

UNEMPLOYMENT INSURANCE

Information about 2019 Employer Tax Rates

Tax Rate Calculation

New Employers (less than 2 years experience with the Unemployment Insurance program)

New contributing employers will have a rate that is the greater of their industry average Unemployment Insurance Contribution rate or 1%. Industry classifications for contributory, experienced employers are used to determine the average industry rates of new employers. Based on the NAICS code for the establishment, this is the employer's **Assigned Industry Rate**. This rate will remain in effect until the employer has acquired two years as an experience-rated employer. The annual industry rate averages can be found at www.dws.state.nm.us. The **NAICS Industry Sector** or "NAICS" is the abbreviation for the North American Industry Classification System. NAICS codes are determined based on keywords that describe your business and your primary business activity. If you believe that your NAICS code does not correspond to the business activity, products, or services provided at your establishment, please contact us via email at uitax.support@state.nm.us.

Experienced Employers

Benefits Charged Against Employer Account (3-year period)

Employer's Average taxable payroll (3-year period)

X Reserve Factor X Experience History Factor

After becoming experience-rated, tax rates will be set based on the employer's **benefit ratio**. The benefit ratio is measured by dividing the employer's claims experience over the previous three years by the employer's taxable payroll over the same time period. The resulting benefit ratio is then multiplied by a "reserve factor," which is determined by a formula based on the solvency of the Unemployment Insurance Trust Fund every year. The "reserve factor" can be as low as 0.5 and as high as 4.0. For calendar year 2019, the reserve factor is a 1.5955.

Experience History Factor

The "Experience History Factor" is based on the difference between all of your previous years' tax payments and all the previous years' benefit charges to your account, divided by the average of your annual taxable payrolls for the immediately preceding fiscal years, up to a maximum of three years. The calculation is then cross-referenced with the table below to determine the "Experience History Factor."

Account Balance ÷ Average Total Taxable Payroll X 100 = "Employer's Reserve"

If an "Employer's Reserve" is: **The employer's "Experience History Factor" is:**

6.0% and over	0.4000
5.0% - 5.9%	0.5000
4.0% - 4.9%	0.6000
3.0% - 3.9%	0.7000
2.0% - 2.9%	0.8000
1.0% - 1.9%	0.9000
0.0% - 0.9%	0.9500
Under 0.0%	1.0000

The "Experience History Factor" can only affect your account in a positive way, but please also note that there are other factors that are a part of the overall tax rate calculation.

Excess Claims Premium

The calculation includes an excess claims premium, which is capped at 1% of taxable payroll. Should your tax rate exceed 5.4% prior to adjusting the 5.4% maximum rate, an **Excess Claims Rate** will be added. The Excess Claims Rate is your pre-adjusted tax rate minus 5.4% and then multiplied by 10%. The Excess Claims Rate cannot exceed 1%. The Excess Claims Premium is then determined by multiplying the Excess Claims Rate by your taxable payroll.

Equation for Total Rate:

**Benefit Ratio X Reserve Factor
X Experience History Factor =
Contribution Rate**

**Contribution Rate + Excess
Claims Rate = Total Rate**

The maximum tax rate is 5.4% and the minimum rate is 0.33%. If your tax rate calculates at lower than 0.33%, it will be adjusted to 0.33%. If your rate calculates at higher than 5.4%, your tax rate will be adjusted to 5.4%.

New in 2019:

- Beginning in January 2019, employers will be able to electronically file appeals of their Unemployment Insurance tax rates and other similar tax notices through the Unemployment Insurance Tax & Claims System. This new self-service functionality will allow employers to quickly and easily file appeals of tax determinations and upload documentation in support of their appeal.
- Also coming in January 2019, federal law requires the New Mexico Department of Workforce Solutions (NMDWS) to charge employers for Unemployment Insurance benefit payments improperly paid to unemployed individuals when the employer has established a pattern of failing to timely and adequately respond to requests from NMDWS for separation information during a calendar year. The law applies to employers determined by NMDWS to have established a pattern of at least five (5) occurrences of failing to timely and adequately respond to requests for separation information, without good cause, during a calendar year
(NMAC 11.3.300.308(C)).

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Six Tips to Achieve a Lower Unemployment Insurance Tax Rate

1. Respond Effectively to Unemployment Insurance Claims

Benefit charges play a large role in employers' contribution rates. Employers can often avoid an improper payment of benefits by simply responding to the initial claim in a timely and thorough fashion. When a claimant files for benefits, the claimant is required to answer detailed questions regarding his or her employment and the manner of separation from employment. An employer potentially subject to benefit charges will receive a notice from the New Mexico Department of Workforce Solutions (NMDWS) advising that a claim has been filed and requesting information regarding the claimant's work and separation from employment. Employers have 10 days to respond to that notice. Failure to respond to the notice can lead to improper payment of benefits which will be charged to the employer. Furthermore, if an employer appeals a decision to payment of benefits, an employer who failed to respond within the 10-day deadline may still be liable for some benefit charges, even if the employer prevails in showing that the claimant was not eligible for benefits.

Please note: In January 2019, federal law requires NMDWS to charge employers for Unemployment Insurance benefit payments improperly paid to unemployed individuals when the employer has established a pattern (five occurrences) of failing to timely and adequately respond to requests from NMDWS for separation information during a calendar year.

2. Understand Eligibility Requirements

Claimants are only eligible for benefits when they become unemployed through no fault of their own. This includes being laid off due to lack of work, a reduction in hours resulting in less than full-time work, being discharged for reasons other than misconduct, or quitting for good cause connected with the work.

What is Misconduct?

Misconduct means any kind of willful or deliberate behavior which is harmful to the employer's legitimate business interests.

The employee must know that the behavior could result in termination. In most cases, the conduct must occur on the job or on the employer's premises.

Mere inefficient or unsatisfactory job performance, inability to perform to the employer's standards, and isolated instances of carelessness or ordinary negligence do not constitute misconduct. In order for poor job performance to be considered misconduct, the employer must be able to prove that the employee was fully capable of performing the job to the employer's standards and expectations.

Quitting for Good Cause

To be eligible for benefits, a claimant who voluntarily quits must show that he or she had good cause connected with the work. Good cause means that there were forceful and necessitous circumstances of such a magnitude that a reasonable person would have no choice but to quit. Examples of good cause include unsafe working conditions, a hostile work environment or other unlawful discrimination, and failure to pay wages.

3. Implement Clear Employee Policies and Keep Records

By implementing and communicating clear employee policies and workplace expectations, employers can help minimize Unemployment Insurance costs. Employers bear the burden of proving misconduct. To prove misconduct, employers need to maintain clearly documented and communicated policies. Employers also need to document the circumstances of the separation.

4. Report and Pay Contributions Promptly

Employers who do not report wages in the manner prescribed by NMDWS and who do not timely pay contributions are subject to penalties and interest in addition to the contributions owed. Such costs are unnecessary and can be avoided by timely reporting wages in the manner prescribed by NMDWS and then promptly paying contributions when they become due.

5. Report Fraud

Unemployment Insurance fraud harms both employers and legitimate recipients of Unemployment Insurance benefits. NMDWS conducts cross-match searches of state and national databases to ascertain whether a claimant is simultaneously working and claiming benefits. These cross-matches are very effective in detecting fraud but are not perfect. Cross matches sometimes take time, and many individuals will not show up in cross matches because they work for cash (i.e. under the table).

6. Report Individuals who Refuse Offers of Suitable Work

Unemployment Insurance claimants are required to be able, available, and actively seeking work. That means that if they are offered suitable work and refuse the offer, they become ineligible for benefits. Employer cooperation is essential to enforcing suitable work requirements because employers are best situated to advise NMDWS when they have made an offer of employment to a potential claimant who then refused the employment. Claimants are not required to accept any job offered to them, but they are required to accept suitable work.

For questions please contact the Unemployment Insurance (UI) Operations Center via email at uitax.support@state.nm.us or call us at 1-877-664-6984, Monday through Friday, 8:00 a.m. - 4:30 p.m. You can also log in to your UI Tax & Claims System account at www.dws.state.nm.us. The UI Tax & Claims System is available Sunday through Friday, from 4 a.m. to 9 p.m.

