

ADOPTED RULE WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*. THIS DOCUMENT WILL NOT HAVE ANY SUBSTANTIVE CHANGES BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE *TEXAS REGISTER*.

Section 815.119. Processing of Contributions Under the Voluntary Contribution Program

The Texas Workforce Commission (Commission) adopts new §815.119, Processing of Voluntary Contributions to Chapter 815, Unemployment Insurance, Subchapter C. Tax Provisions, without changes as proposed in the August 22, 2003, issue of the *Texas Register* (28 TexReg 6801). The text will not be republished.

Section 204.048 Labor Code, titled Voluntary Contributions, states the conditions under which an employer may repay the Commission for benefits charged to their Commission tax account during the period used to calculate the Unemployment Experience Tax Rate for the following year. Unemployment Benefit Chargebacks repaid under the Voluntary Contribution program are not used in calculation of the Employer's Annual Experience Tax Rate.

The 78th Session of the Texas Legislature amended Section 204.048, Labor Code, requiring that contributions made by employers under that section be due as prescribed by Commission Rule. Prior to that amendment the statute prescribed the due date and the Commission had no authority to extend the due date when circumstances warranted.

This prescribed rule states the conditions to be met by the Commission and the employer when participating in the Voluntary Contribution Program.

The Commission received a letter from the U.S. Department of Labor indicating that the proposed rule is in compliance with Federal Law.

For more information about the Commission and available services, see www.texasworkforce.org.

The rule is adopted under Texas Labor Code §301.061 and §204.048, which provide the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of the Agency services and activities.

The adopted new rule affects Texas Labor Code, Title 4.

§815.119 Payment of Voluntary Contributions

Texas Labor Code, Section 204.048 (a), provides that an employer that is eligible for an annual Experience Rate calculation under Section 204.041, Labor Code, may elect to make a voluntary payment of contributions to the agency.

- (1) The agency will notify employers eligible for an annual rate calculation under Section 204.041, Labor Code, of the experience tax rate for the

following year and the amount of charges that were used in calculating that rate.

- (2) Voluntary contribution shall be due not later than the 60th day after the date on which the commission mails the employer's annual tax rate notice. When the last day for payment of voluntary contributions falls on a Saturday, Sunday, or a legal holiday on which the agency office is closed, the payment may be made on the next regular business day.
- (3) The agency may extend the due date for the payment of voluntary contributions; however, the extension may not exceed 75 days from the date on which the commission mails the employer's annual rate notice. In no situation may the extension exceed the date imposed by the deadline in Section 204.048 (e), Labor Code.
- (4) If the voluntary contribution payment is insufficient to cause a decrease in the tax rate, the agency will notify the employer and grant an extension, not to exceed 75 days from the date on which the commission mails the employer's annual tax rate notice to remit additional voluntary contributions, subject to the limitations imposed by Section 204.048 (e), Labor Code.

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