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## Hot Topic: Unemployment Insurance: Recent Legislative Changes

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July 23, 2009

## UNEMPLOYMENT INSURANCE — RECENT LEGISLATIVE CHANGES

Gail Cook, CPA, CGFM, Finance and Accounting Consultant

The 2009 legislative session brought about some changes in Tennessee's unemployment law. In June, the Tennessee Legislature passed into law HB 2324/SB 2315. This legislation imposed an additional 0.6% (.006) premium and revised certain provisions of the Employment Security Law, including provisions governing the taxable wage base. These changes affect all municipalities that are "premium paying" employers.

The wage base was increased from the current \$7,000 to \$9,000 effective retroactively to January 1, 2009. As such, all wages paid in the current calendar year (including those reported for the first quarter) are subject to the new \$9,000 wage base. Any taxable wages over \$7,000 for the first quarter should be reported by decreasing the excess wages amount on line 2, which will increase the taxable wages on line 3 of the second quarter premium report (Form LB-0456). Alternately, a municipality may file an amended premium report for the first quarter to report the additional taxable wages. The wage base will be phased downward to \$8,000 and then to \$7,000 as the unemployment trust fund balance increases.

In addition to increasing the wage base, the legislation also instituted an additional 0.6% fee on current premium rates. This additional fee will

remain in effect until the unemployment trust fund balance equals or exceeds \$650 million. All "premium paying" municipalities should receive an Employer Statement from the Tennessee Department of Labor and Workforce Development (TDLWD) indicating the additional amount due for first quarter taxable wages as a result of the increased premium. This additional premium is due by July 31, 2009, and should be mailed along with the top portion of the statement to the TDLWD.

Municipalities that have chosen to be "reimbursing" employers are not affected by these changes. Those municipalities must report the gross wages for each employee; however, they are not required to submit premium amounts with the report. They reimburse the state dollar for dollar for unemployment benefits paid on behalf of former employees of the municipality.

### SO, WHAT EXACTLY MUST "PREMIUM PAYING" EMPLOYERS DO?

**First**, verify that the amount due, as indicated on the Employer Statement, is correct and remit the additional premium to the TDLWD. For example, if the taxable wages (line 3) reported for the first quarter 2009 was \$13,500 the amount due is \$81 ( $\$13,500 \times .006$ ).

July 23, 2009

**UNEMPLOYMENT INSURANCE — RECENT LEGISLATIVE CHANGES**

**Second**, include the additional taxable wages from the first quarter on the second quarter return. (See computation in example below.)

position; or a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight (8) hours per week.” It

**EXAMPLE:**

	1 <sup>st</sup> Qtr. Wages	2 <sup>nd</sup> Qtr. Wages	2 <sup>nd</sup> Qtr. Excess Wages
Employee #1	\$ 8,400	\$ 8,400	\$7,800
Employee #2	\$ 6,500	\$ 6,000	\$3,500
Total Wages (line 1)	\$14,900	\$14,400	
Excess Wages (line 2)	\$ 1,400	\$ 9,900	(\$7,800 + \$3,500 - \$1,400)
Taxable Wages (line 3)	\$13,500	\$ 4,500	

**Last**, be sure to apply the new premium (old rate plus 0.6% fee) to the taxable wages beginning with the second quarter 2009 return.

also excludes an employee working on a temporary basis due to a “fire, storm, snow, earthquake, flood or similar emergency.”

**EXCLUDED SERVICES**

It is still very important for ALL municipalities to be sure that wages are not being reported for excluded services. The Tennessee Employment Security Law lists several types of activities that are considered “excluded services.” The new legislation did not change any of this. Any wages paid to someone for those activities would **not** be reported on the Wage Report (LB-0851) or Premium Report (LB-0456) filed quarterly with the TDLWD.

Following are some individuals who, under normal circumstances, would not be considered employees of the municipality under the Tennessee Employment Security Law:

- Any elected official (mayor, council member, judge, recorder, etc.)
- Board member (beer board, planning and zoning board, utility board, etc.)
- Election workers
- Temporary personnel employed due to an emergency situation (police officers, EMTs, paramedics, firefighters, etc.)

The exclusion that affects municipalities is found in T.C.A. § 50-7-207(c)(5)(D). It specifically excludes elected officials, as well as anyone employed by the municipality in a position that is designated by law as “a major nontenured policymaker or advisory

Municipalities that have been reporting wages on excluded services can correct any overstatement

July 23, 2009

**UNEMPLOYMENT INSURANCE — RECENT LEGISLATIVE CHANGES**

of reported wages by filing a Claim for Adjustment or Refund form (LB-0459). This form is available at <http://www.state.tn.us/labor-wfd/Employers/forms/LB-0459.pdf> or from your local Tennessee Employment Security Employer Accounts Office.

For more information, please contact your MTAS management or finance consultant or any of these resources:

1. *Tennessee Unemployment Insurance Handbook for Employers* can be downloaded at <http://www.state.tn.us/labor-wfd/Employers/forms/emphand00.pdf>.
2. T.C.A. § 50-7-207 contains information on what is considered employment under the Tennessee Employment Security Law.
3. You may contact the Employment Security Division of the Tennessee Department of Labor and Workforce Development in Nashville at (615) 741-1619 or your area’s employer account office. A list of these local offices is at <http://www.state.tn.us/labor-wfd/Employers/taxoffices.html>.

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