but all limitations are closely examined to determine whether they are reasonable and whether there are genuine prospects of employment on the claimant's terms. Generally, the claimant must be willing to accept available work under the wage standards for the job or occupation in which he or she has the most experience or training.

### ***Search for Work***

The Unemployment Insurance Division requires a claimant to make at least two contacts for work each week. These contacts must be recorded. The contact must be made in the manner required by the employer.

### ***Retired Workers***

The cases of workers for whom retirement was mandatory by the employer are closely examined. The type and amount of pension is taken into consideration. A pension payment is a deductible item if the base-period employer is a contributor to the pension. If a worker retires voluntarily, this would be treated the same as a voluntary quit and the claimant would have to prove good cause. Mandatory retirement is treated as a layoff and the employer's account is charged.

### ***Eligibility of Educational Institution Employees***

Persons employed by an educational institution are not eligible for benefits based on employment between two academic years if they have a contract or reasonable assurance to be employed for both academic years. In other words, employees are not eligible for benefits while the school is on summer break. Such employees are also not eligible for benefits during established vacation days, holidays or days the school is legally closed, if they are employed both before and after such times.

### ***Eligibility of Employees of Educational Institution Service Companies***

Persons who work for businesses providing services to public or private schools on a contract basis may not be eligible for benefits between school terms if all three of the following conditions are met:

- They have reasonable assurance of returning to work for the fall term.
- The employment is part of a contract between their employer and the school.
- The contract is for services the school could have had performed by its own employees.

**Note:** *Benefits will be denied only if the worker receives written notice prior to commencement of employment.*

## **Disqualifications for Benefits**

### ***Voluntarily Leaving Employment***

A claimant who voluntarily leaves employment without "good cause" is disqualified. Benefits are denied until the claimant has been re-employed at least six calendar weeks in insured employment during the current benefit year and earned wages equal to or greater than the claimant's weekly benefit amount in each of those six weeks.

The unemployment insurance law provides that "good cause" for voluntarily leaving employment is restricted

to leaving employment because:

- Continued employment presents a hazard to the employee's health. However, this applies only if, prior to the separation, the employee is examined by a doctor or chiropractor who signs a certificate supporting the existence of the health hazard.
- You required the employee to relocate residence to hold his or her job.
- Your conduct demonstrates a substantial disregard of the standards of behavior your employee has a right to expect of you, or that you breached or substantially altered the contract for employment.
- An individual accepted employment with you while on layoff and subsequently quit such employment to return to work for his/her regular employer.
- The employee's religious belief mandates leaving. The provision does not apply, however, if you have offered your employee reasonable accommodations taking into consideration his or her religious beliefs, and if you make this offer before the employee leaves your employment.
- Leaving is necessary to protect the individual from domestic abuse. However, this subdivision applies only if:
  - The employee reports the abusive situation to law enforcement within 48 hours of any occurrence and cooperates fully with law enforcement in any subsequent investigation and criminal charge relating to the abusive situation.
  - The employee has left the abusive situation and remains separate from the situation.
  - The employee made reasonable efforts to preserve the employment before quitting.

Any person found to have good cause for leaving employment due to domestic abuse and who returns to the abusive situation is ineligible for benefits.

- The employee is relocating to accompany a spouse who has been reassigned from one military assignment to another.
- The employee is an officer who exercises substantial control in decisions to take or not to take action on behalf of a corporation and has no other alternative than to leave employment with that corporation. This does not preclude a corporate officer who does not exercise substantial control on any decision to take or not take action on behalf of a corporation from being found to have good cause to leave employment under other circumstances described above.

### **Misconduct**

If the employee is discharged for "misconduct," benefits will be denied until he or she has been re-employed and earned an amount equal to or greater than the person's weekly benefit amount in each of six different weeks.

A claimant would be separated due to misconduct when one of the following is determined:

- Failure to obey orders, rules or instructions, or failure to discharge the duties for which the claimant was employed.
- Substantial disregard of your interests as employer or of the claimant's duties and obligations to you.
- Conduct evincing such willful or wanton disregard of your interests as is found in deliberate violation or disregard of standards of behavior you have the right to expect from your employee.
- Carelessness or negligence of such degree of recurrence as to manifest equal culpability or wrongful intent. However, mere inefficiency, unsatisfactory conduct, failure to perform as the result of inability or incapacity, a good faith error in judgment or discretion, or conduct mandated by a religious belief that you cannot reasonably accommodate is not misconduct.

### **Refusing Employment**

If we find that an unemployed individual has failed, without good cause, to apply for available suitable work

when so directed by us, to accept suitable work when offered, or to return to customary self-employment when directed by us, benefits will be denied until he or she has:

- Been re-employed at least six calendar weeks in insured employment during the current benefit year
- Has earned wages equal to or greater than the claimant's weekly benefit amount in each of those six weeks

In determining whether work is suitable, we consider the:

- Degree of risk involved to the individual's health, safety and morals
- Physical fitness and prior training
- Experience and prior earnings
- Length of unemployment and prospects for securing local work in the individual's customary occupation
- Distance of the available work from the individual's residence

Compelling personal circumstances may justify refusal of a job. Examples of circumstances that would require a determination include:

- Health and safety hazards
- Interference with religious beliefs
- Requirement to purchase tools and/or equipment
- Pay, hours and/or location
- Type of work and experience required

What constitutes good cause is influenced by general labor market conditions. A "reasonably prudent person" acts differently when jobs are plentiful.

### ***Appeal Request***

If you or a former employee is dissatisfied with a non-monetary decision, you each have 15 days from the date on the determination notice to appeal. If either party does not agree with the appeal decision, the next step would be an appeal to the Secretary of Labor and Regulation or directly to Circuit Court. However, the Secretary is **not** required to review all cases appealed to her or him. Parties who appeal to the Secretary retain the option of appealing to Circuit Court. No fee is charged to either party for a regular appeal or a Secretary's appeal.

You and your former employee may be represented by an attorney at an appeal; such representation is not required, however.

## **Quality Control Program/Benefit Payment Control**

### ***Audits***

We audit a sample group of claimants selected each week to test the accuracy of the unemployment insurance payments and denials. On an ongoing basis, auditors interview claimants who are selected randomly by the computer. In addition, they review the claim and contact the employer to verify appropriate payroll records and to substantiate the reason for unemployment. They also verify the claimant's work search attempts. The audits result in answers to the questions, "Was this claimant truly eligible to receive unemployment insurance benefits?" or "Was this claimant properly denied benefits?"

Auditors document types and causes of over- or under-payment of benefits and improper denials. They also determine whether the errors were made by the claimant, the Unemployment Insurance Division or the employer.

The purpose of the Quality Control Program is to prevent and reduce both fraud and abuse through better detection of improper payments and denials.

In addition, the program is intended to reduce improper payments or denials in the future by deterring future unemployment insurance claimants from submitting inaccurate information on the claim applications. This helps reduce taxes for you and other employers.

As part of conducting a thorough audit, investigators may need to contact you. Therefore, your cooperation in this effort is greatly appreciated. If you would like more information about Quality Control, call 605.626.7649.

### ***Fraud, Misrepresentation and Overpayments***

Through our fraud detection unit, we work to prevent and detect benefits paid through willful misrepresentation, including collusion, conspiracy or error by the claimant or others. The program also focuses on recovery of benefit overpayments.

In addition to detecting and recovering overpayments, the fraud unit investigates overpayments to determine if they resulted from misrepresentation. The unit prosecutes those cases where deliberate fraud is clearly indicated and where evidence can be presented to substantiate the charge.

All potential fraud cases are investigated and classified as either “overpayment” or “fraud.” Criminal charges are not filed in overpayment cases except where misrepresentation occurred; however, the law does require restitution. The department imposes four weeks of administrative penalty for each week of fraud. The claimant must file for (serve) the penalty weeks but cannot be paid benefits. This penalty does not expire but must be served before any benefits can be paid. In addition, the law administers a monetary penalty equal to 50% of benefits of the fraudulent payment for the first offense and 100% for each subsequent offense.

In addition to investigation, the fraud unit is a liaison with other state, federal and local law enforcement agencies.

### ***How can you help?***

To assist the fraud unit in its investigation of potential fraud, you can:

- Provide information promptly, including completion of wage crossmatch forms.
- Make certain the information given is as accurate and complete as possible.
- Contribute any other information that can help the unit in its investigation to determine if benefits have been fraudulently claimed.

You can report information by contacting an investigator at one of the following locations:

- Aberdeen 605.626.7649
- Rapid City 605.394.2295
- Sioux Falls 605.367.5306

You can also visit our website at [www.sdjobs.org](http://www.sdjobs.org). Click on “Unemployment Insurance” on the right menu and then “Reporting Possible Fraud” on the left menu.

## **New Hire Reporting**

All employers, private, non-profit and government agencies, are required to report certain information on newly hired, re-hired, re-employed or re-instated employees to the New Hire Reporting Center (NHRC). This information is matched against child support records to locate parents and to establish or enforce child support orders.

You must report all new hires within 20 days of the date of hire, including any employee who is hired, whether full-time, part-time, student or temporary.

You must report the following information to the NHRC:

- Employee name, address, social security number and date of hire



- Employer name, address and Federal Identification number

You can fax, call or mail:

- A printed list with the required information
- A copy of the federal W-4 form

You have several reporting options:

- Online - go to [www.sdjobs.org](http://www.sdjobs.org), “Log-in for Online Services,” then choose “New Hire Reporting”
  - Once registered to report online, employers have two options.
    1. Manually enter employees by clicking on the “Online Form” tab, or
    2. Upload a New Hire Report by clicking the “File Transfer” tab. (Upload specifications can be found once you are logged in for online reporting.)
- Phone - 888.827.6078 or 605.626.2942
- Fax - 888.835.8659 or 605.626.2842
- Mail - New Hire Reporting Center

SD Department of Labor and Regulation  
PO Box 4700  
Aberdeen, SD 57402-4700

## Labor Market Information

The Labor Market Information Center (LMIC) is your best source for labor market information, covering local, state and national unemployment levels, the number of workers by industry and average annual pay by industry.

The LMIC provides you with:

- Occupational wage information
- Employee benefits information
- Estimates of available labor
- Analysis of current economic conditions
- Projected worker levels by industry and occupation
- Employment staffing patterns
- Labor market demographic information
- Cost of living information

The LMIC also provides numerous publications and materials containing information for career planners and decision makers. A great deal of labor market information is also available at our website at [www.sdjobs.org](http://www.sdjobs.org). Click on “Labor Market Statistics.”

LMIC publishes a monthly economic newsletter, The South Dakota e-Labor Bulletin. To subscribe, click on “Order Publications” or call the Labor Market Information Center at 800.592.1881.

## Department of Labor and Regulation

### DLR Local Offices

You will save time and money recruiting and training new personnel when you use the services of our local offices.

### Recruitment

Local offices match applicants with your job specifications to meet your personnel needs in a prompt and efficient manner.

Using our extensive computer database of job openings and applicants (SDWORKS), the local office simplifies the process of finding the right employee for the job. Job information such as salary, job duties and qualifications are matched with an applicant's experience and qualifications.

Local offices also conduct outreach activities to assist you in attaining affirmative action goals. For new and expanding businesses hiring a large number of workers, the local office can provide special recruitment services.

### **Screening**

Local office employment representatives screen and refer only the qualified applicants to you, so you don't waste time interviewing those who lack the special requirements desired. Then you can make the decision whether to hire.

### **Online Services**

Contact your local office (see p. 23) to place a job order and receive these no-cost services. You may also establish an account, list job openings and/or look for the right employee using the SDWORKS online system. Visit our website, [www.sdjobs.org](http://www.sdjobs.org). Just click on "Post a Job."

### **Skilled and Professional Employees**

Our local offices have qualified job applicants for a variety of jobs, both skilled and professional. We encourage you to call your local office when you need applicants with graduate degrees, specialized training and/or experience.

## **DLR Local Offices**

### **Aberdeen**

420 S Roosevelt  
PO Box 4730  
57402-4730  
605.626.2340

### **Brookings**

1310 Main Ave S, Suite 103  
57006-3893  
605.688.4350

### **Huron**

2361 Dakota Ave S  
57350-2413  
605.353.7155

### **Lake Andes**

3rd & Lake St  
57356  
605.487.7607, x207 or 212

### **Madison**

223 S Van Eps Ave, Suite 101  
57042-2886  
605.256.5300

### **Mitchell**

1321 N Main St  
57301-1354  
605.995.8060

### **North Sioux City**

504 River Dr, City Hall  
57049-3015  
605.242.5445

### **Pierre**

116 W Missouri Ave  
57501-4506  
605.773.3372

### **Rapid City**

2330 N. Maple Ave., Suite 1  
57701-7898  
605.394.2296

### **Sioux Falls**

811 E 10th St, Dept 41  
57103-1650  
605.367.5300

### **Sisseton**

205 E Oak, Federal Bldg  
57262-1526  
605.698.3964

### **Spearfish**

1300 North Ave  
57783-1525  
605.642.6900

### **Vermillion**

1024 W Cherry  
57069-1742  
605.677.6900

### **Watertown**

2001 9th Ave SW, Suite 200  
57201-4029  
605.882.5151

### **Winner**

313 S Main St  
57580-1728  
605.842.0474

### **Yankton**

3113 Spruce, Suite 124  
57078-5320  
605.668.2900

# **Unemployment Insurance Division Administrative Office**

Aberdeen  
420 S Roosevelt St  
PO Box 4730  
57402-4730  
Appeals: 605.626.2310  
Tax: 605.626.2312  
  
Benefits: 605.626.2452

## **Unemployment Insurance Division, Tax Unit Field Representatives**

### **Aberdeen**

420 S Roosevelt St  
PO Box 4730  
57402-4730  
605.626.2312

### **Pierre**

116 W Missouri Ave  
57501-0460  
605.773.3398

### **Rapid City**

2330 N. Maple Ave., Suite 1  
57701-7898  
605.394.2317, 2376 or 1651

### **Sioux Falls**

811 E 10th St, Dept 42  
57103-1650  
605.367-5309, 5310, 5311 or 5592

### **Watertown**

2001 9th Ave SW, Suite 200  
57201-4029  
605.882.5105

## Important Points to Remember

- Time limits are important. You may incur penalties, lose a favorable tax rate or forego appeal rights if you don't act in time.
- Tax or penalty payments must be properly identified to credit your account promptly. Use your Employer Account Number.
- Official changes of address should be made in writing to our Administrative Office. See p. 1 for our address.
- Attend appeal hearings whenever you have information about a claimant's eligibility.
- Review your Notice of Benefit Charges to be sure your account is not being charged incorrectly.
- Contact your local Tax Unit Field Representative on questions or problems involving your unemployment taxes. Phone numbers and addresses can be found on p. 24.
- Let the Department of Labor and Regulation help you fill your job openings by calling the nearest local office. Phone numbers and addresses can be found on p. 23.
- Read and follow instructions on required forms. It can save you time and money.

## Important Links

**South Dakota Department of Labor and Regulation** ([www.sdjobs.org](http://www.sdjobs.org))

**UI Homepage** ([www.dlr.sd.gov/ui/default.aspx](http://www.dlr.sd.gov/ui/default.aspx))

**Advisory Council** (<http://www.dlr.sd.gov/ui/uiadvisorycouncil.aspx>)

**Claims** ([www.dlr.sd.gov/ui/uibenefits.aspx](http://www.dlr.sd.gov/ui/uibenefits.aspx))

**Employer Updates** ([www.dlr.sd.gov/ui/uitaxemployerupdate.aspx](http://www.dlr.sd.gov/ui/uitaxemployerupdate.aspx))

**Forms** ([www.dlr.sd.gov/ui/uiforms.aspx](http://www.dlr.sd.gov/ui/uiforms.aspx))

**New Hire Reporting** ([www.dlr.sd.gov/ui/newhirereporting.aspx](http://www.dlr.sd.gov/ui/newhirereporting.aspx))

**Online Reporting** ([www.sdwagereport.com](http://www.sdwagereport.com))

**Register Your Business** ([www.dlr.sd.gov/ui/uitaxemployerinternetregistration.aspx](http://www.dlr.sd.gov/ui/uitaxemployerinternetregistration.aspx))

**Reporting Possible Fraud** ([www.dlr.sd.gov/ui/uioverpaymentspossiblefraud.aspx](http://www.dlr.sd.gov/ui/uioverpaymentspossiblefraud.aspx))

### State of South Dakota

Codified Law, Title 61 ([www.legis.state.sd.us/statutes/DisplayStatute.aspx?Type=Statute&Statute=61](http://www.legis.state.sd.us/statutes/DisplayStatute.aspx?Type=Statute&Statute=61))

Administrative Rules, Article 47:06 ([www.legis.state.sd.us/rules/DisplayRule.aspx?Rule=47:06](http://www.legis.state.sd.us/rules/DisplayRule.aspx?Rule=47:06))

### Federal Government

Internal Revenue Service ([www.irs.gov](http://www.irs.gov))



Auxiliary aids and services are available upon request to individuals with disabilities. State and federal laws require the Department of Labor and Regulation to provide services to all qualified persons without regard to race, color, religion, age, sex, ancestry, political affiliation or belief, national origin, disability, or marital or economic status.

# Appendix

## Examples of Tax Forms

### Example 1

### Employer's Quarterly Contribution, Investment Fee and Wage Report

### Form 21

Form 21 (rev. 7/16)

**EMPLOYER'S QUARTERLY CONTRIBUTION, INVESTMENT FEE, AND WAGE REPORT**  
 South Dakota Department of Labor and Regulation, Unemployment Insurance Division, Attention: Cashier  
 PO Box 4730, Aberdeen, SD 57402-4730 • Phone 605.626.2312 • Fax 605.626.3347 • www.sdjobs.org

Account Number

Quarter/Year  /

Due Date

**Please use Black Ink Only.**  
 Completion instructions are on page four below.  
**Annual Taxable Wage base, per employee:**  
 2011=\$11,000, 2012=\$12,000, 2013=\$13,000, 2014=\$14,000, 2015 & after=\$15,000

1. For each month, report the number of covered workers who worked during or received pay for the payroll period which includes the 12th of the month.

If none, enter "0"		
1st month	2nd month	3rd month

2. Does this account operate in more than one location in South Dakota? Yes  No

14. If your business in South Dakota has changed in any way, please complete Item 14 on following page. If the ownership changed during this quarter, each owner must submit a report.

3. Total gross wages paid in this quarter (Item 21)	
4. Wages paid this quarter in excess of annual per person (Item 22)	
5. Taxable wages (Item 3 minus Item 4)	
6. UI contribution rate <span style="float: right;">% x line 5</span>	
6a. Surcharge rate <span style="float: right;">% x line 5</span>	
7. Investment fee rate <span style="float: right;">% x line 5</span>	
8. Total due (add lines 6, 6a & 7)	
9. Adjustment from prior quarters (explain on attached page)	
10. Interest: Line 8 x 1.5% per month from due date	
11. Penalty for late filing: \$25.00 per month	
12. Penalty for late payment: \$25.00 per month	
13. Total remittance (add lines 8, 9, 10, 11 & 12)	

**Make remittance payable to "SD Unemployment Insurance"**

Note: When you make a check payment, you authorize us to use information from your check to make a one-time electronic funds transfer (EFT) from your account. When we use information from your check to make an EFT, funds may be withdrawn from your account as soon as the same day we receive your payment. You will not receive your check back from your financial institution.

15. Employee's Social Security Number	16. Employee's Name (Last, First)	17. Total Gross Wages Paid This Quarter	18. Excess Wages This Quarter

Signature	I certify all information on this report is complete and correct.	
Title	Date	
Prepared by	Telephone	
	19. Total Gross Wages This Page	20. Total Excess Wages This Page
	<input style="width: 100%; height: 20px;" type="text"/>	<input style="width: 100%; height: 20px;" type="text"/>
	21. Total Gross Wages All Pages	22. Total Excess Wages All Pages
	<input style="width: 100%; height: 20px;" type="text"/>	<input style="width: 100%; height: 20px;" type="text"/>

**Example 2**

**Notice to Base-Period Employer  
Form 238**

SD DEPARTMENT OF LABOR & REGULATION  
UNEMPLOYMENT INSURANCE DIVISION  
BOX 4730  
ABERDEEN, SOUTH DAKOTA 57402-4730  
PHONE #: 605-626-2452  
FAX #: 605-626-3172  
WEB SITE: <http://www.sjjobs.org>

DATE OF NOTICE  
CLAIMANT  
EFF. DATE OF CLAIM  
BASE PERIOD

Employer Number					
Weekly Benefit Amount	Maximum Benefit Amount	Amount Chargeable to	Base Period Wages While in Your Employ	Total Base Period Wages	Claimant Social Security Number

UI Tax No.

<b>EMPLOYER COMPLETE THIS SECTION</b>					
Dates Worked			Separation Payment Information In Addition To Regular Wages		
From:	To:	Hrs Worked Last Calendar Week	Sick leave# _____ \$ _____	Vacation/PTO# _____ \$ _____	
			Hours Gross	Hours Gross	
Hourly Rate:	Average # Hrs Worked Each Week:		Holiday# _____ \$ _____	Severance # _____ \$ _____	
			Hours Gross	Hours Gross	
			Other _____ # _____ \$ _____		
			List type of payment	Hours Gross	
REASON NO LONGER WORKING: (PLEASE PROVIDE SPECIFIC INFORMATION. ADDITIONAL SHEETS OR DOCUMENTS MAY BE ATTACHED.)					

This is an initial determination that your experience rating account will be charged for benefits. This determination is final unless within 15 days from the date of this notice you mail or fax us this form giving detailed information. Please make a copy for your files.

This claimant's base period also contains wages with the following employers:

Signed for Employer \_\_\_\_\_  
Telephone \_\_\_\_\_  
E-Mail \_\_\_\_\_  
Date \_\_\_\_\_

If additional information is required, who should we contact from your office? \_\_\_\_\_

**Employer information on protests, appeals and relief from charges is on the back of this form**