

12 DEPARTMENT OF LABOR

172 MAINE UNEMPLOYMENT INSURANCE COMMISSION

Chapter 25: EMPLOYEE LEASING COMPANIES

SUMMARY: This chapter establishes the requirements and procedures for employee leasing companies and their present or former client companies in reporting requirements, record keeping, experience rating records, liability, and appeals. This chapter does not apply to temporary employment agencies as defined in 26 M.R.S.A. section 1221-A(6).

1. Employer notices, records, contributions and other payments, and reports.

Employee leasing companies are subject to the requirements in sections 1043, 1082 and 1221 of the Employment Security Law and Chapter 2 of the Rules Governing The Administration Of The Employment Security Law regarding employer notices, records, contributions and other payments, and reports.

2. Employment and covered services.

- A. Coverage of services performed for a client company by leased employees shall be determined under section 1043(11) of the Employment Security Law without regard to an employee leasing contract or arrangement.
- B. An employee leasing contract or arrangement will not extend coverage under the Employment Security Law to proprietors of, principals, or partners in, a client company.

3. Taxable Wages.

- A. Wages paid to leased employees shall be determined as defined in section 1043(11) and section 1043(19) of the Employment Security Law without regard to the employee leasing contract or arrangement.
- B. Wages paid to a leased employee who works for more than one client company and for other employers shall, for each client company and employer, be determined in accordance with section 1043(19)(A).

4. Records and reports.
 - A. In addition to records and reports required by the commissioner under section 1082(7) of the Employment Security Law, an employee leasing company shall provide the bureau with a list that identifies each client company with which it has a contract or arrangement. The list shall contain the following information for each client company:
 1. Name
 2. Address
 3. Federal Identification Number
 4. The name of a responsible individual with management authority for the client company.
 - B. Each employee leasing company shall notify the bureau whenever a client company enters or terminates the contract or arrangement with the employee leasing company. Notification shall be made in writing within 10 working days of such change in the relationship.
 - C. When an employee leasing company enters into a contract or arrangements with a client company, it will provide the bureau with an "Employer's Status Report" on forms prescribed by the bureau within 10 working days of entering into such a contract or arrangement.
 - D. The employee leasing company shall provide each of its clients with a list that identifies all leased employees performing services for the client company. The list shall contain the following information:
 1. Employee names
 2. Employee social security numbers
 3. Wages paid to each employee in the preceding calendar quarter. These records shall be maintained by the client company as required by section 1082(7) for the period specified in subsection B of section 2 of Chapter 2 of these rules.
5. Experience Rating Records.
 - A. The bureau shall establish and maintain an account of experience rating record for an employee leasing each client company company in accordance with Section 1221(3) and 1221(4). The client leasing company's experience rating record will include all taxes paid, all benefits charged to its account and all taxable wages

reported by the leasing company for the employees of the leasing-client company and employees leased to its client companies. All taxes paid, all benefits charged to its account, and all taxable wages reported that accumulated in the experience rating record of the employee leasing company shall remain in its account and shall be used to calculate the experience rate of the employee leasing company without regard to the termination of a client company or companies leasing contract or arrangement.

B. Whenever an employee leasing contract or arrangement with a client company is terminated, the bureau shall determine if the client company had an experience rating record prior to entering into the employee leasing contract or arrangement. If the bureau determines that the client company had an experience rating record established prior to entering an employee leasing contract or arrangement and the client company has not paid wages within 12 consecutive calendar quarters following the last calendar quarter in which it paid wages, its experience rating record shall not be reinstated. Taxes paid, benefits charged, and taxable wages reported by the employee leasing company for employees leased to the client company shall not be included in the experience rating record of the client company.

6. Liability.

Each client company is jointly and severally liable for unpaid contributions, interest and penalties due from the employee leasing company for wages paid to employees leased to the client company. The bureau shall not be required to exhaust all collection methods against the employee leasing company for unpaid contributions, interest and penalties due from the leasing company. It may collect amounts due from a client company after the leasing company has failed to pay amounts when due.

7. Appeals.

- A. An employee leasing company may appeal determinations by the Director of Unemployment Compensation, the commission, or the commissioner's designated representative that include it, or its client companies, to the same extent as employers.
- B. A client company may appeal only those determinations by the Director of Unemployment Compensation, the commissioner, or the commissioner's designated representative that include issues pertaining to its liability for, or the employee leasing company's liability for its: unpaid contributions, interest, payroll penalties, and contribution penalties, or to the same extent as employers for determinations that included issues pertaining to one or more of its leased employees.

EFFECTIVE DATE:
May 30, 2000