

**CHAPTER 63. RESPONSIBILITIES OF EMPLOYERS**

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**Source**

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

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#### **TRANSFERS OF EXPERIENCE RECORDS**

##### **§ 63.1. Successors-in-interest.**

(a) *Comparisons.* A successor employer who, under the provisions of section 301(d)(1) of the Law (43 P. S. § 781(d)(1)), has made application for the transfer of the whole or any appropriate part of the experience record and reserve account balance of a preceding employer shall be considered as continuing essentially the same business activity as his predecessor only if the Bureau finds that the anticipated employment risk of the succeeding employer with respect to such factors as unemployment has a direct relationship to the employment experience of the preceding employer. The determination shall be made by comparing the respec-

tive employers in matters such as the nature of the enterprises, the number of individuals employed by each and the wages paid or estimated to be paid to the employes.

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

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

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

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

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

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

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

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

(d) *Part transfers.* An application for part transfer of the experience record and reserve account balance of an employer may be approved by the Bureau only if the application is filed in accordance with § 63.3 (relating to required forms and time limits for applications). If the predecessor is a partnership, a majority of the partners shall sign the application, except that when the partnership consists of two individuals, both shall sign the application.

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

(a) Application for the transfer of the experience record and reserve account balance of a predecessor under the provisions of section 301(d)(1) of the Law (43 P. S. § 781(d)(1)) shall be filed on the “Application for Experience Record and Reserve Account Balance of Predecessor” provided on page 3 of the Form UC-1, Employer’s Initial Statement, and accompanied by an Affidavit of Business Transfer Form (UC-745), or a copy of the bill of sale signed by both parties involved in the transfer, or in such form as to contain the essential information required. The application shall be signed by both the predecessor and the successor-in-interest.

(b) An application for the transfer of the experience record and reserve account balance of a predecessor, either in whole or in part, shall be filed prior to the end of the calendar year immediately following the calendar year in which the transfer occurred.

(c) When the sole business of the successor-in-interest is that which he acquires from the predecessor in a total transfer of the predecessor’s business, and the successor-in-interest, through error or inadvertence, continues to file contribution reports and pay contributions under the account number of the predecessor and at the rate determined by the Bureau to apply to the predecessor, the reporting and payment shall be considered an application for the experience record and reserve account balance of the predecessor with respect to the time limit for filing the application.

**Cross References**

This section cited in 34 Pa. Code § 63.2 (relating to part transfers of organization, trade or business).

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

(a) If an application for transfer of the experience record and reserve account balance of a predecessor either in whole or in part, is filed and the predecessor is delinquent in the payment of contributions, interest or penalties due on wages paid by him as of the date the business was transferred, the Bureau shall disapprove the application if the delinquency is not paid within 30 days of the request for payment by the Bureau. The disapproval shall apply to all actions pertaining to the transfer, including the transfer of the predecessor’s contribution rate to the successor.

(b) The transfer application may be considered if the following actions are taken within the time allowed in the Law for filing transfer applications:

- (1) The successor-in-interest files a timely rate appeal requesting a reconsideration of the transfer application.
- (2) The delinquency is paid not later than 30 days following the request for payment by the Bureau (following such appeal).

(c) If a transfer application is approved the transfer shall be effective with the calendar year for which the timely rate appeal is filed.

**Cross References**

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

**ASSIGNMENT OF CONTRIBUTION RATES**

**§ 63.11. General requirements.**

Where an application for the transfer of the experience record and reserve account balance of a predecessor has been approved, or where the transfer has occurred as provided in section 301(d)(1)(B) of the Law (43 P. S. § 781(d)(1)(B)), the contribution rates for the successor-in-interest shall be determined in accordance with the provisions of §§ 63.12—63.17.

**§ 63.12. Successors not formerly employers.**

The successor-in-interest who prior to the transfer was not an employer during the calendar year in which the transfer occurred (referred to in this section and §§ 63.13—63.17 as the “transfer year”) shall be assigned the rate of his predecessor for the remainder of that year, if the following requirements were met:

(1) The transfer application was filed by the successor-in-interest prior to the expiration of the rate appeal period for the transfer year (which rate appeal period expires 90 days after the mailing of the rate notice to the successor’s last known post office address) or a timely rate appeal was filed and the transfer application was filed within 30 days of notification by the Bureau of the need for such transfer application.

(2) The predecessor paid contributions for the period required under section 301.1(b) of the Law (43 P. S. § 781.1(b)), with respect to the organization, trade or business, or part thereof transferred.

**Source**

The provisions of this § 63.12 amended October 22, 1971, 1 Pa.B. 2015.

**Cross References**

This section cited in 34 Pa. Code § 63.11 (relating to general requirements).

**§ 63.13. Successors formerly employers.**

Successors-in-interest who prior to the transfer were employers during the transfer year may not be assigned the rate of their predecessors for the remainder of the transfer year.

**Cross References**

This section cited in 34 Pa. Code § 63.11 (relating to general requirements); and 34 Pa. Code § 63.12 (relating to successors not formerly employers).

**§ 63.14. Rate determination in subsequent years.**

For calendar years subsequent to the transfer year, the rate for the successor-in-interest shall be determined on the basis of the experience record and reserve account balance, or in case of a part transfer the appropriate portion thereof, which has been transferred from the predecessor and combined with that of the successor-in-interest, except that the rate for a successor-in-interest who has acquired a predecessor's reserve account balance which has been adjusted to zero shall be determined in accordance with § 63.16 (relating to periods of subjectivity).

**Source**

The provisions of this § 63.14 amended October 22, 1971, 1 Pa.B. 2015.

**Cross References**

This section cited in 34 Pa. Code § 63.11 (relating to general requirements); and 34 Pa. Code § 63.12 (relating to successors not formerly employers).

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

Subject to § 63.16 (relating to periods of subjectivity), the first calendar year for which combination of experience shall be applicable for computing the contribution rate for the successor-in-interest shall be determined as follows:

- (1) If the transfer application is filed prior to the expiration of the rate appeal period for the calendar year immediately following the transfer year, it shall be effective beginning with the calendar year in which it is filed.
- (2) If the successor-in-interest has filed a timely application for review and redetermination of contribution rate, and filed a transfer application within 30 days of notification by the Bureau of the need for such application, it shall be effective beginning with the calendar year for which the timely appeal was filed.
- (3) If the transfer application is filed after the expiration of the rate appeal period for the calendar year immediately following the transfer year, it shall be effective beginning with the calendar year following the year in which it is filed.

**Cross References**

This section cited in 34 Pa. Code § 63.11 (relating to general requirements); and 34 Pa. Code § 63.12 (relating to successors not formerly employers).

**§ 63.16. Periods of subjectivity.**

(a) Subsequent to the transfer year, a successor-in-interest who has acquired the whole or part of the reserve account balance of a predecessor which was adjusted to zero under the provisions of section 302(c) of the Law (43 P. S. § 782(c)) shall not have his rate determined on the basis of the combined experience of the predecessor and the successor-in-interest until the expiration of three

calendar years following the computation date on which the predecessor's account was adjusted to zero, unless prior to the expiration of the three-year period the successor-in-interest as of any computation date meets either of the following reporting requirements:

(1) Has been subject under the Law for 14 or more consecutive calendar quarters.

(2) Has been subject under the Law for a period as long as, or longer than, the preceding employer.

(b) A successor-in-interest whose period of subjectivity under the Law is not sufficient to meet the requirements of subsection (a) of this section shall pay contributions at the rate provided in section 301(d)(1)(D)(3) of the Law (43 P. S. § 781(d)(1)(D)(3)).

#### Source

The provisions of this § 63.16 amended October 22, 1971, 1 Pa.B. 2015.

#### Cross References

This section cited in 34 Pa. Code § 63.11 (relating to general requirements); 34 Pa. Code § 63.12 (relating to successors not formerly employers); 34 Pa. Code § 63.14 (relating to rate determination in subsequent years); 34 Pa. Code § 63.15 (relating to determination under combined experience provisions); and 34 Pa. Code § 63.17 (relating to binding effect of transfers).

### § 63.17. Binding effect of transfers.

A transfer of an experience record and reserve account balance, in whole or in part, having been approved by the Bureau on the basis of an application for the transfer of predecessor experience record and reserve account balance, shall be binding on both the predecessor and the successor-in-interest. The experience record and reserve account balance thus transferred shall be included with that of the successor-in-interest for determination of rates for calendar years subsequent to the year of transfer except as provided in § 63.16 (relating to periods of subjectivity). The predecessor may not be entitled to adjusted rates for calendar years subsequent to the transfer year, based upon the experience record and reserve account balance which has been transferred.

#### Source

The provisions of this § 63.17 amended October 22, 1971, 1 Pa.B. 2015.

#### Cross References

This section cited in 34 Pa. Code § 63.11 (relating to general requirements); and 34 Pa. Code § 63.12 (relating to successors not formerly employers).

**APPLICATIONS FOR REVIEW AND REDETERMINATION OF  
CONTRIBUTION RATES**

**§ 63.21. Prerequisites for applications.**

An application for review and redetermination of contribution rate filed under section 301(e)(2) of the Law (43 P. S. § 781(e)(2)) shall be considered only if it meets the following conditions:

- (1) It is filed within 90 days after the mailing of the contribution rate notice to the last known post office address of the employer.
- (2) The reasons set forth by the employer contain factual statements, not mere generalities, showing specifically where the contribution rate of reserve account balance is incorrect.

**Source**

The provisions of this § 63.21 amended October 22, 1971, 1 Pa.B. 2015.

**Cross References**

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

**§ 63.22. Supporting data.**

Employers who wish to file an application shall furnish the following type of supporting data:

- (1) To contest a ruling by the Bureau of insufficient experience, the employer shall submit information to show that his employer experience record meets the eligibility requirements of section 301.1(b) of the Law (43 P. S. § 781.1(b)) for a rate of less than the standard rate provided in section 301(a)(1) (43 P. S. § 781(a)(1)) or section 301(a)(3) (43 P. S. § 781(a)(3)), whichever is applicable.
- (2) To contest a ruling by the Bureau of money or report delinquency, the employer shall submit information to show whether all contributions, penalties and interest due on wages paid to the end of the second quarter of the preceding calendar year have been paid. If a delinquency does exist, he may remove this cause of his ineligibility for a reduced rate by filing the reports and paying the delinquent amount within 30 days after the Bureau, in response to his request, notifies the employer of the missing reports and amounts due.
- (3) To contest the accuracy of any figures shown on the Form UC-657, Contribution Rate Notice, the employer shall submit information obtained from his records to substantiate the alleged discrepancy.

**Source**

The provisions of this § 63.22 amended October 22, 1971, 1 Pa.B. 2015.

**Cross References**

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

**§ 63.23. Unacceptable reasons.**

An application for review and redetermination of contribution rate based on the following reasons shall not be approved by the Bureau:

(1) *Questions of eligibility.*

(i) That claimants who caused the benefit charges were ineligible to receive unemployment compensation.

(ii) Questions of eligibility for compensation shall be resolved conclusively under sections 501—512 of the Law (43 P. S. §§ 821—832) and § 65.63 (relating to filing of appeals), and the affected employers shall be notified with respect thereto.

(iii) Appeals raising questions of eligibility for compensation shall be filed in the manner and within the time prescribed therein. (For detailed instructions, see the reverse side of Form UC-44F, Notice of Financial Determination, which is mailed to base-year employers at the time the Bureau makes the financial determination on the application for benefits by the claimant.)

(2) *Claimants who caused benefit charges.*

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

(ii) Questions as to the right to relief from charges for these reasons shall be resolved conclusively under section 302(a) of the Law (43 P. S. § 782(a)) and §§ 63.31—63.37 (relating to relief from benefit charges), and the affected employers shall be notified with respect thereto.

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

(3) *Benefits charged to employer's reserve account.*

(i) That benefits charged to the reserve account of the employer as shown on Form UC-640, Monthly Notice of Compensation Charged, are incorrect.

(ii) Questions as to the accuracy of benefit charges on Form UC-640, shall be resolved conclusively under section 301(e)(1) of the Law (43 P. S. § 781(e)(1)), and the affected employers shall so be notified.

(iii) Protests contesting the accuracy of such charges shall be filed in the manner and within the time prescribed in Form UC-640. (For detailed instructions, see the reverse side of Form UC-640, Monthly Notice of Compensation Charged, which is mailed to base-year employers following the

payment of unemployment compensation to their former employees.) While an application for review and redetermination of contribution rate shall not be approved on the grounds described herein while the issues of benefit eligibility or charge relief are still pending under the provisions specified, neither shall the application be disapproved pending such proceedings. In all such cases, the employer's application shall be held in abeyance until final resolution of the issue of eligibility or relief from charges as the case may be.

**Source**

The provisions of this § 63.23 amended April 26, 1974, 4 Pa.B. 826.

**Cross References**

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

**§ 63.24. Unacceptable applications.**

(a) Applications shall be denied for the following reasons:

(1) Applications which are not timely filed according to § 63.21(1) (relating to prerequisites for applications).

(2) Applications based upon the reasons in § 63.23 (relating to unacceptable reasons) shall be denied and returned to the employers with letters explaining the reasons for the denial.

(b) Applications which do not furnish the information required in § 63.21(2) shall be returned to the employer with a statement of the reasons for returning such applications.

(c) Any of the forms referred to in this section and §§ 63.21—63.23 (relating to applications for review and redetermination of contribution rates) may be obtained by writing to the Bureau of Employment Security, Department of Labor and Industry, Harrisburg, Pennsylvania 17121.

**Source**

The provisions of this § 63.24 amended October 22, 1971, 1 Pa.B. 2015.

**RELIEF FROM BENEFIT CHARGES**

**§ 63.31. General requirement.**

(a) Whenever a claimant is paid unemployment compensation, his former employers shall be charged for the amount of benefits paid to him. These charges shall be made in proportion to the wages paid by the employer during the base year of the claimant as compared with the total wages paid by all of his employers during the same period.

(b) An employer may exert some control over the determination of his contribution rate by maintaining and providing necessary records and information

which will enable the Bureau to charge employer accounts properly and relieve charges under certain conditions.

**Cross References**

This section cited in 34 Pa. Code § 63.23 (relating to unacceptable reasons); and 34 Pa. Code § 63.32 (relating to reasons for separation).

**§ 63.32. Reasons for separation.**

(a) Section 302(a) of the law (43 P. S. § 782(a)) provides that a base year employer may obtain relief from the charges for benefits paid to an ex-employee as explained in § 63.31 (relating to general requirement) if the claimant has separated from his most recent work for such employer due to one of the following reasons:

- (1) When the claimant leaves work without good cause attributable to his employment.
- (2) When the claimant is discharged for willful misconduct connected with his work.

(b) A base-year employer may obtain relief from charges for benefits paid as explained in § 63.31 (relating to general requirement) when the claimant works part-time for a base-year employer in addition to his full-time job, and such claimant, subsequent to a separation from his full-time job, continues his part-time work with the employer without a material change.

**Source**

The provisions of this § 63.32 amended December 21, 1973, 3 Pa.B 2921. Immediately preceding text appears at serial page (9289).

**Cross References**

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

**§ 63.33. Information accompanying requests.**

(a) A Form UC-44FR "Request for Relief from Charges" under section 302(a) of the law (43 P. S. § 782(a)) shall be submitted in writing to the Bureau of Employment Security, Department of Labor and Industry, Harrisburg, Pennsylvania 17121.

(b) The request for relief from charges shall contain the following information:

- (1) The name and account number of the employer.
- (2) The name of the claimant.
- (3) The social security account number of the claimant.
- (4) The date of valid application for benefits by the claimant.
- (5) The local office number.
- (6) The date of financial decision.
- (7) The signature of the employer or that of his authorized representative.

- (8) The last day of work of the claimant.
- (9) The reason for the separation of the claimant from employment.

**Source**

The provisions of this § 63.33 amended December 21, 1973, 3 Pa.B. 2921. Immediately preceding text appears at serial page (9290).

**Cross References**

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

**§ 63.34. Requests as to voluntary separations or discharge of employe for willful misconduct.**

(a) A request filed under section 302(a)(1) of the law (43 P. S. § 782(a)(1)) shall contain a concise but comprehensive statement of facts surrounding the most recent separation of the claimant and the date of such separation from the employer requesting relief.

(b) If an employer who has applied for relief from charges because of the separation or discharge of an employe subsequently reemploys the employe, the employer shall notify the Bureau of the fact and of the date of rehire within 15 days thereof. The notification shall state the name and social security account number of the claimant and the name and account number of the employer.

**Source**

The provisions of this § 63.34 amended September 17, 1976, 6 Pa.B. 2278. Immediately preceding text appears at serial page (14332).

**Cross References**

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

**§ 63.35. Requests as to part-time workers.**

(a) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

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

*Part-time work*—Work other than normal full-time work of a claimant with a regular base-year employer which is ordinarily performed for less than the total number of hours or days customarily worked in the business, occupation or industry.

(b) *Information.* A request filed under the provisions of this section shall contain a concise but comprehensive statement of facts concerning the part-time employment of the claimant. The statement shall include the following information:

- (1) The date the claimant was hired.

(2) The number of hours or days of work and the pay available to the claimant before and after separation from the full-time job.

(c) *Certification.* The request shall be certified that the information provided is true and correct. The certification shall be signed by the employer making the request or his authorized representative.

(d) *Changes of employment situation.* If an employer who has applied for relief under section 302(a)(2) of the Law (43 P. S. § 782(a)(2)) subsequently changes the employment situation of a part-time employe, it shall be the duty of the employer to notify the Bureau of such fact within 15 days. The notification shall state the name and social security account number of the claimant and the name and account number of the employer.

#### Source

The provisions of this § 63.35 amended through September 17, 1976, 6 Pa.B. 2278. Immediately preceding text appears at serial page (14333).

#### Notes of Decisions

##### *Full-Time Work*

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

#### Cross References

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

### § 63.36. Time limits for filing for relief.

(a) Where the last separation is the basis for establishing an application for benefits, a Form UC-44FR (Request for Relief from Charges) shall be filed with the Bureau within 15 days after the date of "Financial Decision" shown on the face of the first eligible Form UC-44F (Notice of Financial Determination) as issued by the Bureau on the basis of this application for benefits.

(b) If a claimant returns to work for a base-year employer after establishing a benefit year, that is a 52-week period beginning with the date of the first valid Application for Benefits, and is subsequently separated from employment during the benefit year, any request made by the separating employer for relief from charges must be filed within 30 days from the last day worked.

(c) A request for relief from charges not filed within the time limitations prescribed in subsections (a) or (b) shall be effective only with respect to charges resulting from benefits paid for weeks ending 15 or more days subsequent to the date the late request is filed with the Bureau.

(d) A request for relief from charges will be considered as filed with the Bureau on the date the request is postmarked or, if the request is otherwise delivered, on the date such request is received in the central office or in the local or district office of the Bureau.

**Source**

The provisions of this § 63.36 amended through September 17, 1976, 6 Pa.B. 2278. Immediately preceding text appears at serial page (14334).

**Cross References**

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

**§ 63.37. Determinations and appeals.**

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

**Cross References**

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

**READJUSTMENT OF RESERVE ACCOUNT BALANCES****§ 63.41. Requests.**

An employer who elects to have his debit reserve account balance adjusted to zero under sections 301.1(f) and 302(c) of the Law (43 P. S. §§ 781.1(f) and 782(c)) shall submit a request in writing.

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

(a) A request for adjustment of a debit reserve account balance to zero shall be filed on or after January 1, but not later than April 30 of the calendar year immediately following the computation date for the determination of contribution rates.

(b) The request may not be revocable for any cause after 10 days from date of filing.

**§ 63.43. Date of filing.**

The date of filing of a request shall be considered as the date on which the request is postmarked. Should the request be delivered in some other way the date of receipt in any field or administrative office of the Bureau shall be considered the date of filing.

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

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

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

### REPORTS TO BE FILED

#### § 63.51. Form UC-1.

Form UC-1, Employer's Initial Statement, shall be filed by each employer, whether or not he is liable for the payment of contributions, for whom any individual has performed services in this Commonwealth subsequent to December 31, 1935. The form shall be filed immediately after services are first performed for the employer.

#### § 63.52. Form UC-2.

(a) Form UC-2, Employer's Report for Unemployment Compensation, and Form UC-2A, Employer's Quarterly Report of Wages Paid to Each Employee, shall be filed by each employer liable for the payment of contributions, on or before the last day of the month which immediately follows the end of the calendar quarter for which the reports are filed.

(b) Form UC-2 and Form UC-2A shall be filed for each calendar quarter, whether or not the employer has paid wages during the calendar quarter.

(c) The Bureau may require an employer who has discontinued operation of his organization, trade or business in this Commonwealth to file reports immediately upon discontinuance of an operation.

(d) If the day on which Forms UC-2 and UC-2A are otherwise required to be filed is a Saturday, Sunday or a legal holiday, the reports may be filed on the first subsequent day which is not a Saturday, Sunday or a legal holiday.

(e) The day on which reports are postmarked shall be deemed the day on which they are filed.

(f) An employer who has been required to file Form UC-2 may be relieved of filing the report only upon written application to the Bureau to be so relieved. The application shall certify that he no longer furnishes employment as defined in the Law (43 P. S. § 753). The Bureau may, however, relieve an employer from filing reports upon finding that the employer no longer furnishes employment as defined in the Law (43 P. S. § 753), at any time, on its own motion.

#### Cross References

This section cited in 34 Pa. Code § 63.55 (relating to wages paid under Shipping Articles).

**§ 63.53. Form UC-45.**

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

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

**§ 63.54. Form UC-785.**

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

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

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

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

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

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

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

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

**§ 63.56. Other reports.**

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

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

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

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

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

**§ 63.58. Penalties for failure to file.**

The penalty for failure to file reports as provided in section 206 of the Law (43 P. S. § 766) may not apply to the filing of Form UC-2 with respect to any reporting period during which the employer paid no wages subject to contributions.

**MISCELLANEOUS PROVISIONS****§ 63.61. Voluntary contributions to Unemployment Compensation Fund.**

(a) Any employer who wishes to take advantage of the privilege afforded by voluntary contributions to the Unemployment Compensation Fund shall pay his voluntary contribution in strict conformity with section 302(b) of the Law (43 P. S. § 782(b)). The amount shall be included in the computation or recomputation of the rate for any calendar year only if it is paid within 120 days after the beginning of the year.

(b) Irrespective of any action by the Bureau, the employer shall be responsible for determining the amount he wishes to pay and he shall pay that amount, unconditionally, within the 120-day period.

(c) After voluntary contributions are accepted by the Bureau, they will not be refunded or allowed as a credit to pay contributions due on taxable wages.

**§ 63.62. Assignment of contribution credit.**

(a) Contribution credit which arose as a result of the 1949 and 1951 experience rating amendments to the Law (43 P. S. §§ 781 and 781.1) may be trans-

ferred to a successor-in-interest or to any assignee. The credit shall be used solely for the payment of contributions, interest or penalties owing under the Law and may not be refunded.

(b) Request for the assignment of nonrefundable credit shall be made by submitting the request in duplicate and shall contain the essential information required.

(c) Credit may be transferred to more than one assignee, in which case the request shall be submitted in duplicate for each assignee.

**§ 63.63. Agreement to compromise.**

(a) Application for compromise of contributions, interest or penalties under the provisions of section 309.1 of the Law (43 P. S. § 789.1) shall be made to the Bureau on Form UC-168, Application for Agreement to Compromise. The application shall be properly executed under oath, by the employer or his authorized representative, and shall have attached thereto and made a part thereof such additional information as the Bureau may require.

(b) All contributions, interest and penalties, other than those for which application for compromise is being made, and all legal costs incurred by the Bureau shall be paid in full before the Bureau will give consideration to an employer's application. The amount offered in compromise shall accompany each application but the Bureau may waive this requirement when the circumstances justify the exception.

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

(a) *Content of records.* Each employer, whether or not liable for the payment of contributions, shall keep clear, accurate and complete employment and payroll records. The records shall include the following information on each worker:

- (1) Social security account number.
- (2) Full name.
- (3) Wage rate (hourly, daily or piece rate, weekly, monthly or annual salary).
- (4) Total remuneration paid for each pay period by type of payment (cash and cash value of payments in kind).
- (5) Traveling or other business expenses actually incurred and accounted for, and the dates such expenses were incurred and were paid by the employer.
- (6) Place of employment.
- (7) Full-time scheduled hours.
- (8) Daily attendance record, showing the dates on which the worker actually worked, and time lost due to reasons other than lack of work.
- (9) If separated, the date and the reasons for separation.

(b) *Location and retention of records.*

- (1) All employment and payroll records and supporting evidence, as well as all other business records such as cash books, journals, ledgers and corpo-

rate minutes, shall be retained either at the place of employment or at an established central recordkeeping office for at least 4 years after contributions relating to such records have been paid.

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

(3) The records shall be open for inspection and transcription by authorized representatives of the Bureau at any reasonable time and as often as may be deemed necessary. They shall be in such a condition that the information required may readily be obtained by representatives of the Bureau.

### Subchapter B. MULTISTATE AGREEMENTS

#### MISCELLANEOUS

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#### MISCELLANEOUS

#### § 63.71. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

change in the work assigned to an individual requires him to perform services in a new participating jurisdiction.

**§ 63.75. Approval of reciprocal coverage elections.**

The Assistant Director for Tax Operations shall have the authority to approve or disapprove reciprocal coverage elections in accordance with the provisions of this subchapter.

**TRANSFER OF CONTRIBUTIONS BETWEEN STATES**

**§ 63.81. Scope.**

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

**§ 63.82. Prerequisites to transfer.**

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

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

**Cross References**

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

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

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

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

(b) *Adjustments.* If the agreement under which the transfer is made provides for adjusting the amount of money to be transferred on the basis of the earnings

which have accrued during the period such monies were in the possession of the refunding state, the amount shall be adjusted accordingly. If such a provision is contained in the agreement, the agreement shall provide for the same adjustment to be made whether the Commonwealth is the covering state or the refunding state.

#### Cross References

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

### § 63.84. Transfer of wage records.

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

#### Cross References

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

### § 63.85. Interest on delinquent contributions.

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

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

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

#### Source

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

#### Cross References

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

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

|         |   |
|---------|---|
| Sec.    |   |
| 63.91.  | Purpose.                                |
| 63.92.  | Time for compliance.                    |
| 63.93.  | Filing of surety bond.                  |
| 63.94.  | Filing of security deposit.             |
| 63.95.  | Moneys or securities received.          |
| 63.96.  | [Reserved].                             |
| 63.97.  | Return or sale of moneys or securities. |
| 63.98.  | Refunds and adjustments.                |
| 63.99.  | Assignment of rate of contribution.     |
| 63.100. | Supplements to payments.                |

**Source**

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

**§ 63.91. Purpose.**

This subchapter is intended to effectuate those provisions of the law which deal with filing a surety bond or depositing money or securities of equal value with the Department when a nonprofit organization elects to become liable for payments in lieu of contributions.

**§ 63.92. Time for compliance.**

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

**§ 63.93. Filing of surety bond.**

Nonprofit organizations subject to the provisions of this subchapter electing to file a surety bond shall file with the local Field Accounting Office of the Bureau a surety bond equal to 1.0% of the employer's taxable wages paid for subject employment for the most recent four calendar quarters prior to the election to make payments in lieu of contributions or a surety bond in an amount set by the Department, such bond to be executed by an approved bonding company.

**Source**

The provisions of this § 63.93 amended September 24, 1976, 6 Pa.B. 2395. Immediately preceding text appears at serial page (9304).

**Cross References**

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

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

In lieu of a surety bond, as prescribed in § 63.93 (relating to filing of surety bond), nonprofit organizations subject to this subchapter may deposit moneys, in the form of bank-guaranteed checks payable to the Department of Labor and Industry or securities of equal present monetary value, of a kind acceptable to the Bureau, with the local Field Accounting Office of the Bureau, for transmittal to the Department in Harrisburg. A written receipt will be given to the employer depositing such moneys or securities. A copy of the receipt will be forwarded to the Bureau Accounting Division in Harrisburg and a copy retained in the local Field Accounting Office. Reference should also be made to §§ 63.95—63.97 (relating to moneys or securities received, securities pledged and return or sale of moneys or securities).

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

(a) *Moneys received.* The Department will deposit all moneys received with the State Treasurer, Commonwealth of Pennsylvania. Any interest thereon shall accrue to the employer.

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

**Cross References**

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

**§ 63.96. [Reserved].****Source**

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

**Cross References**

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

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

Any deposit of moneys or securities received will be held until the organization's liability for payments is terminated. Upon termination of liability the deposit will be returned, minus any amount, including interest and penalty, due the Department. The Department is authorized to sell securities deposited to satisfy any amount due. All securities pledged to the Department but held in escrow will be released through written advice by the Department upon termination of liability as a reimbursing nonprofit employer, but only if all amounts due have been paid.

**Cross References**

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

**§ 63.98. Refunds and adjustments.**

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

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

A 2% rate will be assigned to employers who elect the reimbursement method of payment and subsequently choose to convert to contributory status. The employer will be treated as a “new or newly covered” employer during the period in which he was in reimbursement status, and this period will not be taken into account for any of the purposes of experience rating. The entry rate of 2% is available only on the occasion of the first conversion from reimbursement to contributory status. Thereafter, the rate of contribution may not be less than the standard rate subject to adjustment under section 301.1 of the Law (43 P. S. § 801.1).

**Source**

The provisions of this § 63.99 amended March 7, 1975, 5 Pa.B. 441. Immediately preceding text appears at serial page (13477).

**§ 63.100. Supplements to payments.**

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

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

**Cross References**

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

[Next page is 65-1.]