



State of Montana

EMPLOYER'S TAX GUIDE

INCOME TAX WITHHOLDING and UNEMPLOYMENT INSURANCE

Important changes in the area of employment taxes

Uniform Penalty and Interest (MCA 15-1-216)
Effective Jan 1, 2000

The purpose of this Employer's Tax Guide is to help you comply with the law, by providing basic information and answering the most commonly asked employer questions.

The Department of Revenue has scheduled workshops throughout the state to discuss the employment tax changes. If you are interested in attending one of the workshops, please contact the department at (406) 444-6900 for more information.

We rely on your ideas, information and cooperation to help us maintain an efficient and effective program. Please direct your questions, comments or suggestions to us by telephone (406) 444-6900, fax (406) 444-0629 or mail at Department of Revenue, 125 N. Roberts, P.O. Box 5835, Helena MT 59602.

Montana State Employer's Tax Guide

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Preface

This Employer Tax Guide is designed to answer questions commonly asked by employers and to provide information about your rights and responsibilities.

Terms you should know

Employee - is an individual who performs a service for a person or organization. One of the tests applied to determine whether an individual is an employee is: Does the individual or organization for whom the service is performed have the legal right to control the way in which the service is carried out? It is only the right to control that is important; it is not necessary that the control is ever actually exercised.

Employer - is a person or organization who pays wages to an individual in exchange for the performance of a service by the individual. Individuals, corporations, partnerships, estates, trusts, associations, joint ventures, religious organizations, government agencies, and political subdivisions are among the entities which may be employers. This is not an exclusive list of examples and the fact that your particular organization is not mentioned by name does not mean that it is not considered an employer. If an employer's total gross wages are less than \$1,000 for the current year or the previous year, the employer is not required to withhold or remit state employer withholding, or pay Unemployment Insurance.

Wage - is a general term that encompasses, but is not limited to, salaries, wages, bonuses, fees, commissions, vacation allowances, retroactive pay increases, and any other payments made by an employer for services provided by his/her employee, unless exempted. The term wages also includes the cash value of any asset which is given to an employee as compensation for his/her service to the employer.

What if I have a question that is not covered in this guide?

Although it is comprehensive, this guide may not answer all your questions and does not cover all situations that may arise. If you need assistance, contact the Customer Service Center or the field representative nearest you. Call (406) 444-6900 for questions related to state income tax withholding and Unemployment Insurance. See page 42 for telephone listings of other agencies.

When you call, please have your state employer identification number, federal identification number and other information (canceled checks, report copies, etc.) relating to your call.

We attempt to answer every call in person and know that it is frustrating to call the department and be put through to a voice mailbox. Voice mail has helped us substantially reduce the number of lost calls and improve our service. We'll get back to you just as soon as possible if you leave your name, phone number and state employer identification number.

The Department of Revenue conducts Assistance for Business Clinics (ABC) in several cities each year. Information regarding Montana income tax withholding and Unemployment Insurance, as well as other state and federal agency reporting requirements, are available. Contact your local Chamber of Commerce to find out when the next clinic will be held in your area or call our Customer Service Center at (406) 444-6900.

Registration

Section 1

Registration

You may call toll free 1(800) 550-1513 for information regarding registration for Withholding and Unemployment Insurance wage based taxes.

Who must register?

■ An employer who pays or has paid \$1,000 or more in wages annually is subject to withhold Montana income tax and pay Unemployment Insurance. The employer must file an application for an account number. Contact registration at 1(800) 550-1513 to obtain an employer registration form or use the tear-out registration form on page 6.

■ A new employer, who has acquired an existing business, cannot use the prior owner's account number. A new state employer identification number (SEIN) needs to be issued and you should apply for a new federal identification number also. You may be able to transfer the Unemployment Insurance experience rating record of the acquired business to your business.

An entity change occurs any time you change from one type of ownership to another. The change from a sole proprietor to a corporation or a partnership is an entity change. Changing members of a limited liability company (LLC) is an entity change. Changing stock ownership in a corporation is not an entity change. Call 1(800) 550-1513 to report entity changes.

■ Failure to register does not relieve an employer of his/her responsibility to withhold and remit Montana taxes timely.

Can you provide federal employer identification numbers (FEIN)?

A new employer is able to apply for a FEIN when registering with the Department of Revenue.

As a new business, do I need to contact other Department of Revenue offices?

Yes, all new businesses shall report their personal property so the department can determine the market value. Personal property business equipment, including farm equipment and live-stock, is taxable in Montana. Real and personal property taxes fund local government services and school operations. Contact the Department of Revenue office in the county where the business equipment is located for information on reporting.



EMPLOYER REGISTRATION INSTRUCTIONS

Line Number:

#1 through #7 - Complete for your business.

#8 - List all owners, partners or corporate officers. If necessary, attach an additional sheet. Remember to include addresses and social security numbers.

#11 - Check the industry that best describes your business. List primary activity and its specific products or services, percent of gross income and number of employees. Please be specific. New employer rates are assigned using the industry's average contribution rate. **Generalities can result in assignment of a higher rate.**

#12 - Check "YES" if you operate this business in Montana in more than one physical location (e.g., plants, stores, offices, warehouses, etc.).

#13 - Check "YES" if you primarily perform management or support services for other divisions of your parent company. Support services include administrative offices (headquarters, data processing centers, etc.), storage (warehouses), or research, development or testing.

#18 through #23 - Complete this section **only** if you:

1. Changed the business entity; i.e. from proprietorship to partnership or corporation, or from a corporation to a partnership or proprietorship;
2. Acquired a business; or
3. Bought or sold a portion of a business.

Signatures: All owners' or all partners' signatures are required. Only one corporate officer signature is required. An additional sheet for signatures may be attached.





MONTANA EMPLOYER REGISTRATION

Mail completed form to:
Business Tax, Dept. of Revenue,
PO Box 6339, Helena, MT 59604-6339

Registering for:

- Montana State Income Tax Withholding
- Unemployment Insurance

AGENCY USE ONLY

Employer Number		NAICS Number	
Subject Date	WH	Industry Number	
Remarks			

Fill in all spaces as they apply to your business. Instructions are listed on the back of this sheet.

Questions? Call (406) 444-6900
Toll-free 1-800-550-1513

1. Business or Trade Name	
2. Owner or Corporation Name	
3. Mailing Address	Phone Number
City	State ZIP Code
Montana Business Location (Street Address)	Phone Number
City	County State ZIP Code

4. Type of Organization:		<input type="checkbox"/> e. Corporation
<input type="checkbox"/> a. Individual Ownership	<input type="checkbox"/> f. Sub-Chapter S	
<input type="checkbox"/> b. Partnership	<input type="checkbox"/> g. Governmental	
<input type="checkbox"/> c. Limited Liability Partnership	<input type="checkbox"/> h. Non-profit	
<input type="checkbox"/> d. Limited Liability Company	<input type="checkbox"/> i. Other _____	
5. Federal Identification Number (FEIN):		
6. Date Incorporated:		
7. Is this <input type="checkbox"/> seasonal or <input type="checkbox"/> pension/trust ? (Mark a box if it applies to your business)		

8. IDENTIFICATION OF OWNER(S), CORPORATE OFFICERS, PARTNERS, ETC. (IF MORE THAN 3, PLEASE ATTACH A LIST)

Social Security Number	Name (Given Name Must be Shown in Full)	Title	Address (Home)

9. Name of Person Who Prepares Records and Reports	Address	Telephone No.
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10. Name of Accountant	Address	Telephone No.
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11. DESCRIPTION OF BUSINESS TYPE AND ACTIVITY IN MONTANA: This section **MUST BE COMPLETED** in detail to accurately determine your business activity for proper assignment of contribution rates. **BE SPECIFIC and check all that apply.** Generalities could result in assignment of a higher contribution rate.

Agriculture, Forestry, Fishing Mining Construction Wholesale Trade Retail Trade Services

Transportation, Communication & Public Utilities Finance, Insurance, Real Estate Manufacturing

Primary Activity	Specific Product or Service	% of Gross Income	# Employees

12. Does this establishment have employment at more than one physical location in Montana? (Exclude construction and contract work if less than six months in duration.) Yes No

13. Does any worksite of this establishment primarily perform management or support services for other divisions of the company? Yes No

14. Date Employment Began	15. Will your total payroll for the current calendar year equal or exceed \$1,000? <input type="checkbox"/> Yes <input type="checkbox"/> No	Year and date payroll first equaled or exceeded \$1,000 _____
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16. Supply the following information concerning wages paid by the current owner in Montana during the current and/or preceding year(s):					
YEARS	To Date In Yr.				
Wages You Paid Each Year					

17. Are you required to pay Federal Unemployment Tax (FUTA)? Yes No

COMPLETE QUESTIONS 18 - 23 ONLY IF YOU HAVE CHANGED YOUR BUSINESS ENTITY (SUCH AS PROPRIETORSHIP TO CORPORATION), OR HAVE ACQUIRED A MONTANA BUSINESS OPERATION

18. Date Changed/Acquired _____ 19. How Acquired: Entity Change Lease Other, Specify: _____
 Purchased All Purchased a Portion -- What did you purchase? _____

20. Name of Former Owner(s) _____ 21. Name and Address of Former Business: _____

22. Former UI Account Number _____ 23. Former FEIN _____

Signature (Owner, all Partners or one Corporate Officer)	Title	Date
Signature	Title	Date

Return original copy to the address listed at the top of the form . Retain one copy for your files.

Employment Tax Chart Section 2

MONTANA STATE EMPLOYMENT TAX CHART

SPECIAL CLASSES OF EMPLOYMENT AND SPECIAL TYPES OF PAYMENTS		TREATMENT UNDER DIFFERENT EMPLOYMENT TAXES	
		STATE INCOME TAX WITHHOLDING	UNEMPLOYMENT INSURANCE
CLASS OF EMPLOYMENT			
1	A dependant member of the sole proprietors' family for whom the sole proprietor may claim an exemption under the Internal Revenue Code	Not Subject	Not Subject
2	Spouse/Dependent Child - of sole proprietor	Not Subject	Not Subject
3	Members of a partnership or member managed LLC's	Not Subject	Not Subject
4	Corporate Officers	Subject	Subject
5	Agricultural Labor	Not Subject	Not Subject - if total cash wages are less then \$20,000 in any quarter or employ less than 10 workers on 20 dif-ferent days in 20 different weeks
6	Domestic Service in a private home, local college club, or local chapter of a college fraternity or sorority	Not Subject - if total cash wages are less than \$1,000 in any quarter	Not Subject - if total cash wages are less than \$1,000 in any quarter
7	Service performed by a duly ordained, commissioned, or licensed minister of a church in a ministerial duty or by a member of a religious order in the exercise of duties required by the order	Not Subject	Not Subject
8	Other Church Employees	Subject	Subject
9	Services of an individual under the age of 18 delivering or distributing newspapers to a point for subsequent delivery or distributions	Not Subject	Not Subject - must be acknowledged in writing
10	The sale of newspapers or magazines to ultimate consumers where the newspapers or magazines are sold wholesale to the seller at a fixed price and seller keeps the excess	Not Subject	Not Subject
11	Freelance correspondents, provided the person is compensated solely by the story/picture	Not Subject	Not Subject - must be acknowledged in writing
12	Real Estate Brokers	Not Subject	Not Subject - if paid commission
13	Securities and Insurance salespeople	Subject	Subject
14	Direct Sellers engaged in the sale of consumer products, primarily in the customer's home	Not Subject	Not Subject
15	Cosmetologists and barbers who are independent contractors	Not Subject	Not Subject
16	Services as an elected public official	Subject	Not Subject
17	Services performed at a school, college, or university by a currently enrolled student or the spouse of such a student	Subject	Not Subject
18	Employment with any railroad engaged in interstate commerce	Subject - Only if Montana residents	Not Subject - excludes construction of railroads
19	Service performed by an individual who is enrolled at a nonprofit or public educational institution which uses academic instruction combined with actual work experience	Subject	Not Subject
20	Deceased Worker - The deceased worker's final check is not subject to Withholding but is subject to Unemployment Insurance, and individual income tax. Normally, the last check is made out to the decedent rather than to the estate and the wages are included on the W2. On occasion however, the final check is issued to the estate and put on a 1099.	Not Subject	Subject

CLASSES OF EMPLOYMENT		STATE INCOME TAX WITHHOLDING	UNEMPLOYMENT INSURANCE
21	Officials at school amateur athletic events	Subject	Subject
22	MOA officials who are assigned to the event are not employees; however other officials are employees of the school	Not Subject	Not Subject
23	Services performed in the employ of a hospital if such service is performed by a patient of the hospital	Not Subject	Not Subject
24	Services performed in Montana in the employ of any other state or the United States government	Subject	Not Subject
25	Services by a citizen or resident of the United States for a foreign government or an international organization	Not Subject	Subject - work must be done in Montana
26	Active service as a member of the regular armed forces of the United States, as defined in 10 U.S.C. 101 (33)	Not Subject	Not Subject
27	National Guard and reserve training as provided in 5 U.S.C. 5517(d)	Subject	Not Subject
28	Person performing services in return for aid or sustenance only	Subject	Not Subject
29	Casual labor not in the usual course of the employer's trade or business performed by an employee in any calendar quarter unless the cash remuneration is \$50 or more and the service is performed by an individual who is regularly employed to perform the service (24 days during the quarter)	Not Subject	Not Subject
	TYPE OF PAYMENTS	STATE INCOME TAX WITHHOLDING	UNEMPLOYMENT INSURANCE
30	Employer payment for, or a contribution toward the cost of any employee benefit group plan or program including but not limited to life insurance, hospitalization insurance for the employee or dependents	Not Subject	Not Subject - IF employee can NOT elect to receive money in lieu of benefit
31	Payments in any medium other than cash	Subject	Subject
32	Payments in the form of lodging or meals and the services are performed by the employee at the request of and for the convenience of the employer	Not Subject	Subject
33	Tips for services rendered at a place licensed to provide food, beverage, or lodging in accordance with section 3402(k) of the Internal Revenue Code of 1954	Not Subject	Subject
34	All Other Tips	Subject	Subject
35	Allocated Tips	Not Subject	Not Subject
36	Dependent care assistance provided by an employer to, or on behalf of, an employee for which a credit is allowed under 15-30-186 or 15-31-131, MCA subject to the limitations provide in section 129(b) of the IRC	Not Subject	Subject

State Income Tax Withholding Section 3

Withholding is money deducted and taken from an employee's wages by an employer for payment of the employee's income taxes.

As an employer, what are my responsibilities?

Individuals who earn wages by performing services in Montana are liable for Montana income tax. Your duty by law is to deduct the tax from the wages you pay. Every employer who resides in Montana and every non-resident employer who pays wages for services performed in Montana must withhold Montana income tax. This money belongs to the employee and is only held, in trust, by the employer until paid to the state. Withholding should not be used by the employer to operate the employer's business.

How much do I withhold?

The amount of tax you withhold from an employee's pay depends on three factors: (1) length of your payroll period, (2) gross pay, and (3) number of withholding allowances claimed on W-4 forms. The department periodically updates & prints Withholding Tax Tables. The tables are sent to employers as they are updated, or to request a copy call (406)444-6900.

NOTE: An employee may request additional monies be withheld to meet his/her tax obligation. The amount withheld would be reported and paid as any other withholding.

What is exempt from withholding?

There are certain kinds of services and compensation specifically excluded by law for withholding purposes. Refer to the Employment Tax Chart in Section 2 for a list of exemptions.

If you pay wages to persons who qualify under the following exemptions, do you have to withhold on their wages?

North Dakota Residents - Montana and North Dakota have a reciprocal agreement which calls for a resident of one of the states to pay income tax to his state of residency even though the compensation upon which the tax is based is earned in the other state. An employer is not required to withhold Montana income tax from compensation paid to an employee who has established himself/herself as a North Dakota resident.

An employee who wishes to take advantage of this treatment must obtain Form NR-2 (Employee's Certificate of North Dakota Residence) by writing the Department of Revenue, P.O. Box 5835, Helena, Montana 59604-5835 or calling (406) 444-6900. The employee must complete it and file it with the employer, who then must send a copy of the completed NR-2 to the Montana Department of Revenue.

The department may require the employer to disregard an employee's false or unsubstantiated NR-2 and may require resumption of withholding and/or collection of uncollected withholdings from the employee's current wages.

Interstate Transportation - Employees of motor and rail carriers subject to the jurisdiction of the Interstate Commerce Commission, are subject to Income Tax Withholding only in their state of residency. Montana resident transportation workers pay income tax to Montana on all their earnings.

Native Americans - Compensation paid by an employer to enrolled members of an Indian tribe who live and work within the boundaries of their enrolled tribe's reservation is not subject to Montana income tax withholding.

Compensation paid by an employer to enrolled members of an Indian tribe who do not live and work within the boundaries of their enrolled tribe's reservation is subject to Montana income tax withholding. All employers must withhold Montana income tax in this instance.

What about pensions, annuities, deferred compensation and IRA's? Are they subject to withholding?

Employee contributions to qualifying annuity contracts as defined by the Internal Revenue Code (IRC), such as "tax sheltered" annuity plans for teachers, deferred compensation for public employees, or other similar plans, are exempt from withholding requirements to the extent that the contributions are not included in the employee's adjusted gross income for federal income tax purposes. Contributions made to individual retirement accounts under Sec. 3401(a)(12), IRC, while considered compensation to the employee, are not subject to Montana withholding if the employer reasonably expects that the employee will be able to deduct such amounts as retirement savings account contributions.

Withholding on distributions from pensions, annuities and other deferred-type compensation is voluntary. If an employee requests withholding on these plans, the employer must comply. Call (406) 444-6900 for more information. These withholdings are reported to the state on the MTQ report.

What about non-residents/ non-resident aliens?

Compensation paid to a non-resident or non-resident alien is subject to Montana withholding in all cases unless the compensation is specifically exempted under Montana law.

Short-term or indefinite employment of non-residents in Montana is subject to withholding. Compensation which may be excluded from federal withholding or federal adjusted gross income under a U.S. tax treaty is subject to Montana income tax withholding. The determination of whether or not a non-resident alien qualifies for tax treaty exclusion is not made until the Montana individual income tax return is filed by the non-resident alien at year end.



How is the number of employee withholding allowances determined?

The number of allowances claimed is set by the employee for both federal and state purposes when the Federal W-4 form is completed. (Montana does not provide a separate W-4 form). An employee can have a separate W-4 for state purposes. For state purposes, the following special rules apply:

- Only line 5 of the Federal W-4 is used in determining the number of allowances. Employees may elect to have a different number of allowances for federal and state purposes.
- Exemption from withholding for federal purposes does not exempt an employee from Montana income tax withholding. The State of Montana does not recognize an “exempt” status on a W-4 form.
- If line 5 is left blank or has anything other than a number entered on it, the employee is deemed to be claiming “zero” withholding allowances.
- Any change to line 5 for the Federal Child Tax Credit purposes does not change line 5 for state purposes.
- An employer is required to provide a copy of any withholding allowance certificate (W-4) to the Department of Revenue, Helena, Montana, on which an employee has claimed 10 or more withholding allowances. Each certificate is to be provided at the same time and in the same manner as the certificate is required to be provided to the Internal Revenue Service under 26 CFR S37.34021. If the department determines that the certificate is defective, it may require in writing that the employer disregard the allowances claimed. The department will advise the employer of the maximum number of withholding allowances permitted the employee. The filing of a new W-4 form by an employee showing allowances greater than those set by the department must be disregarded.

Each year I give my employees a “Christmas Bonus.” How do I withhold?

If supplemental wages such as commissions, bonuses, or overtime pay are paid at the same time as the employee’s regular wage, the amount of tax withheld should be based on the total of the regular and supplemental wages.

If supplemental wages are paid at a different time (for example, your “Christmas Bonus”), the tax withheld may, at your option, be based on:

- (1) the total of the supplemental wage and the regular wage for the current payroll period; or
- (2) on the total of the supplemental wage and the regular wage for the last preceding payroll period which falls within the same calendar year; or
- (3) a flat 6% of the supplemental wage.

Unemployment Insurance

Section 4

What is Unemployment Insurance?

Unemployment Insurance (UI) is a federal-state program developed in the 1930's. Unemployment Insurance is exactly as the name implies - insurance. Montana's UI program is financed by employers through a payroll tax. Unemployment Insurance benefits are paid to lighten the burden of unemployment to the unemployed individual, to maintain purchasing power in the community, and to allow laid off employees to remain in the area so they will be available for re-employment. The program is designed to help stabilize the economy by preventing a sharp drop in consumer spending during periods of unemployment.

Although the Unemployment Insurance Division in the Department of Labor and Industry administers the UI program, what was formerly known as the Contributions (Tax) Bureau is now located within the Department of Revenue. In 1997, the Contributions (Tax) Bureau merged with the Department of Revenue. The partnership between the Department of Revenue and the Department of Labor and Industry represents an effort to reduce paperwork and the number of contacts for Montana employers.

The bureau that is responsible for paying claimants (Benefits Bureau) remained with the Unemployment Insurance Division in the Department of Labor and Industry. This bureau determines if an unemployed individual is entitled to benefits, the amount of the entitlement, and determines when benefits are charged to an employer. They respond to questions about benefit claims.

New employer information “at a glance”

The information in this section applies to new employers who are classified as “experience rated” for Unemployment Insurance purposes. Most employers in Montana are classified as experience rated. If you are a governmental entity or a non-profit organization that qualifies under 501 C (3) of the Internal Revenue Code and elect to reimburse the Unemployment Insurance trust fund for benefits paid, please refer to Reimbursable Employers (page 24).

Taxable wage base - is the amount of wages per employee that you are liable to pay tax on each year: 1999=\$17,100, 2000=\$17,700, and 2001=\$18,200. You pay taxes on wages up to and including the taxable wage base for each employee. Once the individual employee's wages reach the taxable wage base for that year, you continue to report the employee's quarterly wages but you no longer pay taxes on the wages. You may have quarters where half of your employees have met the wage base for the year and half have not. You will report all wages to us but only pay taxes on those employees whose wages have not yet met the wage base.

Experience rates for new employers - are determined based on the type of industry the business is in. As a new employer, you will be assigned the average rate assigned to your industry during the previous rate year. Your rate may change during the three year “experience” period because the average rate for your industry may change each year. If you have purchased an existing business, you and the previous owner may agree to transfer the prior owner's experience rate to your new account.

Administrative fund tax - is an assessment applied to all employers subject to Unemployment Insurance and is due and payable with the quarterly wage reports. All experience rated employers pay 0.013% of taxable wages, effective 1-1-2000.

Who pays Unemployment Insurance taxes?

Employers pay UI taxes. If you are an employer subject to the state unemployment insurance (UI) law, you are a “covered” employer and you, the employer, must pay UI taxes. It is against the law to take these taxes out of your employees’ wages.

How do you determine which employers are covered?

Any year you meet the reporting criteria for a covered employer, you must report all wages paid for the entire year (retroactively to January 1) and the next calendar year regardless of the amount. You are a “covered” employer if you meet one or more of the following criteria:

- Your total annual payroll for the current or preceding calendar year equals or exceeds \$1,000. Total payroll is all wages paid to all employees before deductions.
- You acquired all or part of a business which is already subject to Montana Unemployment Insurance Law.
- You are subject under the Federal Unemployment Tax Act (FUTA).
- You employed agricultural workers and paid \$20,000 or more in cash for agricultural labor in any quarter during the current or preceding calendar year.
- You employed 10 workers in agricultural labor in 20 different weeks during the current or preceding calendar year.
- You employed domestic (or household) workers and paid \$1,000 or more in cash for these domestic services in any quarter during the current or preceding calendar year.
- You are a church or other religious organization and employ non-clergy employees. Ministers are excluded.

Are governmental entities covered?

All state and local governmental entities must be covered by Unemployment Insurance.

Can I get UI coverage for my workers even if I’m not a covered employer?

If you don’t qualify as a covered employer but you want to get UI coverage for your workers, you may apply for voluntary coverage. If coverage is approved, you must continue to cover your employees for at least two calendar years.



What do I have to report to the Unemployment Insurance program as wages on my quarterly wage report?

The term wages is defined in section 39-51-201 20(a) MCA . "Wages means all remuneration payable for personal services, including the cash value of all remuneration payable in any medium other than cash. The reasonable cash value of remuneration payable in any medium other than cash must be estimated and determined pursuant to rules prescribed by the department." So, if you pay with livestock, material goods or other non-cash payments, you must report the market value as wages.

Payroll taxation and the application of the various statutes, Administrative Rules, and Supreme Court decisions can be very complex. The following guidelines are not meant as a replacement or substitute for them. For more information on any of these items, call a Field Representative at the numbers listed at the end of this publication.

Wages or not?

Advances - Advances against future earnings **are** wages when paid.

Annuities - Payments made by the employer into a fund for retirement or death benefits **are not** wages, **if** the payment was made under a plan offered to **all** employees **or** a class or classes of employees.

Back Pay - If paid as a result of a dispute related to employment, these payments **are** wages.

Bonuses - Bonuses **are** wages when paid. If bonuses are other than cash, report the actual value of the item as wages.

Cafeteria Plans - Payments deducted from an employee's gross remuneration **are** wages reportable for the period in which the payment was deducted.

Commissions - Commissions **are** wages when paid. An exclusion does exist for commissions paid to real estate brokers and direct sellers where there is no guarantee of a minimum salary.

Corporate Officer Payments - Corporate officers performing a service for the corporation (includes subchapter S corporations) **are** employees. You must report their wages. (See Profit Distribution).

Deferred Compensation - See Cafeteria Plans.

Director Fees - Fees paid to directors of a corporation for attending meetings of the board of directors **are not** wages.

Dividends - See Profit Distribution.

Employee Benefit Plans - All employee benefit plans, including those paid by the employer, **are** reportable as wages, **except** plans paid for by the employer and established for employees for retirement, sickness or accident disability, medical, hospitalization or death. Employees may not elect to receive cash instead of coverage.

Employee Expense Reimbursement - Payments made to reimburse an employee for business expenses **are not** wages if certain rules are followed. Each reimbursement must be entered separately in the business records **and** you must have documentation that the expense was incurred while conducting business. The reimbursement may not be based upon a percentage of the employee's wage, nor can it replace the customary wage for the occupation. You must base the reimbursement upon actual, receipted expenses, or you may base it upon the amount allowed to state employees. State employees receive the following amounts for non-receipted expenses:

Meal Expenses per Day	= \$23 (in state), \$28 (out of state)
Lodging Expenses per Day	= \$35 plus tax (in state) from Oct 16th - May 13th \$55 plus tax (in state) from May 14th - Oct 15th, \$50 plus tax (out of state)
Mileage Reimbursement per Mile	= \$0.31 (high rate), \$0.28(low rate)

Equipment Rental Payments - Payments made for rental of equipment owned by the employee **are not** wages if the equipment is necessary for the employee to perform the job, the employment contract provides for the rental payments, the reimbursement is entered separately in the employer's records and the reimbursement does not replace the customary wage for the occupation. Rental payments for light equipment furnished by the employee may not exceed the reasonable rental value of that equipment. Chain saw rental may not exceed \$22.50 per day. Rental payments for heavy equipment, such as semi-tractors and skidders, may not exceed 75% of the employee's gross compensation. Payments made for hand tools commonly used in the employee's trade, and vehicles used only for carrying the worker to and from the job site, **are** wages.

401k Plans - See Cafeteria Plans.

Gifts - Gifts to employees **are** wages. Report the actual value of the item.

Gratuities - See tips.

Holiday Pay - Payments made to employees for holidays or vacations **are** wages when paid.

Income Tax Withholding - Withholdings from an employee's wages for federal and/or state income taxes **do not** reduce reportable wages.

Insurance Premiums - Premiums paid by the employer for sickness, disability, medical or hospital expenses **are not** wages **if** the payment was made under a plan established for **all** employees **or** for a specific class or classes of employees. Premiums deducted from the employees' gross wages **are** reportable as wages.

Loans - Payments designated as loans in the employer's records **are** considered wages **unless** the employee is to repay the loan under a written schedule agreed to by the employer and the employee.

Meals - See Room and Board.

Mileage - See Employee Expenses.

Partner's Earnings - Distribution of profit to business partners **is not** wages.

Profit Distribution - Distribution of profit to sole proprietors and partners **is not** wages. Payments distributed to corporate officers or shareholders in lieu of reasonable compensation for services performed **are** wages, even though designated as profits or dividends.

Room and Board - The cash value of room and board **is** wages, and must have a value of at least \$50.00 per week according to department rules. Meals furnished by the employer to the employee **are** considered wages. A cash value must be established for the provided meals.

Section 125 Plans - See Cafeteria Plans.

Separation Pay - Payments for termination, severance, separation, or other similar payments **are** wages.

Severance Pay - See Separation Pay.

Sick Leave Payments - Sick leave payments **are** wages, even if not paid by the employer but by a third party such as an insurance company, for six months after the last month employee worked.

Social Security Taxes - Deductions from an employee's gross wage for FICA (i.e. Social Security Taxes) **do not** reduce reportable wages.

Subsistence - See Employee Expenses.

Termination Pay - See Separation Pay.

Tips - Tips **are** wages if distributed by the employer via a tip pool; added to the bill, or reported to the employer by the employee. Allocated tips are not reportable.

Vacation - See Holiday Pay.

Vehicles - Personal use of a company vehicle **is** wages.

Is everything I pay my employees reportable as wages?

Not everything paid to employees is reportable as wages. The more common types of exclusions are referenced in the Employment Tax Chart on pages 8-9.

If I declare bankruptcy, do I still have to pay my Unemployment Insurance taxes?

Yes, if you declare bankruptcy, you are still required to pay Unemployment Insurance taxes. Unemployment Insurance taxes that were due within three years prior to the filing of the bankruptcy petition are not dischargeable under the United States Bankruptcy Code. You will still be liable for all UI taxes due.

What if I withhold or submit false information?

If you withhold information or give false information to prevent or reduce benefit payments to anyone entitled to benefits, you may be fined, imprisoned or both.

You may also be fined, imprisoned or both if you attempt to reduce any tax or payment, fail or refuse to pay your taxes, refuse to furnish required reports, or if you refuse inspection or copying of your records as required by Unemployment Insurance Law.

Additionally, if you do not file a report or if your report is incomplete or inaccurate, the program may estimate wages paid based on available information. The program may then collect the taxes, penalties and interest due based on this information.

Do contractors need a certificate of coverage?

If you are a prime contractor (who is an employer under Montana Unemployment Insurance law) you are responsible for insuring your subcontractors are in full compliance with all Unemployment Insurance laws when the contract is complete. If you contract with a subcontractor who is an employer, you must withhold enough money from the contract to be sure the subcontractor complies with these provisions. If your subcontractors are not in compliance when the contract is complete, you are responsible for all taxes, penalties and interest that are due.

As a subcontractor who is an employer, you must furnish the prime contractor a certificate stating that your UI account is current. You must present this certificate before receiving final payment on that job.

You can get a certificate from the Department of Revenue or by calling (406) 444-3606.

Do I have to pay UI taxes on workers I consider to be independent contractors?

It depends. Some employers exclude employees from their reports contending they are “independent contractors” and not employees. Court decisions and division rulings have reinforced provisions of the law setting forth such services to be employment until “freedom from control or direction over performance” is shown and until it is shown they are “engaged in an independently established business of their own”.

The laws and court decisions concerning independent contractors are very complex. If you are unsure, contact the Independent Contractor Central Unit at (406) 444-9586 or your local field representative listed on page 43. You may request the department to furnish you with a written determination of which workers, if any, are considered self-employed. The department will investigate the employment relationship before issuing a determination.

Do I have the right to contest a decision made by the department?

Yes, you may contest a department decision. You have 10 days after the department mails a determination to file an appeal. For information on how to file an appeal, immediately contact the person who signed the determination letter. All appeals except Independent Contractor (IC) appeals will be processed in the Department of Revenue. Independent Contractor appeals will be processed in the Department of Labor and Industry.

What UI taxes does a covered employer pay?

It depends. There are four types of covered employers: “new” employers, experience-rated employers, reimbursable employers, and state and local government employers. See the explanations below to determine what taxes each employer type pays.

What determines the rate for a new employer?

A “new” employer is an employer who has been doing business in Montana for less than three complete fiscal years (October 1 to September 30). Experience-rated employers pay “new” employer rates for three years while they build up experience with the Unemployment Insurance program. New employer rates are the average rates paid during the previous year by employers operating the same type of businesses as the new employer. New employers may not keep the same rate during the three year “new employer” period because their industry average may change.

What is an experience-rated employer? What taxes do they pay?

If you are a private, for-profit employer, you are experience-rated and you must pay all three of the following UI related taxes:

1. State Unemployment Insurance Contributions: The program can only use this tax to pay benefits to qualified individuals. This tax money cannot be used to run the UI program. All money collected from this tax is deposited into the UI Trust Fund.
2. Administrative Fund Tax: This tax is assessed to help fund Department of Labor and Industry operations, including local Job Service offices. For experience-rated employers, this tax is .013 of taxable wages. This tax is due each quarter and is computed by applying the tax rate to each quarter’s total taxable wages.
3. Federal Unemployment Tax Act (FUTA) Tax: This tax is paid directly to the Internal Revenue Service (IRS) to help finance the cost of running the state UI and Job Service programs.

How is it decided what an employer's rate will be each year?

If you are a private, for-profit employer, your tax rate is based on the contribution rate schedule and your reserve ratio. The Contribution Rate Schedule determines the range of contribution rates which are assigned to all employers each calendar year. This is based on the ratio of the UI Trust Fund balance to total wages paid in covered employment for the state fiscal year.

SCHEDULE OF CONTRIBUTION RATES										
	I	II	III	IV	V	VI	VII	VIII	IX	X
Minimum Ratio of Fund to Total Wages:	(.0260)	(.0245)	(.0225)	(.0200)	(.0170)	(.0135)	(.0095)	(.0075)	(.0050)	(...)
Average Tax Rate:	1.37	1.57	1.77	1.97	2.17	2.37	2.57	2.77	2.97	3.17
Rate Class	Contribution Rates for Eligible Employers									
1	0.0%	0.07%	0.27%	0.47%	0.67%	0.87%	1.07%	1.27%	1.47%	1.67%
2	0.07	0.27	0.47	0.67	0.87	1.07	1.27	1.47	1.67	1.87
3	0.27	0.47	0.67	0.87	1.07	1.27	1.47	1.67	1.87	2.07
4	0.47	0.67	0.87	1.07	1.27	1.47	1.67	1.87	2.07	2.27
5	0.67	0.87	1.07	1.27	1.47	1.67	1.87	2.07	2.27	2.47
6	0.87	1.07	1.27	1.47	1.67	1.87	2.07	2.27	2.47	2.67
7	1.07	1.27	1.47	1.67	1.87	2.07	2.27	2.47	2.67	2.87
8	1.27	1.47	1.67	1.87	2.07	2.27	2.47	2.67	2.87	3.07
9	1.47	1.67	1.87	2.07	2.27	2.47	2.67	2.87	3.07	3.27
10	1.67	1.87	2.07	2.27	2.47	2.67	2.87	3.07	3.27	3.47
Rate Class	Contribution Rates for Deficit Employers									
1	3.17%	3.37%	3.57%	3.77%	3.97%	4.17%	4.37%	4.57%	4.77%	4.97%
2	3.37	3.57	3.77	3.97	4.17	4.37	4.57	4.77	4.97	5.17
3	3.57	3.77	3.97	4.17	4.37	4.57	4.77	4.97	5.17	5.37
4	3.77	3.97	4.17	4.37	4.57	4.77	4.97	5.17	5.37	5.57
5	3.97	4.17	4.37	4.57	4.77	4.97	5.17	5.37	5.57	5.77
6	4.17	4.37	4.57	4.77	4.97	5.17	5.37	5.57	5.77	5.97
7	4.37	4.57	4.77	4.97	5.17	5.37	5.57	5.77	5.97	6.17
8	4.57	4.77	4.97	5.17	5.37	5.57	5.77	5.97	6.17	6.37
9	4.77	4.97	5.17	5.37	5.57	5.77	5.97	6.17	6.37	6.37
10	6.37	6.37	6.37	6.37	6.37	6.37	6.37	6.37	6.37	6.37

Trust fund balance / Total covered wages = Ratio

To complete your reserve ratio for the current calendar year, the department subtracts the benefits charged to your account (beginning October 1, 1981, through September 30th of the prior year) from the contributions you have paid during the same period. This amount (reserve) is divided by your average annual taxable payroll for the last three completed federal fiscal years (October 1 - September 30). This amount is your reserve ratio. The department computes your reserve ratio yearly.

$$\begin{aligned} \text{Contributions paid} - \text{benefit charges} &= \text{Reserve} \\ \text{Reserve} / \text{average taxable payroll} &= \text{Reserve ratio} \end{aligned}$$

You are assigned a rate class based on your reserve ratio. Your contribution rate is determined by comparing your reserve ratio to all other employers' reserve ratios. The highest positive reserve ratio is assigned the lowest contribution rate.

Is there only one type of experience-rated account?

For rating purposes, there are three types of experience-rated accounts: Eligible, Deficit and New.

Eligible: An eligible employer is an employer who has been subject (covered) for the three fiscal years ending September 30 immediately preceding the computation date, and has:

- filed all required quarterly payroll reports;
- paid all taxes, penalties and interest;
- established a positive record (paid more in contributions than they have had benefits charged to their account); and,
- paid wages in at least 1 of the 8 calendar quarters preceding the computation date.

Deficit: Deficit employers are covered employers who have more benefits charged to (paid out of) their account than they have paid in contributions.

New: A new employer is a covered employer who has not been subject for the three fiscal years immediately preceding the computation date and has established a positive record. New employer rates are the average contribution rate for employers in their industrial classification.

I bought an established business. Do I have to wait three years to get my own experience rating?

No. If you acquire a business you can apply to have the experience rating record of the previous employer transferred to you. You and the previous employer must apply jointly within 90 days of the date you acquire the business. Contact the Department of Revenue at (406) 444-6900 to find out if it would be beneficial for you to have the experience rating record transferred. If the previous and new owners have not filed all the required wage reports or paid all assessments due, all the delinquencies must be satisfied before the department can assign a rate based on the previous owner's experience. If the new ownership and/or management of the business is substantially the same as the prior ownership and/or management, you will assume the prior owner's contribution rate.

Can I do anything to control my contribution rate?

When your former employee files a claim for Unemployment Insurance benefits, you will be sent a Potential Benefit Charge Notice. If the employee left work for reasons other than lack of work, return the notice to the Benefit Bureau in the Department of Labor and Industry stating the reason the claimant left your employ. You will receive a determination telling you if your account will be charged. If you are found chargeable, you will also receive a Statement of Benefits Paid each quarter. If time is running out or if you have any questions about charges to your account, immediately call the Benefits Bureau at (406) 444-3783. Also, you can avoid a penalty rate (equal to 150% of your assigned experience rate) simply by filing all reports and payments timely.

Do you use a claimant's entire work history to calculate benefit charges?

No. Benefits are based on the wages a claimant earned during a certain period of time -- the base period. The base period is the first four of the last five completed calendar quarters at the time you file your initial claim for benefits. If you employed the claimant during the base period, your account may be charged.

The claimant's base period is the shaded area below, if the claim is filed in quarter indicated:

Oct Nov Dec	Jan Feb Mar	Apr May Jun	Jul Aug Sep		Jan Feb Mar			
	Jan Feb Mar	Apr May Jun	July Aug Sep	Oct Nov Dec		Apr May Jun	Claims Filed Here	
Have This Base Period		Apr May Jun	Jul Aug Sept	Oct Nov Dec	Jan Feb Mar			Jul Aug Sept
			July Aug Sept	Oct Nov Dec	Jan Feb Mar	Apr May June		
								Oct Nov Dec

As an experience-rated employer, do I have to pay taxes on all the wages I pay to my employees?

It depends. You must report all wages you pay to your employees on your quarterly report, but you only pay taxes on wages you pay each employee up to and including the taxable wage base. The taxable wage base is listed in the upper left hand corner of the quarterly report form and may change from year to year. Any wages you pay an employee over the taxable wage base are considered excess wages. The taxable wage base for 1997 was \$16,000; 1998 was \$16,500; and 1999 was \$17,700. The example below illustrates taxable wages versus excess wages, using the 1998 wage base.

If the department has transferred the experience rating record of a previous employer to your account, you can use the amount of wages paid by the previous employer in the calculation of your excess and taxable wages. This can only be done for the year the experience was transferred.

Computing Excess Wages per Employee (based on cy2000 UI wage base = 17,700)

Quarter	Total Wages Paid In Quarter	Total Wages Paid To Date	Taxable Wages	Excess Wages
First	\$ 6,000	\$ 6,000	\$6,000	\$0
Second	6,000	12,000	6,000	0
Third	6,000	18,000	5,700	300
Fourth	6,000	24,000	0	6,000

What is a reimbursable employer? What taxes do they pay?

Some non-profit organizations may choose to reimburse the UI Trust Fund for benefit payment costs. For a non-profit organization to be a reimbursable employer, it must meet the criteria defined in the Internal Revenue Code (IRC), Section 501(c)(3), provide the department with copy of the Internal Revenue Service (IRS) exemption letter and apply to the department for approval. For more information on the IRS code, please contact the IRS office at 1-800-829-1040.

As a reimbursable employer, you must pay into the UI Trust Fund an amount equal to the benefits charged to your account. You will be charged for all benefits paid to former employees regardless of the reason they left your employment. Benefit charges are prorated according to the percentage of wages you paid to the total wages in the claimant's base period.

Example: *Your employee, Jane Doe, is offered a better-paying job with your competitor. She quits your employ and accepts the job with your competitor. Your competitor's business suffers a set back and Jane is laid off. She files for unemployment insurance benefits and is found eligible. You paid Jane 64% of the total wages she received during her base period. Your account is charged for 64% of the benefits paid to Jane even though she quit your business.*

The department can only relieve benefit charges to a reimbursable employer if there has been no change in the employment.

Example: *If an individual had two jobs, one of them with a private, for-profit employer and the other a reimbursable employer, and was laid off from the private employer, the reimbursable employer would not be charged for the benefits paid unless the reimbursable employer also reduced the claimant's hours.*

You must advise the department if there has been no change in employment for the charges to be relieved.

Reimbursable employers must submit quarterly wage reports and pay a 0.5% (.0005) Administrative Fund Tax on total wages paid each quarter. The department will notify you monthly of the benefits charged to your account and you may pay these monthly or pay the entire quarterly charges within thirty days following the end of the quarter.

What taxes do governmental employers pay?

Governmental entities may also choose coverage as a reimbursable employer, or may choose to make tax payments based on the government experience rating system where their tax rate is applied to total wages. Governmental entities also pay a .05% (.0005) Administrative Fund Tax on total wages paid each quarter.

If a claimant is eligible for benefits, governmental employers who paid wages to the claimant during the base period receive charges against their account for benefits regardless of the reason the claimant left the employment. Benefit charges are prorated according to the percentage of wages paid by the governmental entity to the total wages in the claimant's base period.

Benefit charges can only be removed from a governmental employer if there has been no change in the employment.

Example: *An individual had two jobs, one of them with a private, for-profit employer and the other with a governmental employer. The individual was then laid off from the private employer. The governmental employer would not be charged for the benefits paid if the employer advised the department that there had been no change in employment.*

Payments and Reports

Section 5

Important remittance information

It is important to use the preprinted coupons. The coupons have optical characters which are used for electronic scanning. Each form is personalized to each specific employer. Do not photocopy another employer's remittance coupon for your use, as payments will be applied incorrectly because the scanner reads the scan line across the bottom of the coupon and not what may be written elsewhere. To order more coupons, call (406) 444-6900.

Montana State Withholding Payments

What is a remittance schedule?

A remittance schedule tells you the frequency that payments for withholding are due to the state based on the lookback period. These include accelerated, monthly, quarterly, or annual schedule.

What is a lookback period?

The lookback period is the 12 month period from July 1 of the preceding year to June 30 of the present year. The lookback period is used to determine an employer's reporting and payment schedule for the coming calendar year.

I am an employer and have no filing history. I am not sure what my employee withholding will total. What payment schedule will I use?

A new employer or an employer without a complete "lookback" period must follow the quarterly remittance schedule until the department is able to determine the proper remittance schedule.

Will I always remit as a quarterly payer because I file under this classification now?

No. The department will let you know on or before November 1 of each year what your remittance schedule will be for the next calendar year. The notification is based upon your withholding during the lookback period -- July 1 to June 30.

How is my withholding schedule determined?

The following chart is an overview of the requirements. To determine your schedule for the coming calendar year, add the amount of state income tax withheld during the period July 1 through June 30 of the current year. Refer to schedule which applies to your business.

Example: *For calendar year 2000, add the amount withheld July 1, 1998 through June 30, 1999 and refer to the chart. If the amount of state income tax you withheld is \$12,000 or more, the accelerated schedule applies; if the amount withheld is \$1,200 - \$11,999, the monthly schedule applies; if the amount withheld is less than \$1,200, the quarterly schedule applies.*

Schedule Thresholds*		Report Name	Pay Date & Form
Accelerated	\$12,000 or more	MTQ - quarterly April 30, July 31, Oct 31, Jan 31	Federal Schedule; Form PC
Monthly	\$1200-11,999	MTQ - quarterly April 30, July 31, Oct 31, Jan 31	Monthly - 15th of month following/ Form PC
Quarterly	<\$1200	MTQ - quarterly April 30, July 31 Oct 31, Jan 31	Quarterly April 30, July 31 Oct 31, Jan 31 MTQ Coupon
Annual	< \$1200 (plus not subject UI)	MW3/AR Feb 28	Feb 28/PC Form PC

* If you are a new employer, the quarterly schedule applies until you have a 12-month history within the lookback period. If you are not subject to Unemployment Insurance and will have less than \$1200 in state withholding then you may request to be on an annual schedule.

The Department of Revenue is required by law to:

- review your filing history for the lookback period;
- notify you no later than the last month of each year what your schedule will be for the coming calendar year.

If you have questions about your schedule or how to complete the forms, call our Customer Service Center at (406) 444-6900.

ANNUAL Schedule (less than \$1,200 threshold, and not subject to UI taxes)

The forms you will need to report and pay your state income tax withholding will be sent to you prior to the end of the calendar year for which the report is due.

Form MW3-AR is the annual payment reconciliation and W2 transmittal for annual filers. This form is due Feb. 28.

Form MW-3 transmittal document for W-2's (wage statements) is due Feb. 28. The information requested on the MW-3 is used in the W-2 reconciliation process.

Detailed instructions accompany the forms. If you have questions, please call our Customer Service Center at (406) 444-6900.

If you are on the annual schedule, one payment is due annually on February 28. Your payment must be sent in with the preprinted coupon.

Call (406) 444-6900 to order more coupons. Do not photocopy another coupon. The coupons are coded for optical character scanning. If you use another employer's coupons, your payments will be applied to that employer's account.

If you discover an error after year end, you must remit any tax due with an explanation of the error, along with corrected W-2's reflecting the adjustment.

QUARTERLY Schedule (less than \$1,200 Threshold)

MTQ, the combined quarterly report form, will be mailed to you before the end of each quarter. It is due one month after the end of the quarter.

Form MW-3 is a transmittal document for W-2's (wage statements) due Feb. 28. The information requested on the MW-3 is used in the W-2 reconciliation process.

With a quarterly schedule, the due dates are: April 30, July 31, October 31, and January 31. Your payment must be sent in with the payment coupon attached to the MTQ.

The department encourages you to remit electronically.

Call (406) 444-6900 when you need to order more coupons. Do not photocopy another coupon. The coupons are coded for optical character scanning. If you use another employer's coupons, your payments will be applied to that employer's account.

If you discover an error after the quarter ends, you must remit any tax due with an explanation of the error. If at year end, an explanation of the error along with corrected W-2's reflecting the adjustment must be submitted.

MONTHLY Schedule (\$1,200 - \$11,999 Threshold)

The MTQ is the quarterly reconciliation for employers who remit on a monthly schedule. MTQ's are due 30 or 31 days after the end of the quarter. The due dates are: April 30, July 31, October 31, and January 31.

MW-3 is a transmittal document for W-2's (wage statements) due Feb 28. The information requested on the MW-3 is used in the W-2 reconciliation process.

If you are on the monthly schedule, withholding payments are due on the 15th day of the following month. The payment coupon must accompany all payments. Amounts withheld or owing for the month of January must be remitted on or before February 15. The due dates parallel federal requirements.

The department encourages you to remit electronically.

Call (406) 444-6900 to order more coupons if you need them. Do not photocopy another coupon. The coupons are coded for optical character scanning. If you use another employer's coupons, your payments will be applied to that employer's account.

If you make an error in one of your payments, you can make an adjustment to the next payment made after you discover your error. You would then explain the error on your quarterly report MTQ. Plus if you discovered the error while filing the MTQ you can make the additional payment on the MTQ also. However, if you discover an error after year end, you must remit any tax due with an explanation of the error, along with corrected W-2's reflecting the adjustment.

ACCELERATED Schedule (\$12,000 > Threshold)

Your preprinted payment coupon PC must be submitted along with your payment. Due dates are discussed below. A booklet with several payment coupons, return labels, and a change of address/cancel form will be sent to you. Additional payment coupons may be requested by calling the Customer Service Center at (406) 444-6900.

MTQ reporting form is for quarterly reconciliation. MTQ's are due 30 or 31 days after the end of each quarter. The due dates are: April 30, July 31, October 31, and January 31.

MW-3 is a transmittal document for W-2's (wage statements) due Feb. 28. The information requested on the MW-3 is used in the W-2 reconciliation process.

If you are on the accelerated schedule, withholding payments are due when your federal tax deposits are due. If your payday is Saturday, Sunday, Monday or Tuesday, your payment must be postmarked on or before the following Friday; if your payday is Wednesday, Thursday or Friday, your payment must be postmarked on or before the following Wednesday.

The department encourages you to remit electronically.



I've withheld taxes and sent them in. What more must I do?

Each employer needs to issue to the state and to the individual employee, a wage and earnings statement. This wage and earnings statement is commonly called a W-2. The W-2 is a federal form and the instructions for completing the forms are in the federal W-2 instruction booklet. Federal publications 15 and 15A also provide additional information. The state portion of the W-2 is usually across the bottom. For 1999 W-2's, box 16 is where you put "MT" and your state ID number, box 17 is where you put state wages, tips, etc., and box 18 is where you put the amount of state income tax you withheld from the employee. *Note: these box numbers may change for future years.*

The MW-3 is the state transmittal document that must accompany copies of the employee's W-2 statement. The W-2's are due no later than February 28 of the following year. Please include an adding machine tape or computer printout of the Montana state income tax withheld from your employees with your MW-3. Detailed instructions are in the forms packet. Please provide your telephone number on the MW-3 so, if necessary, the department can quickly resolve any misunderstandings.

Do I need to prepare Employee Wage Statements even if no tax was withheld?

Whenever wages are paid, you must prepare a Federal W-2 for each of your employees regardless of whether any tax was withheld. For Montana employees, a six-part W-2 form must be used. *Note: W-2 forms are federal forms. The box numbers on the W-2 form may change from year to year.*

May I use a different form in lieu of the W-2?

If you want to use commercially printed multiple forms in place of the Federal W-2 or if you want to use magnetic tapes for reporting by computer, please contact the department to obtain approval. Montana does not participate in Federal/State Combined Reporting of magnetically filed W-2's but does with form 1099 reporting (see below).

What do I need to know about form 1099 returns?

You are required to file the 1099's with the department. If there is state withholding reported on a form 1099, the department must have a paper copy mailed to us by February 28. Form 1099 cannot be filed magnetically. However, for 1099's not reporting withholding, the department accepts either paper or magnetically filed 1099's. Send a copy of federal form 1096 transmittal form with paper returns. Specifications for magnetic media are the same as for federal. The specifications can be found in IRS publication 1220. Use federal form 4804-4802 as the transmittal for magnetic returns. The department participates in the Combined Federal/State Reporting Program for 1099's without withholding. To register, send the department a signed copy of federal form 6847. The due date for these 1099's is April 15. All 1099's should be mailed to the Montana Department of Revenue, PO Box 5835, Helena MT 59604. Call the Customer Service Center at (406) 444-6900 for further details.

Combined Unemployment Insurance and Montana State Withholding MTQ Reports and Payments

What are my responsibilities as an employer?

As a covered employer for Unemployment Insurance, you must keep payroll records and file the combined quarterly report (MTQ).

As an employer liable for Montana state withholding, you must file the combined quarterly report (MTQ), with the exception of employers paying on an annual schedule. The MTQ report reconciles the withholding payments made in an individual quarter. The number of payments made in a quarter varies on the employer's payment schedule.

How do I pay my Unemployment Insurance, state withholding quarterly tax payments (for an employer on a quarterly tax schedule), or additional withholding tax due?

Attached to the MTQ quarterly report form is a payment coupon. Enter the amount due for Unemployment Insurance on the payment coupon. Next enter the amount of tax due for state withholding. Do not enter the amount of state withholding previously submitted and paid for the quarter. The amount entered on the payment coupon for a quarterly filer should equal the amount due reported on the MTQ report. For employers on an accelerated and monthly withholding schedule, the amount entered on the payment coupon attached to the MTQ report should include only the amount for additional tax due.

What if I need to make an adjustment after I've submitted my report?

You will need to submit an amended report along with any additional tax remittance.

When are my quarterly reports due?

To avoid penalty and interest charges, your MTQ quarterly wage report and payment must be postmarked by the following dates:

<u>Quarter:</u>	<u>Report Covering:</u>	<u>Postmarked By:</u>
1st Quarter	January, February, March	April 30
2nd Quarter	April, May, June	July 31
3rd Quarter	July, August, September	October 31
4th Quarter	October, November, December	January 31

Where can I get a quarterly report form?

Your quarterly report MTQ form will be mailed to you about one week before the end of each quarter. The form has your name, address, account number and rate printed on it.

If you don't receive your quarterly wage report form by the first week of the month the report is due, call the Customer Service Center at (406)444-6900 and a form will be mailed to you.

What records do I have to keep?

To be prepared for an audit, you must keep a record of:

- beginning and ending date of each pay period;
- total wages paid during each pay period;
- employee expense reimbursements;
- method of payment;
- number of employees on the 12th of each month and total number of employees each quarter;
- articles issued by the Secretary of State;
- each employee's name, social security number and wages for each pay period;
- date each employee was hired, re-hired or returned to work after a temporary lay-off;
- date an employee was terminated; and the cause of the termination.

There is a complete explanation of the records you must keep in Section 24.11.701 of the Administrative Rules of Montana. For a copy of these rules or if you have questions, please call the Customer Service Center at (406) 444-6900.

Your records must be available for inspection by the department or its authorized representative. A field representative may audit your records. The purpose of an audit is to see that your quarterly reports are being filed correctly and that you are complying with the law. The field representatives will also answer your questions and help you understand the Unemployment Insurance and state income tax withholding program.

If you need to correct a report you have already mailed, please send a corrected copy, an explanation of the correction and the name of a person the department can contact to the Department of Revenue, P.O. Box 5835, Helena, MT 59604-5835.



Penalties

Section 6

Penalties

How will I know if my report or payment will be on time?

If you choose to mail the report or payment on the due date, it is very important that you find out when mail will be postmarked. Late penalties and interest will be assessed if post-marked after the due date.

If you send in your payment with the correct scannable payment coupon, your payment information will normally be posted to our system within 10 business days of mailing. Your account will be credited the day of receipt.

What is the penalty for failure to remit tax by the due date?

You should file as quickly as possible. If you fail to file, your account may be assessed the following penalties and interest:

- failure to file a timely return or other report by the due date = late filing penalty of \$50 or the tax due, whichever is less;
- purposely failing to file a required return, statement, or other report = additional late filing penalty of \$200 or the tax due, whichever is less;
- failure to pay a tax when due = late payment penalty of 1.5% per month on the unpaid tax, not to exceed 18% of the tax due;
- purposely failing to pay a tax when due = additional penalty of 25% of the tax due or \$200, whichever is less;
- interest on tax not paid when due = assessed at the rate of 12% per year, accrued at 1% per month on the unpaid tax.

If you have a good reason for being late, you may request a waiver of penalties. The department will then determine whether to grant the waiver or not. As a general rule, not having the necessary forms to remit with your payment is not an acceptable reason to request a waiver.

Are there other penalties?

A late report penalty of \$50 will be assessed if the department has issued the employer a notice of delinquent report. If the department issued a subpoena for the refusal of an employer to furnish wage information or pay taxes on time, there will be a \$50 subpoena penalty. If an employer fails to honor the subpoena, an additional \$100 penalty will be assessed.

In addition to other penalties provided by law, the failure of an employer to furnish wage and tax statements (W-2's) to the department by the due date is a \$50 minimum penalty or \$5 per W-2 penalty, whichever is greater.

What happens if I fail to withhold or pay withholding?

If an employer fails to deduct and withhold as required under 15-30-202, MCA, the income tax against which the withholdings may be credited is paid, the amount required to be deducted and withheld shall not be collected from the employer. However, all penalties and interest will be computed and assessed based on the total tax, which should have been withheld. The employer will not be relieved from his liability for payment of the amounts required to be withheld unless he can show that the income tax against which the required withholdings may be credited has been paid.

Failure to pay amounts withheld within the time provided for payment, and use of such amounts in forwarding the employer's business pursuits, is deemed to be an illegal conversion of trust monies. The owners of the business become personally liable for the tax due, even if the business is a corporation. The taxes are non dischargeable in the case of a bankruptcy either by the business or individual that is liable for the tax.

If it is established that an employer who, has knowingly or purposely intended to evade tax or any lawful requirements of the department: additional penalties not less than \$1000 and not more than \$5000 may be assessed [MCA 15-30-321(3)].



Electronic Filing & Payments Section 7

Three ACH Programs

Internet ACH Debit Program

This is the newest ACH program for state withholding and Unemployment Insurance reports and payments. The Internet version of our ACH debit program is called WOW. It was named after the old WARP program offered by the Unemployment Insurance Program since 1995. WARP stands for Wage Reporting Program. WOW stands for WARP On the Web. WOW allows you to report and pay your Unemployment Contribution (tax) and withholding tax electronically and it allows you to report individual employee wage detail required by the unemployment program.

If you are interested in WOW, go to <http://www.state.mt.us/revenue> and take a tour of its features. Then, double click on the WOW symbol and you will be prompted through the registration process.

The program will allow you to pay both taxes and report your wage detail to the department electronically. The department even creates the ACH debit file for you.

ACH Credit Program for state withholding payments only

If you choose to file with the department using our ACH credit program, you will instruct your bank to send the department an electronic file. This file will tell who you are, which tax you are paying and the tax period you are paying. Your bank will send the file, and transfer money from your account, to the department. If your bank is already sending the department ACH files, you can be set up in 24 hours. If your bank is not yet participating in the program, the department can give you the instructions for setting up an ACH credit program.

Phone-Modem ACH Debit Program for state withholding payments only

If you choose to file with the department using the phone-based ACH debit program, you can use this booklet to create the required ASCII file and send it to the department using your computer's communication program.

Hardware and software requirements

You will need to have:

- Computer with a modem with a speed of at least 1200 baud;
- Text editor or word processing program capable of creating files in **ASCII text format**; and
- Communications program capable of transmitting an ASCII text file utilizing an **ASCII protocol**.

The department will check your ASCII file to insure that your State Employer Identification Number (SEIN), Federal Employer Identification Number (FEIN), and password match with electronic security records. After the department has positively identified you, your electronic instructions will be followed and, on the next business day, your bank will be instructed to transfer funds from your account to the department and apply your funds to the tax you have identified.

ELECTRONIC TAX REPORTING PROGRAM

REGISTRATION AND AUTHORIZATION FORM MONTANA DEPARTMENT OF REVENUE

Transmitter Name:			
Employer Name			
Employer Address			
State EIN	Federal EIN		
Transmitter Contact Information (Person sending ACH transactions to us)			
Contact Person		Phone Number	Fax Number
Email		Password (Required for Debits only) 4 to-8 Characters	

EFT Method:ACH DEBIT ACH CREDIT ACH Debit on The Web (WOW)

We have expanded our ACH debit program to the Internet. You may select both debit programs above and we will register you for both options to allow you to investigate and make use of the program that best fits your needs. If you choose either of our ACH debit programs you hereby authorize the Montana Department of Revenue (DOR) to initiate debit entries to the bank account identified below on your behalf. These debits will pertain only to electronic funds transfer payments you initiate. This authority will remain in full force until you notify us in writing that you wish to terminate the ACH debit program.

THIS SECTION REQUIRED FOR ACH DEBIT FILERS ONLY	
Bank Name/Branch (or Street Address)	
Bank Routing Number	Bank Account Number
Name as shown on bank account:	
Optional Information	
Bank Contact Person	Bank Contact Phone

(*ACH debit requires a signature of taxpayer)

Complete this form and mail or fax to:
Electronic Tax Reporting Unit
Montana Department of Revenue
P.O. Box 5805
Helena MT 59604-5805

FAX 406-444-3082
FAX 406-444-0629
ccummings@state.mt.us
daberg@state.mt.us

Electronic Media Reporting for Unemployment Insurance Taxes

Unemployment reports only

The Unemployment Insurance program of the Department of Revenue will accept quarterly tax and wage reports from employers on 3 1/2" or 5 1/4" diskettes, cartridge tapes, reel-to-reel tapes*, or electronically by modem. The department encourages employers to file their quarterly reports in electronic media format rather than paper forms. The department believes this will save time for both you and us in processing your report, and will result in more accurate wage and tax information in our files. Since accurate data is the key to proper tax payments and to timely benefit payment processing, everyone stands to benefit from electronic reporting.

Montana uses the nationally-accepted Interstate Conference of Employment Security Agencies (ICESA) format, specifying record type "S" for state quarterly unemployment wage detail listing.

Multi-state employers using this format can create one tape for reporting quarterly wage and tax records and send copies to all states that choose to accept the format. Each state will be able to pull from the tape the required information related to employment in that state.

If you file your UI report electronically (UI wage and tax data), you will receive an MTQ Employer Quarterly Report, and MTQ Payment Coupon. Submit your quarterly UI and WH tax payment (if owing) with the MTQ Payment Coupon. Complete the WH tax portion of the MTQ Employer Quarterly Report and submit to the Department of Revenue.

If desired, an employer may submit electronic wage information only. The tax information must be submitted on the MTQ quarterly report form with the payment attached.

Your payment coupon, payment and diskette, cartridge, or reel-to-reel tape must be postmarked on or before the last day of the month following the close of the quarter to avoid being classed as delinquent. They can be mailed separately, however, the department prefers that the payment coupon and attached payment are enclosed with the diskette(s), cartridge(s), or tape(s). If you are reporting by modem, your payment must be postmarked on or before the last day of the month following the close of the quarter. The modem file and payment must be received on or before the last day of the month following the end of the quarter.

* We discourage employers from reporting using reel-to-reel tapes. Our data center has eliminated most of the reel-to-reel tape drives that process these tapes. It is a possibility that we may not be able to process reel-to-reel tapes in the future. We encourage submission via cartridge, diskette, or modem. Before you start reporting or paying via any electronic method, you must submit the appropriate application from this booklet.

If you have any questions regarding the electronic methods offered please contact the Electronic Tax reporting area at (406)444-3627, P.O. Box 5805 Helena, MT 59604.

Unemployment Insurance Program
Department of Revenue
State of Montana
P.O. Box 6339
Helena, MT 59604-6339
(406) 444-6963
FAX(406)444-0629

MONTANA UNEMPLOYMENT INSURANCE DISKETTE/MODEM REPORTING APPLICATION

Employer Business Name or Agent's Name

Customer ID Number

Address: (No., Street)

City, State and Zip Code

If reporting multiple employers, number of employers:

Diskette

Modem

Paper Report

Check one on each line

Diskette Size:

3 1/2"

5 1/4"

Density Size:

High Density

Low Density

Format:

Montana's (WARP)

For PAYROLL information, contact: (Name)

Title

Phone No.

For TECHNICAL information, contact: (Name)

Title

Phone No.

Your diskette will not be returned to you unless you enclose a self-addressed stamped mailer.

I am requesting approval to report employee wages and tax information on diskette or modem. I have enclosed a test diskette clearly marked "FOR TEST PURPOSES ONLY."

Employer Signature: _____

Title: _____

Date: _____

FOR AGENCY USE ONLY

Approved

Disapproved

Employer Signature: _____

Title: _____

Date: _____

Return to UI Magnetic Media Coordinator at address in upper left corner of form.

Important Phone Numbers

Section 8



Important Phone Numbers:



Registration for UI and State Income Tax Withholding	1(800) 550-1513
Unemployment Insurance Contributions	(406) 444-6900
FAX	(406) 444-0629
TDD	(406) 444-2830
Unemployment Insurance Benefits	(406) 444-3783
FAX	(406) 444-2699
TDD	(406) 444-0532
Department of Revenue State Withholding	(406) 444-0269
Regional Phone Claims Centers	
Billings	(406) 247-1000
Helena	(406) 444-9800
Workers' Compensation - Regulations	(406) 444-6530
Workers' Compensation (toll free)	1(800) 332-6102
Secretary of State	(406) 444-2034
Internal Revenue Service (toll free)	1(800) 829-1040
Social Security Administration (toll free)	1(800) 772-1213
State Compensation Insurance Fund	(406) 444-7711
Internal Revenue FUTA Certifications	1(800) 550-1513
Contractor Registration	(406) 444-6530 Option 2
Independent Contractor Central Unit	(406) 444-6530 Option 3
Professional Employer Organization Registration	(406) 444-6532
Claims Investigation	(406) 444-3783

Department of Revenue
Field Representatives
 (All area codes are 406)

Billings
624 No. 24th Street
Billings, MT 59101-1029

Diane Bianchi 896-4013
 Mary Bernhardt 896-4012
 Danelle Fogarty 896-4011
 Lisa Barton 896-4014
FAX 896-4070

Bozeman
151 Evergreen Drive Ste E.
Bozeman, MT 59715-2400

Bonnie Hood 582-3400
 John Ricker 585-7703
FAX 587-9726

Glasgow
501 Court Sq #7
Glasgow, MT 59230-2423

Kay Haugenoe 228-8221 ext.34
FAX 228-8793

Great Falls
US Bank Bldg
300 Central Ave
Great Falls, MT 59403-1508

James Zadra 454-7478
 Amy Everaert 454-7477
FAX 454-7498

Missoula
1610 So. 3rd St. West Ste 105
Missoula, MT 59801-9012

Mel Stewart 542-5788
 Scott Moothart 542-5787
 Sylvia Headley 542-5784
FAX 543-6523

Kalispell
690 No. Meridian RD Ste 206
Kalispell, MT 59901-3508

Tom Kula 752-4660
 Jason Welnel 257-0261
FAX 257-0687

Butte
Courthouse - 2nd Floor
155 W. Granite St.
Butte, MT 59701-3829

Kathy Gillis 497-6287
FAX 496-4331

Helena-City County Bldg
P.O. Box 1722
Helena, MT 59604-5805

Lori Cadwell 444-3524
FAX 444-2980

Hamilton
Courthouse
P.O. Box 5003
205 Bedford
Hamilton, MT 59840

Jeanne Lear 375-6314
FAX 375-2388

Montana Job Service Locations
(All area codes are 406)

Anaconda	307 East Park 59711	563-3444
Billings	624 N. 24th St. 59101	248-7371
Billings West	2121 Rosebud Dr. 59102	652-3080
Bozeman	121 N. Willson 59715	586-5455
Butte	206 W. Granite 59703	782-0417
Cut Bank	20 South Central 59427	873-2191
Dillon	730 N. Montana 59725	683-4259
Glasgow	238 Second Ave. S. 59230	228-9369
Glendive	211 S. Kendrick 59330	365-3314
Great Falls	1018 7th St. S. 59405	791-5800
Hamilton	333 Main St. 59840	363-1822
Havre	416 First St. 59501	265-5847
Helena	715 Front St. 59601	447-3200
Kalispell	427 First Ave. E. 59901	758-6200
Lewistown	300 1st Ave. N 59457	538-8701
Libby	120 W. 5th St. 59923	293-6282
Livingston	228 S. Main 59047	222-0520
Miles City	12 N. 10th St. 59301	232-1327
Missoula	539 S. Third St. W. 59806	728-7060
Polson	417 Main St. 59860	883-5261
Shelby	402 First St. S. 59474	434-5161
Sidney	120 South Central 59270	482-1204
Thompson Falls	608 Main St. 59873	827-3472
Wolf Point	217 3rd Ave. S. 59201	653-1720