

1 **CHAPTER 815. UNEMPLOYMENT INSURANCE**

2  
3 **ADOPTED RULES WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS**  
4 **REGISTER. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS**  
5 **SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE TEXAS REGISTER.**

6  
7 **ON DECEMBER 17, 2013,** THE TEXAS WORKFORCE COMMISSION ADOPTED THE  
8 BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

9  
10 Estimated date of publication in the *Texas Register*: January 3, 2014  
11 The rules will take effect: January 6, 2014

12  
13 The Texas Workforce Commission (Commission) adopts amendments to the following sections  
14 of Chapter 815, relating to Unemployment Insurance, *without* changes, as published in the  
15 October 11, 2013, issue of the *Texas Register* (38 TexReg 7100):

16  
17 Subchapter C. Tax Provisions, §§815.107, 815.109, 815.113, and 815.133

18  
19 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**  
20 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

21  
22 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

23 The purpose of the adopted Chapter 815 amendments is to:

24  
25 --provide clear direction for employers on filing required reports and paying contributions,  
26 without creating an undue bureaucratic burden in navigating the Unemployment Insurance (UI)  
27 Tax systems;

28  
29 --ensure operation of efficient, cost-effective systems that fulfill the requirements of state and  
30 federal law; and

31  
32 --implement Senate Bill (SB) 1286, enacted by the 83rd Texas Legislature, Regular Session  
33 (2013), related to professional employer organizations.

34  
35 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

36 (Note: Minor editorial changes are made that do not change the meaning of the rules and,  
37 therefore, are not discussed in the Explanation of Individual Provisions.)

38  
39 **SUBCHAPTER C. TAX PROVISIONS**

40 **The Commission adopts the following amendments to Subchapter C:**

41  
42 **§815.107. Reports Required and Their Due Dates**

43 Section 815.107(a)(1)(B) removes magnetic media as an allowable format to submit required  
44 reports and forms. Submissions made by magnetic media are very labor intensive, potentially  
45 unsecure, and negate cost savings and efficiencies realized by requiring all employers to file  
46 reports electronically.

1  
2 Section 815.107(a)(3)(A) requires all employers--and their agents--to file summary and detail  
3 wage information electronically. The Agency will continue ongoing notification initiatives to  
4 ensure that entities are aware of and understand this new requirement. Additionally, employers  
5 can request, and the Agency may grant, a hardship exemption from filing reports and forms in  
6 the required electronic format.

7  
8 Section 815.107(a)(3)(A)(i) is removed based on the adopted requirements in §815.107(a)(3)(A)  
9 for all employers and their agents to file reports.

10  
11 Section 815.107(a)(3)(A)(ii) is removed based on the adopted requirements in §815.107(a)(3)(A)  
12 for all employers and their agents to file reports.

13  
14 Section 815.107(a)(3)(B) is removed. Under this rulemaking, magnetic media is removed as an  
15 allowable format to submit required reports and forms.

16  
17 New §815.107(a)(3)(B) removes the reference to magnetic media. Under this rulemaking,  
18 magnetic media is removed as an allowable format to submit required reports and forms.

19  
20 New §815.107(a)(3)(C) revises the reference to "a quarterly benefit wage credit" report to "an  
21 employer's quarterly" report.

22  
23 Certain subparagraphs in this section have been relettered to reflect deletions.

24  
25 **§815.109. Payment of Contributions and Reimbursements**

26 Section 815.109(d):

27 --removes the requirement that employers, including agents paying on behalf of multiple  
28 employers that paid contributions of \$250,000 or more in the preceding state fiscal year and that  
29 anticipate doing the same in the current fiscal year, transfer payment amounts by electronic funds  
30 transfer; and

31 --adds the requirement that all employers must transfer payment amounts of contributions by a  
32 Commission-approved electronic means. The Agency will continue ongoing notification  
33 initiatives to ensure that entities are aware of and understand this new requirement. Additionally,  
34 employers can request, and the Agency may grant, a hardship exemption from paying  
35 contributions in the required format.

36  
37 Section 815.109(g) removes magnetic media as an approved method for an agent or other entity  
38 making a payment on behalf of employers to furnish an allocation list. Under this rulemaking,  
39 magnetic media is removed as an allowable format to submit required reports and forms.

40  
41 **§815.113. Commission Hearings Involving Coverage and Contributions or**  
42 **Reimbursements**

43 Section 815.113(e) makes a nonsubstantive technical correction by removing the reference to  
44 §815.17(g) and replacing it with the correct reference to §815.17(f).

1  
2 **§815.133. Employee Staff Leasing and Temporary Help Firms**  
3 Section 815.133 removes the term "Employee Staff Leasing" from the section title and replaces it  
4 with the term "Professional Employer Organizations." SB 1286, enacted by the 83rd Texas  
5 Legislature, Regular Session (2013), mandates this terminology change.

6  
7 Section 815.133(a) removes the term "staff leasing services company" and replaces it with the  
8 term "professional employer organization." SB 1286, enacted by the 83rd Texas Legislature,  
9 Regular Session (2013), mandates these terminology changes.

10  
11 No comments were received.

12  
13 The Agency hereby certifies that the adoption has been reviewed by legal counsel and found to  
14 be within the Agency's legal authority to adopt.

15  
16 The rules are adopted under Texas Labor Code §§301.0015 and 302.002(d), which provide the  
17 Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it  
18 deems necessary for the effective administration of Agency services and activities.

19  
20 The adopted rules affect Texas Labor Code, Title 4.

21  
22

1  
2 **CHAPTER 815. UNEMPLOYMENT INSURANCE**  
3

4 **SUBCHAPTER C. TAX PROVISIONS**  
5

6 **§815.107. Reports Required and Their Due Dates.**  
7

8 (a) All reports and forms required by the Agency or the Act shall be filed with the  
9 Agency in one of the following formats unless a different format is approved in  
10 writing by the Agency, a hardship exemption is requested from and granted by the  
11 Agency, or as specified in this chapter.  
12

13 (1) General Format of Reports and Forms and Methods of Submission. The  
14 reports and forms referenced in this section shall be filed using:

15 (A) forms printed by the Agency;

16 (B) electronic media in a format prescribed by the Agency; or  
17

18 (C) any other manner approved and prescribed by the Agency in writing.  
19

20 (2) Content. The reports and forms shall contain all facts and information  
21 necessary to a determination of the amounts due by the employing unit. The  
22 Agency may require the furnishing of additional information as it deems  
23 necessary for the proper administration of the Act.  
24

25 (3) Electronic Media Reporting.  
26

27 (A) Required Electronic Media. All employers and their agents shall file  
28 employers' reports, including both summary and detail wage information,  
29 as described in §207.004 of the Act, on electronic media using a format  
30 prescribed by the Agency.  
31

32 (B) An electronic media transmission of an employer's ~~quarterly~~ report may  
33 contain information from more than one employer.  
34

35 (C) An employer's ~~quarterly~~ report filed in an approved medium shall contain  
36 both a wage credit report and a summary report.  
37

38 (b) General Deadlines for Filing Reports and Forms.  
39

40 (1) Unless otherwise provided in this subchapter, any report or form shall be  
41 completed and filed with the Agency within 10 days after the requested report  
42 or form is:  
43  
44  
45

- 1 (A) mailed to the individual or employing unit at the address on record with  
2 the Agency; or  
3
- 4 (B) personally delivered to the individual or employing unit by an Agency  
5 representative.  
6
- 7 (2) Failure to receive notice regarding the reports shall not relieve the individual or  
8 employing unit of the responsibility of filing the reports by the date the reports  
9 are due.  
10
- 11 (3) Good Cause for Extending Deadlines. When good cause is shown, the Agency  
12 may extend the due date for filing of a report required under this section;  
13 however, the extension shall be effective only if authorized in writing by an  
14 Agency representative.  
15
- 16 (c) Status Reports.  
17
- 18 (1) Status Reports in General. Each employing unit shall file with the Agency a  
19 status report within 10 days from the date upon which the employing unit  
20 becomes subject to the Act.  
21
- 22 (2) Status Reports for New Acquisitions. Any employing unit in the state of Texas  
23 that acquires another business or substantially all of the assets of another  
24 business shall file a new status report with the Agency within 10 days of the  
25 date on which the employing unit made the acquisition.  
26
- 27 (3) Status Reports for Additional Information. Each employing unit shall file  
28 additional status reports at any time upon the request of the Agency.  
29
- 30 (4) Evidence in Support of Status Reports. Employing units filing status reports  
31 with the Agency shall:  
32
- 33 (A) file with the Agency all facts necessary to a determination of the taxable  
34 status of the employing unit; and  
35
- 36 (B) if requested, file with the Agency evidence to establish the correctness of  
37 information contained in the employing unit's status reports.  
38
- 39 (d) Quarterly Reports from Taxed Employers. Each taxed employer, other than a  
40 domestic employer who has elected to report and pay annually under §201.027(b) of  
41 the Act, shall file with the Agency, within the month during which contributions f  
42 or any period become due, and not later than the date on which contributions are  
43 required to be paid to the Agency, an employer's quarterly report showing for the  
44 preceding calendar quarter:  
45

- 1 (1) the total amount of remuneration paid for employment (or showing that no  
2 remuneration was paid during the quarter);  
3
- 4 (2) the total amount of wages paid for employment (as defined in the Act,  
5 §201.081 and §201.082);  
6
- 7 (3) the amount of wages for benefit wage credits (as defined in the Act, §207.004)  
8 paid to each individual employee;  
9
- 10 (4) the name and Social Security number of each individual to whom the wages  
11 were paid; and  
12
- 13 (5) any other information requested on the employer's quarterly report, including  
14 all facts and information necessary to make a determination of the amount of  
15 contributions due.  
16
- 17 (e) Quarterly Reports from Reimbursing Employers and Group Representatives of a  
18 Group Account. Each reimbursing employer and the group representative of a group  
19 account shall file an employer's quarterly report, by the end of the month following  
20 each calendar quarter, that furnishes the following information for the preceding  
21 calendar quarter, information specified in paragraphs (1) - (4) of subsection (d) of  
22 this section, and any other information necessary to make a determination of the  
23 amount of reimbursements due.  
24
- 25 (f) Benefits Financed by the Federal Government. Each employer that has employees  
26 whose benefits are to be financed by the federal government shall file a separate  
27 quarterly report furnishing the names of the employees, their Social Security  
28 numbers, and the wages paid to each. The report shall be filed by the end of the  
29 month following each calendar quarter.  
30
- 31 (g) Annual Reports from Domestic Employers.  
32
- 33 (1) Making the Election. An election to report wages paid and pay contributions  
34 on an annual basis must be made in a format or on a form authorized by the  
35 Agency by the deadline specified in §201.027 of the Act.  
36
- 37 (2) Each domestic employer that qualifies under the Act and who has made an  
38 election as referenced in paragraph (1) of this subsection, shall file with the  
39 Agency, by January 31 of the year after the wages were paid, in a format  
40 consistent with subsection (a) of this section, a domestic employer's annual  
41 report showing the following for the preceding calendar year in which wages  
42 were paid.  
43
- 44 (A) The information specified in paragraphs (1) - (4) of subsection (d) of this  
45 section subtotaled for each quarter; and  
46

1 (B) Other information called for on the domestic employer's annual report  
2 including all facts and information necessary to make a determination of  
3 the amount of contributions due.  
4

5 (3) Penalties and interest incurred under this section shall be the same as  
6 applicable to other employer reporting requirements as provided in Chapter  
7 213 of the Act and this subchapter.  
8

9 **§815.109. Payment of Contributions and Reimbursements.**  
10

- 11 (a) When, in any calendar year, an individual or employing unit becomes an employer  
12 (other than a reimbursing employer) subject to this Act, the employer shall, on or  
13 before the last day of the month following the month during which the employer  
14 became a subject employer, file a report as specified in §815.107 and pay  
15 contributions with respect to all completed calendar quarters in the calendar year.  
16 Contributions for the quarter during which the employer becomes a subject employer  
17 shall be due on the first day of the month immediately following the quarter and shall  
18 be paid on or before the last day of the month. Contributions shall accrue quarterly  
19 and shall become due on the first day of the month immediately following the  
20 calendar quarter. They shall be paid to the Agency on or before the last day of the  
21 month. The provisions in this subsection shall apply unless otherwise provided in  
22 §201.027 of the Act.  
23
- 24 (b) Reimbursements shall become due on the last day of the month following the end of  
25 each quarter and shall be paid to the Agency on or before the last day of the next  
26 month.  
27
- 28 (c) When the last day for payment of contributions or reimbursements falls on a  
29 Saturday, Sunday, or a legal holiday on which the Agency office is closed, the  
30 payment may be made on the next regular business day.  
31
- 32 (d) An employer or other entity, including agents paying on behalf of multiple  
33 employers, is required to transfer payment amounts of contributions by Commission-  
34 approved electronic means on or before the date the contributions are due, unless the  
35 Agency in writing has approved another method or form of payment. The transfers  
36 shall be subject to the provisions of Texas Government Code §404.095, and to rules  
37 adopted by the state comptroller pursuant to that section.  
38
- 39 (e) Additional tax resulting from a chargeback adjustment is due on the first day of the  
40 second month following the month in which the Agency mailed the statement or  
41 letter notifying the employer of the change in tax rate and additional tax due.  
42 Amounts due from such chargeback adjustments shall be paid and must be received  
43 by the Agency on or before the last day of this second month.  
44
- 45 (f) When good cause is shown, the Agency may extend the due date for the payment of  
46 contributions or reimbursements. The extension shall not be effective unless it is

1 authorized in writing by the Agency. In the event the Agency for good cause shown  
2 extends the due date for payment of contributions or reimbursements, the payments  
3 shall be made to the Agency on or before the thirtieth day following the extended  
4 due date.  
5

- 6 (g) An agent or other entity making a payment on behalf of employers shall furnish an  
7 allocation list on electronic media using a format prescribed by this Agency, unless  
8 the Agency has approved another format and method in writing. This list shall be  
9 furnished with the remittance, and the remittance shall be allocated to the credit of  
10 the employers according to the order in which the employers appear on the list.  
11

12 **§815.113. Commission Hearings Involving Coverage and Contributions or**  
13 **Reimbursements.**  
14

- 15 (a) In all situations not specifically provided for in the Act or in the rules of the Agency,  
16 a hearing may, at the discretion of the Commission, be afforded an employing unit  
17 upon its written request, in any case involving tax liability or any question relating to  
18 contributions or reimbursements. Hearings under this section shall continue to be  
19 termed Rule 13 Hearings. The written request for hearing may be filed by hand  
20 delivery, mail, common carrier, facsimile (fax) transmission, or other method  
21 approved by the Agency in writing, at a local tax office or the Texas Workforce  
22 Commission, 101 East 15th Street, Austin, Texas 78778-0001.  
23
- 24 (b) The Commission may on its own motion set a hearing to secure the facts to establish  
25 the status of any individual or employing unit under any section of the Act.  
26
- 27 (c) The Commission may designate a representative to preside over the hearing.  
28 Hearings shall be conducted by telephone conference call unless the supervisor of  
29 the hearing officers or the supervisor's designee determines that an in-person hearing  
30 is necessary. The hearings will be scheduled and, if an in-person hearing, held at a  
31 place designated by the supervisor of the hearings officers or the supervisor's  
32 designee in accordance with paragraphs (1) - (3) of this subsection and the applicable  
33 provisions in this chapter.  
34
- 35 (1) Written notice of the date and time of the hearings shall be given to the parties,  
36 and the location if it is an in-person hearing, at least 10 days before the date of  
37 the hearing; but if a setting at an earlier date is requested by an individual or  
38 employing unit, the supervisor of the hearings officers or the supervisor's  
39 designee may at the supervisor's discretion grant that request, if the granting of  
40 the request will not prejudice the rights of any other party to the proceedings,  
41 including the Agency itself. The notice shall be mailed to the parties at their  
42 last-known addresses.  
43
- 44 (2) In these proceedings before a hearings officer, all parties shall be given an  
45 opportunity for full, fair, and impartial hearing. The hearings shall be  
46 conducted in the manner deemed most suitable to ascertain the facts and to



1 determine the rights of the parties. All testimony taken shall be under oath and  
2 subject to the right of cross-examination by any adverse party, and it shall be  
3 recorded. When necessary, the hearing officer may order the taking of  
4 depositions. The submission of written briefs, affidavits, and other written  
5 memoranda may be required.  
6

7 (3) A witness, whose attendance at a hearing is required, may be allowed a fee and  
8 mileage on the same basis and to the same extent as is provided for witnesses  
9 under §815.18 of this chapter (relating to General Rules for Both Appeal  
10 Stages).  
11

12 (d) The Commission, following each hearing, shall issue a decision, which shall resolve  
13 the questions involving tax liability or any question relating to contributions or  
14 reimbursements which arose at the hearing. Copies of written decisions of the  
15 Commission shall be furnished the parties to the hearings.  
16

17 (e) A decision of the Commission shall become final 30 days after the date of mailing  
18 unless, within the 30-day period, the proceeding is either reopened by a Commission  
19 order or by a party to the proceeding filing a written motion for reconsideration in  
20 accordance with the provisions of §815.17(f) of this chapter (relating to General  
21 Rules for Both Appeal Stages). The motion for reconsideration is sent to the address  
22 listed in the decision. A decision is not binding on a person who was not a party to a  
23 proceeding conducted under this section.  
24  
25

26 **§815.133. Professional Employer Organizations and Temporary Help Firms.**  
27

28 (a) A professional employer organization licensed by the Texas Department of  
29 Licensing and Regulation under Texas Labor Code Chapter 91 shall be the employer  
30 of the workers it provides to a client. If the professional employer organization is  
31 not licensed by the Texas Department of Licensing and Regulation, then the Agency  
32 shall determine that the client is the employer.  
33

34 (b) A temporary help firm is the employer of an individual employed by the firm as a  
35 temporary employee. As defined in the Act, §201.011(21), a temporary help firm is  
36 a person who employs individuals for the purpose of assigning those individuals to  
37 work for the clients of the temporary help firm to support or supplement a client's  
38 workforce during employee absences, temporary skill shortages, seasonal workloads,  
39 special assignments and projects, and other similar work situations.  
40