

# UNEMPLOYMENT INSURANCE FAQ FOR NONPROFIT & MUNICIPAL EMPLOYERS

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**For additional information, please see the Unemployment Guide for Nonprofit & Municipal Employers.**

**Note:** *The Vermont Department of Labor (VDOL) cannot provide business advice. For questions around budgeting or decision making, please consult an independent consultant.*

## **What is the definition of an employee with regard to unemployment insurance? Do contractors count as employees? Do elected officials count as employees?**

As a general matter, an individual performing services for remuneration is considered an employee, unless that individual meets the so called “A, B, C Test”, which is outlined in State law and in the guide. It is the employer’s burden to prove the individual meets all three parts of the Test.

## **Can an organization ask VDOL to rule if a contractor passes the ABC test?**

In most cases, VDOL will not be able to give a definitive answer without conducting an audit or an investigation as the Department may not have all of the relevant facts and information. The Department urges employers to err on the side of caution.

## **Do religious entities still receive an exemption?**

Yes, an entity is exempt if in the employ of a church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches.

## **Do nonprofits or municipalities with no employees need to register?**

- If the entity truly has no employees (ex: only contractors, volunteers or elected officials) then they do NOT need to register. It's important to make sure that contractors pass the ABC test and should not actually be reported as employees. Auditors will want to know how a business operates without any employees.
- Also keep in mind that an elected official is only exempt for work within the capacity as an elected official. Work provided to another entity not in an elected capacity may be reportable.

**If an organization starts paying state unemployment taxes, do they also need to pay federal unemployment taxes (FUTA)?**

501(c)(3) entities are exempt from FUTA.

**Are seasonal, temporary, or time-limited employees covered by unemployment insurance?**

- Generally speaking, yes, as the duration of employment does not matter.
- There are exemptions, such as for interns or summer camp employees in some situations. J1 Visas are also exempt. Inquire with VDOL about specific circumstances.
- Employees still need to be determined eligible for benefits
- Even if you do not pay wages in all quarters (for example, if you only have seasonal employees), you still need to file a report each quarter (reporting \$0 in wages as applicable).

More information:

- [Seasonal Layoffs & Claims](#)
- [Exempt Employment](#)
- [Employer Responsibility for Unemployment Coverage](#)

**Do wages paid to employees of a Vermont organization who work outside of the state or remotely from a state other than Vermont need to be reported to the Vermont Department of Labor?**

- No – only employees physically working in Vermont are covered / need to be reported. Employees working entirely remotely from a state other than Vermont for a Vermont employer do not need to be reported (but employees working remotely in Vermont for a Vermont employer do). That said, employers should be aware of the unemployment laws in their employees' state of residence, as there may be additional coverage/reporting requirements they will need to adhere to.
- When services are performed both within and without the State of Vermont, but the services performed outside of Vermont are incidental to the service performed within Vermont, i.e., the outside employment is temporary or transitory in nature, the services should be reported to Vermont.
- When services are performed in multiple states and cannot be localized to one state, please reach out to the Department.

**How long do employers have to request charges be relieved?**

Employers can request charges be relieved up until the end of the benefit year in which the wages are being used. It is best to review your monthly charge statements and to protest any charges as soon as possible.

**What recourse does an employer have after receiving their Contribution Rate Notice if they believe their rate is inaccurate?**

An employer has 30 days from the date of the Contribution Rate Notice to file an appeal.

**Do volunteer stipends count as wages that need to be reported?**

Depends on the specific situation. Inquire with VDOL.

**Do municipal entities that are part of VLCT's unemployment insurance trust need to file quarterly reports?**

Yes.

**What is the average tax rate for employers?**

Most employers pay at the lowest rate (currently .04%) because they do not have any claims. Depends on current rate schedule, and how their experience rating compares to other employers.

**When do employers need to start reporting new hires?**

Employers should report all new hires when the employer is liable for UI coverage.

**When will charges be relieved if an employee is dismissed for misconduct?**

- If an employee is dismissed for gross misconduct, both a taxable and a reimbursable employer are relieved of charges as the wages cannot be used to establish a claim when an individual is dismissed for gross misconduct.
- However, whereas a taxable employer is relieved of charges if an employee is removed for misconduct, a reimbursable employer is still required to pay for benefits if a former employee remains eligible after serving a disqualification period for a discharge due to misconduct.

**If, after being liable for a claim, a taxable employer goes three full calendar years absent any claims, how is the tax rate determined? Does it "reset" to 1%?**

No, it would not reset to the new employer rate. After a full calendar year, a taxable employer will always have a tax rate based on the three year rolling experience rate. Assuming the employer has zero benefits charged against the employer's experience rate, the employer would be provided with the lowest tax rate depending on the current tax rate schedule. This ranges from 0.4% under Tax Schedule 1 to 1.3% under Tax Schedule 5.

**Can reimbursable employers still utilize third-party services to cover claims, such as FNP, UST or VLCT?**

Yes. The change in law should not have any impact.