

## **Chapter 815. UNEMPLOYMENT INSURANCE**

### **Subchapter C. TAX PROVISIONS**

The Texas Workforce Commission (Commission) proposes the repeal of and new §815.107 Reports Required and Their Due Dates and amendments to §815.109 Payments of Contributions and Reimbursements relating to Chapter 815 Unemployment Insurance, Subchapter C. Tax Provisions.

**Purpose.** The purposes of the rule changes are to (1) implement provisions relating to the election by certain employers of domestic workers to report wage information and pay tax contributions pursuant to Texas Labor Code § 201.027; (2) add a requirement that service agents filing reports on a cumulative total of 250 or more employees are also required to make the filings electronically in the same manner as a single employer reporting on a total of 250 or more employees; and (3) reorganize and clarify the provisions relating to how and when to file required reports.

Regarding the first change, the 77th Legislature and the Governor approved House Bill 1109, now codified in §201.027 of the Texas Labor Code, which allows certain employers to report information regarding wages paid to employees yearly instead of quarterly. New subsection 815.107(g) is added to include provisions specifically addressing the annual reporting requirements and the method of making the election. Minor amendments to §815.109 are made to address the new statutory provisions relating to contributions due by employers of domestic service workers that have made elections.

Regarding the second change found in §815.107(a)(3)(A), a requirement is added that service agents filing reports on a cumulative total of 250 or more employees are also required to make the filings electronically in the same manner as a single employer reporting on a total of 250 or more employees. The purpose of this requirement is to expedite and simplify the filing process. Although traditionally service agents have been filing electronically when filing reports covering a cumulative total of 250 or more employees, the rule is changed to make the electronic filing requirement clear in the rule.

For filing of elections due by December 31, 2001, an employer of domestic workers as specified in §201.027 of the Texas Labor Code, may submit a request to make the election on a form that is available on the Commission web site at [www.texasworkforce.org](http://www.texasworkforce.org). If an employer is unable to access the Internet, the form may be requested from and submitted by mail to the following address: Tax Department, Texas Workforce Commission, 101 East 15th Street, Room 570, Austin, Texas 78778-0001 or by fax to (512) 463-9111. If an eligible employer is unable to obtain the form in time to make the filing, a letter requesting the election should be submitted to the Commission by December 31st by mail, or fax to the number indicated in the preceding sentence, or E-mailed to [statussection@twc.state.tx.us](mailto:statussection@twc.state.tx.us). Although the request will be considered timely, the employer may be requested to fill out an election form, if a form was not used to request the election.

**Background/History:** The Commission, as the entity responsible for the administration and implementation of Texas Unemployment Compensation Act (the Act), Texas Labor Code §201.001 et seq., and related statutes, endeavors to provide streamlined processes, including opportunities for employers to save time while meeting their statutory responsibilities. The Commission now maintains an online tax system that was launched in FY 1999, and gives employers 24-hour access to tax forms and information, as well as secure access to current information about their accounts. Employers without Internet access may call a toll-free number to register their businesses, determine their tax rates and calculate the taxes they owe. They also can access information any time through an automated voice response system. In FY 2000, the Commission launched a pilot Internet project that employers use to file their quarterly tax reports online. Administrative tax hearings are now resolved in a more timely manner because of the online reporting. Efforts to enhance tax services have been so successful that in FY 2000, the Commission received a regional award for performance from the U.S. Department of Labor. The Commission envisions that the streamlining of the reporting requirements for Domestic Service Employers and service agents will add another step forward in creating further efficiencies for the benefit of the employer.

Randy Townsend, Chief Financial Officer, has determined that for the first five years the rules are in effect, the following statements will apply:

there are no additional estimated costs to the state and to local governments expected as a result of enforcing or administering the rules;

there are no estimated reductions in costs to the state or to local governments expected as a result of enforcing or administering the rules;

there are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules;

there are no foreseeable implications relating to costs or revenues to the state or to local governments as a result of enforcing or administering the rules; and

there are no anticipated costs to persons who are required to comply with the rules as proposed.

Mr. Townsend, Chief Financial Officer, has determined that there is no anticipated adverse impact on small businesses as a result of enforcing or administering these rules because of the following reasons.

Regarding the election, any regulatory burdens or impact on small businesses (including micro-businesses) as well as foreseeable adverse economic effects or costs, if any, would be a result of the state statutory change, or more efficient methods of filing that would reduce costs to any small businesses. For the election, as far as can be determined, small businesses (including micro-businesses) are not required to do anything as a result of these rules regarding the election to report yearly instead of quarterly because the election is voluntary. In the event that an employer is required to expend funds as a result of applying for the election, the expense would be minimal. The expenses would be related to postage and the time to fill out the form and mail it. Likewise, the expenses may be larger for larger entities and smaller for smaller entities but proportionate to the amount of employees for which the employer is required to report wages.

Regarding the reorganization, no added costs are required as a result of the rule changes, the filing requirements do present a cost to small businesses but are authorized by statute.

Regarding the service agent filing, any costs to service agents that report for small businesses would be equal to or less than the costs of submitting separate written filings by mail. Any regulatory burdens or impact on small businesses (including micro-businesses) as well as foreseeable adverse economic effects or costs, if any, would be a result of more efficient methods of filing that would reduce costs to any small businesses that are service agents reporting on 250 or more employees. Likewise, the expenses may be larger for larger entities and smaller for smaller entities but proportionate to the amount of employees for which the employer is required to report wages.

Regarding the existing requirements that have not changed, following are the cost estimates. The use of the term manual filing refers to handwritten or typed completion of a form by the person filing the form. The use of the term computer filing refers to the person filing the information using the Quickfile software available on the TWC webpage to create a document and transfer the document electronically or by mail. The use of the term Internet filing refers to the person filling in the TWC C3 form that is created online, in which some of the employer's data may automatically be filled in, and which is filed through the Internet.

Status Report:

\$20.00 calculated as 1 hour preparing and reviewing at \$20.00 per hour, and one of the following:

\$12.00 calculated as 1 hour drafting and filing manually at \$12.00 per hour; or

\$4.00 calculated as 20 minutes drafting and filing via the computer at \$12.00 per hour.

Quarterly Report:

\$20.00 calculated as 1 hour preparing and reviewing at \$20.00 per hour; and one of the following:

\$6.00 - \$24.00 calculated as 30 minutes to 2 hours drafting and filing manually at \$12.00 per hour;

\$6.00 - \$9.00 calculated as 30 - 45 minutes drafting and filing via computer at \$12.00 per hour; or

\$3.00 - \$9.00 as 15-45 minutes preparation and Internet filing at \$12.00 per hour (limited to employers of 100 or less employees).

Additional costs:

Additional costs will depend upon the amount of the additional information requested, including document retrieval, which requires the same additional time and possible retrieval expense as referenced in this section or that cannot be estimated but could be substantial.

Request to extend the filing deadline:

\$20.00 calculated as 1 hour preparing and reviewing at \$20.00 per hour and either

\$6.00 calculated as 30 minutes drafting and filing manually at \$12.00 per hour; or

\$3.00 calculated as 15 minutes drafting and filing via computer at \$12.00 per hour.

LaSha Lenzy, Director of Unemployment Insurance and Regulation Division, has determined that for each year of the first five years that the rules will be in effect the public benefit anticipated as a result of the adoption of the proposed rules will be to improve and simplify for domestic employers the methods and frequency of reporting wages paid to employees.

James Barnes, Director of Labor Market Information, has determined that there is no foreseeable negative impact upon employment conditions in this state as a result of these proposed rules.

Comments on the proposed sections may be submitted to John Moore, Texas Workforce Commission, 101 East 15th Street, Room 608, Austin, Texas 78778; Fax Number 512-463-1426; or E-mail to [john.moore@twc.state.tx.us](mailto:john.moore@twc.state.tx.us).

Comments must be received by the Agency no later than thirty (30) days from the date this proposal is published in the *Texas Register*.

For more information about the Commission and services available see [www.texasworkforce.org](http://www.texasworkforce.org).

**40 TAC §815.107**

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Workforce Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeal is proposed under Texas Labor Code §301.061 and §302.002, which provides the Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Agency services and activities.

The proposed repeal affects the Texas Labor Code, Title 4.

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

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State, on November 15, 2001.

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John Moore

Assistant General Counsel

Texas Workforce Commission

Earliest possible date of adoption: December 30, 2001

For further information, please call: (512) 463-2573

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#### **40 TAC §815.107, §815.109**

The new rule and amendments are proposed under Texas Labor Code §301.061 and §302.002, which provides the Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Agency services and activities.

The proposed new rule and amendments affect the Texas Labor Code, Title 4.

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

(a) All Reports and Forms required by the Agency or the Act shall be filed with the Agency in one of the following formats unless a different format is approved in writing by the Agency or specified in this Chapter.

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

(A) forms printed by the Agency;

(B) magnetic or electronic media in a format prescribed by this Agency; or

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

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

(3) Magnetic and Electronic Media reporting.

(A) Required Magnetic or Electronic Media. Regarding filing of quarterly benefit wage credit reports as required by §207.004 of the Act, the following shall file benefit wage credit reports on magnetic or electronic media using a format prescribed by the Agency:

(i) Employers who have to file a report on 250 or more employees in any one calendar quarter; and

(ii) other entities, including agents reporting on behalf of multiple employers, who have to file reports on a cumulative total of 250 or more employees in any one calendar quarter.

(B) Voluntary Use of Magnetic or Electronic Media. Employers, including agents reporting on behalf of multiple employers, who file a benefit wage credit report on a cumulative total of less than 250 employees in any one calendar quarter, as defined §207.004 of the Act, may voluntarily elect to use magnetic or electronic media reporting.

(C) A magnetic or electronic media wage report may contain information from more than one employer.

(b) General Deadlines for Filing Reports and Forms.

(1) Unless otherwise provided in this subchapter, any report or form shall be completed and filed with the Agency within ten days after the requested report or form is either:

(A) mailed to the individual or employing unit at the address on record with the Agency, or

(B) personally delivered to the individual or employing unit by an Agency representative.

(2) Failure to receive notice regarding the reports shall not relieve the individual or employing unit of the responsibility of filing the reports the date the reports are due.

(3) Good Cause for Extending Deadlines. When good cause is shown, the Agency may extend the due date for filing of a report required under this section; however, the extension shall only be effective if authorized in writing by an Agency representative.

(c) Status Reports.

(1) Status Reports In General. Each employing unit shall file with the Agency a status report within ten days from the date upon which the employing unit becomes subject to the Act.

(2) Status Reports for New Acquisitions. Any employing unit in the State of Texas, which acquires another business or substantially all the assets of another business shall file a new status report to the Agency within ten days of the date on which the employing unit made the acquisition.

(3) Status Reports for Additional Information. Each employing unit shall file additional status reports at any time upon the request of the Agency.

(4) Evidence in Support of Status Reports. Employing units filing status reports to the Agency shall:

(A) file with the Agency all facts necessary to a determination of the taxable status of the employing unit, and

(B) if requested, file with the Agency evidence to establish the correctness of information contained in the employing unit's status reports.

(d) Quarterly Reports from Taxed Employers. Each taxed employer, other than a domestic employer who has elected to report and pay annually under §201.027(b) of the Act, shall file with the Agency, within the month during which contributions for any period become due, and not later than the date on which contributions are required to be paid to the Agency, an employer's quarterly report showing for the preceding calendar quarter:

(1) the total amount of remuneration paid for employment (or showing that no remuneration was paid during the quarter);

(2) the total amount of wages paid for employment (as defined in the Act, §201.081 and §201.082);

(3) the amount of wages for benefit wage credits (as defined in the Act, §207.004) paid to each individual employee;

(4) the name and social security number of each individual to whom the wages were paid; and

(5) any other information requested on the employer's quarterly report, including all facts and information necessary to make a determination of the amount of contributions due.

(e) Quarterly Reports from Reimbursing Employers and Group Representatives of a Group Account. Each reimbursing employer and the group representative of a group account shall file an employer's quarterly report, by the end of the month following each calendar quarter, that furnishes the following information for the preceding calendar quarter, information specified in subsection (d)(1)-(4) of this section and any other information necessary to make a determination of the amount of reimbursements due.

(f) Benefits Financed by the Federal Government. Each employer which has employees whose benefits are to be financed by the federal government shall file a separate quarterly report furnishing the names of the employees, their social security numbers, and the wages paid to each. The report shall be filed by the end of the month following each calendar quarter.

(g) Annual Reports from Domestic Employers.

(1) Making the Election. An election to report wages paid and pay contributions on an annual basis must be made in a format or on a form authorized by the Agency by the deadline specified in §201.027 of the Act.

(2) Each Domestic Employer that qualifies under the Act and who has made an election as referenced in paragraph (1) of this subsection (g), shall file with the Agency, by January 31 of the year after the wages were paid, in a format consistent with subsection (a) of this section, a domestic employer's annual report showing for the preceding calendar year in which wages were paid the following:

(A) the information specified in paragraphs (d)(1)-(4) of this section subtotaled for each quarter; and

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

(3) Penalties and interest incurred under this section shall be the same as applicable to other employer reporting requirements as provided in Chapter 213 of the Act and this Subchapter C. relating to Tax Provisions.

§815.109. Payment of Contributions and Reimbursements.

(a) When, in any calendar year, an individual or employing unit becomes an employer (other than a reimbursing employer) subject to this Act, the employer shall, on or before the last day of the month [ ~~next~~ ] following the month during which the employer became a subject employer, file [ ~~makes~~ ] a report as specified in §815.107 and pay contributions with respect to all completed calendar quarters in the calendar year. Contributions for the quarter during which the employer becomes a subject employer shall be due on the first day of the month immediately following the quarter and shall be paid on or before the last day of the month. Contributions shall accrue quarterly and shall become due on the first day of the month immediately following the calendar quarter. They shall be paid to the Agency on or before the last day of the month. The provisions in this subsection (a) shall apply unless otherwise provided in §201.027 of the Act.

(b) Reimbursements shall become due on the last day of the month following the end of each quarter and shall be paid to the Agency on or before the last day of the next month.

(c) When the last day for payment of contributions or reimbursements 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.

(d) An employer or other entity, including agents paying on behalf of multiple employers, which paid contributions in the preceding state fiscal year of \$250,000 or more, and which is reasonably anticipated to do the same in the current fiscal year, is required to transfer payment amounts of contributions by electronic funds transfer on or before the date the contributions are due, unless the Agency in writing has approved another method or form of payment. Except as otherwise provided in this subsection, employers, including agents may voluntarily transfer payment of contributions by electronic funds transfer on or before the date the contributions are due, unless the Agency in writing has approved another method or form of payment. The transfers, when applicable, shall be subject to the provisions of the Texas Government Code, §404.095, and to rules adopted by the state comptroller pursuant to that section.

(e) When good cause is shown, the Agency may extend the due date for the payment of contributions or reimbursements, however, the extension may not exceed 60 days and shall not be effective unless the extension is authorized in writing by the Agency. In the event the Agency for good cause shown extends the due date for payment of contributions or reimbursements the payments shall be made to the Agency on or before the 30th day following the extended due date.

(f) An agent or other entity making a payment on behalf of 20 or more employers shall furnish an allocation list on magnetic or electronic media using a format prescribed by this Agency, unless the Agency has approved another format and method in writing. This list shall be furnished with the remittance, and the remittance shall be allocated to the credit of the employers according to the order in which the employers appear on the list.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State, on November 15, 2001.

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Texas Workforce Commission

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For further information, please call: (512) 463-2573