

## **PEO DOCUMENTATION REQUIREMENTS**

### **Documentation needed when joining a PEO:**

- PEO Letter of Intent

*Note: If the client is going to be reported under the PEO's SUTA account, we will establish the client an account in order to transfer their experience rate into the PEO's account.*

- Idaho Business Registration (IBR-1)

*Note: All clients are required to complete an Idaho Business Registration upon joining a PEO, regardless of if the PEO is reporting for the client under the PEO's SUTA account or under the client's SUTA account. Failure to complete an Idaho Business Registration by result in a \$500 penalty.*

### **Documentation needed when exiting a PEO:**

- PEO Letter or Termination

*Note: If the client was being reported under the PEO's SUTA account we will establish the client a new account in order to transfer their experience rate out of the PEO's Account. This applies even if the client no longer has employees in Idaho, has ceased business company-wide, or has sold their business.*

- Idaho Business Registration (IBR-1)

*Note: All clients are required to complete an Idaho Business Registration upon exiting a PEO. Failure to complete an Idaho Business Registration may result in a \$500 penalty.*

### **All Idaho Business Registration must be completed online.**

To the right is the link for the online Idaho Business Registration system: [www2.labor.idaho.gov/ibrs](http://www2.labor.idaho.gov/ibrs)

### **All Letters of Intent and all Letters of Termination must be completed electronically.**

*There is an option to put electronic signatures (for both the PEO and the client) on both forms, however they may be hand-signed if needed.*

**\*\*This document is for your records. Please do not send this page back to the Idaho Department of Labor**

## PEO REPORTING REQUIREMENTS

All PEO's must submit an updated client list on a quarterly basis, regardless of if the PEO is reporting for the client under the PEO's SUTA account or under the client's SUTA account. The deadline for submitting client list may result in a penalty of \$100 per client not properly reported (up to \$5,000) in accordance with Idaho Code Section 72-1372(h).

72-1372. CIVIL PENALTIES. (1) The following civil penalties shall be assessed by the director:  
 (h) If a determination is made finding that a professional employer failed to submit a separate quarterly wage report for each client as required in section 72-1349B(4), Idaho Code, the director shall assess a monetary penalty equal to one hundred dollars (\$100) for each client not separately reported by the professional employer; provided that the maximum penalty for any quarter shall not exceed five thousand dollars (\$5,000).

Example of the reporting template that should be used for formatting the PEO client lists:

PEO Name, PEO SUTA Account Number (i.e. 0001234567)		
ABC Corporation		Client's FEIN
111-22-3333	Doe, Jane	\$\$\$ (Quarterly Wages)
222-33-4444	Johnson, Mark	\$\$\$ (Quarterly Wages)
333-44-5555	Smith, Amber	\$\$\$ (Quarterly Wages)
DEF LLC		Client's FEIN
444-55-6666	Brown, Steven	\$\$\$ (Quarterly Wages)
555-66-7777	Jones, Daniel	\$\$\$ (Quarterly Wages)
666-77-8888	Williams, Katherine	\$\$\$ (Quarterly Wages)

Please no longer send paper copies of client lists, client lists on CDs, or client lists of flash drives. The following are the approved file attachment types:

- Comma Delimited (.csv)
- PDF (.pdf)
- Word (.doc or .docx)
- Excel (.xls or .xlsx)
- Notepad (.txt)

**Client lists will now only be accepted via the Employer Portal Secure Messaging System.** That messaging system is the method we are required to use for sending sensitive information such as account numbers, FEINs, documents, etc. Please do not submit sensitive information to our personal email addresses (@labor.idaho.gov) or to SUTA@labor.idaho.gov because we want to ensure the privacy of both you and the PEO and your clients.

Employer Portal Directions: [www.labor.idaho.gov](http://www.labor.idaho.gov) >Login>Login to Employer Portal  
 Once logged in, there is a green box for Secure Messaging or Message Center

**\*\*This document is for your records. Please do not send this page back to the Idaho Department of Labor**

**PEO LETTER OF INTENT FORM**

This form is for new Idaho clients joining a PEO, existing PEO clients beginning operations in Idaho, and existing PEO clients with newly hired Idaho employees. If you need access to the client's account in the Employer Portal, you must complete the Employer Portal Authorization form.

All clients are required to complete an [Idaho Business Registration](#) upon joining a PEO, regardless of whether the PEO is reporting for the client under the PEO's unemployment insurance tax account or under the client's unemployment insurance tax account. Failure to complete an Idaho Business Registration may result in a \$500 penalty.

This form must be completed, signed, and returned to the Idaho Department of Labor within 180 days of the first Idaho employee paycheck date with the PEO. If this form is received after the deadline, the PEO will be required to report the client under the client's unemployment insurance tax account. Refer to [Idaho Code §72-1351\(5\)](#).

PEO		Client	
Name:		Name:	
DBA:		DBA:	
Address:		Address:	
City, State, Zip:		City, State, Zip:	
FEIN:	EAN:	FEIN:	EAN:

Please choose one of the following:

- 1. Report the client **under the PEO's account** and transfer the client's experience rate.

For this option, the PEO is required to have an unemployment insurance tax account. The client will need to complete an Idaho Business Registration as well as a PEO Letter of Intent form. Once the client's unemployment insurance tax account is set up and the Department has the signed PEO Letter of Intent form, the client's account will be closed and transferred into the PEO's account. From then on, the PEO will report for the client under the PEO's account.

- 2. Report the client **under the client's account**.

For this option, the PEO is not required to have an active unemployment insurance tax account in Idaho. Instead, the client will need to complete an Idaho Business Registration as well as a PEO Letter of Intent form. Once the client's unemployment insurance tax account is set up and the Department has the signed PEO Letter of Intent form, a note is recorded on the client's account stating that the PEO is reporting on behalf of the client. From then on, the PEO will report for the client under the client's account.

This is to inform the Idaho Department of Labor that the PEO and the above-named client have signed an agreement to enter a co-employer relationship effective \_\_\_\_\_.

Idaho Employee Start Date with PEO: \_\_\_\_\_  
 First Idaho Employee Paycheck Date with PEO: \_\_\_\_\_  
 Number of Idaho Employees, Including Corporate Officers: \_\_\_\_\_

PEO's FEIN: \_\_\_\_\_  
 Client's FEIN: \_\_\_\_\_

Does the client have employees excluded from the PEO arrangement?  Yes  No  
 • Any employees excluded from the PEO arrangement or hired by the client external to the PEO arrangement are covered for unemployment insurance tax purposes and must be reported under the client's account.

**Client Information**

Type of Business:	<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> Corporation	
	<input type="checkbox"/> S Corporation	<input type="checkbox"/> Limited Liability Company		<input type="checkbox"/> Non-Profit
If an LLC, how have you chosen to be taxed for income tax purposes?	<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> Corporation	<input type="checkbox"/> S Corporation
Physical Address (in Idaho):				
Business Phone:			Fax:	
Contact Name:			Contact Title:	
Contact Phone:			Contact Email:	

Owner/Officer Name	Title	% Owned	Address of Residence	SSN and Phone
				SSN: Phone:
				SSN: Phone:
				SSN: Phone:
				SSN: Phone:
				SSN: Phone:
				SSN: Phone:

Have the Idaho corporate officers completed a Corporate Officer Exemption form?  Yes  No  
 Are the Idaho corporate officers planning to complete a Corporate Officer Exemption form?  Yes  No

You may return the form via Employer Portal secure messaging, fax to 208-334-6301, or mail to Idaho Department of Labor, ATTN Tax Support, 317 W. Main St., Boise, Idaho 83735-0760.

\_\_\_\_\_  
 PEO's Signature  
 \_\_\_\_\_  
 Date

\_\_\_\_\_  
 Client's Signature  
 \_\_\_\_\_  
 Date

**PEO LETTER OF TERMINATION FORM**

This form is for Idaho clients leaving a PEO, clients who no longer have employees in Idaho, clients who ceased operations company-wide, and clients who sold their business.

All clients are required to complete an [Idaho Business Registration](#) upon exiting a PEO. Failure to complete an Idaho Business Registration may result in a \$500 penalty.

This form must be completed, signed, and returned to the Idaho Department of Labor within 14 days of the client leaving the PEO.

If you have access to the client’s account in the Employer Portal, your access will be removed.

PEO		Client	
Name:		Name:	
DBA:		DBA:	
Address:		Address:	
City, State, Zip:		City, State, Zip:	
FEIN:	EAN:	FEIN:	EAN:

**Client Information**

Type of Business:	<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> Corporation	
	<input type="checkbox"/> S Corporation	<input type="checkbox"/> Limited Liability Company		<input type="checkbox"/> Non-Profit
If an LLC, how have you chosen to be taxed for income tax purposes?	<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> Corporation	<input type="checkbox"/> S Corporation
Physical Address (in Idaho):				
Business Phone:		Fax:		
Contact Name:		Contact Title:		
Contact Phone:		Contact Email:		

Please choose one of the following:

- The relationship between the PEO and the client listed above terminated effective \_\_\_\_\_<sup>1</sup>.
- The client listed above no longer has employees in Idaho (and has no plans to hire employees in Idaho) effective \_\_\_\_\_<sup>1</sup>.

If a client no longer has employees in Idaho, the client either (a) must be transferred out of the PEO’s unemployment insurance tax account that is reporting for them, or (b) must have their own unemployment insurance tax account closed (if the PEO was reporting for the client under the client’s account). This is specifically for clients who have no plans of hiring employees in Idaho or who have had no Idaho payroll for the last four quarters.

<sup>1</sup>The termination date must be the last payroll date with the PEO in Idaho.

PEO's FEIN: \_\_\_\_\_  
Client's FEIN: \_\_\_\_\_

Do any of the following apply to the client?

- Ceased operations company-wide effective \_\_\_\_\_
- Sold their business effective \_\_\_\_\_  
Successor Business Name: \_\_\_\_\_  
Successors FEIN: \_\_\_\_\_  
Successor Contact Name: \_\_\_\_\_  
Successors Contact Phone: \_\_\_\_\_
- Successor is joining the same PEO or is already in the PEO.  
Start Date of Co-Employer Relationship Between PEO and Successor: \_\_\_\_\_
- None of the above.

Please provide the wages reported for the client for the most recent five completed quarters:

Year					
Quarter					
Total Wages					
Taxable Wages					

This is **required** for clients who were reported under the PEO's unemployment insurance tax account. The portion of the experience rate associated with the client will be transferred to the client's new unemployment insurance account.

The Idaho Department of Labor must have the five most recent quarters of payroll run by the PEO. *For example, if the termination date was 12/31/2018, you must provide the five quarters prior to that.*

You may return the form via Employer Portal secure messaging, fax to 208-334-6301, or mail to Idaho Department of Labor, ATTN Tax Support, 317 W. Main St., Boise, Idaho 83735-0760.

\_\_\_\_\_  
PEO's Signature

\_\_\_\_\_  
Client's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**134. PROFESSIONAL EMPLOYER ORGANIZATIONS.**

A professional employer organization shall fully comply with the requirements of the Professional Employer Recognition Act, Chapter 24, Title 44, Idaho Code in order to be eligible for any transfers of experience rating as allowed by Section 72-1349B, Idaho Code. (3-15-02)

**01. Methods of Reporting.** To report the wages and employees covered by the professional employer arrangement between a professional employer and client, professional employers and their clients shall make reports to the Department in one (1) of the following ways, subject to the conditions in Subsections 134.02 through 134.06 of this rule: (3-15-02)

**a.** Report the workers included in the professional employer arrangement under the employer account number of the professional employer and transfer the rate of the client to the professional employer; or (3-15-02)

**b.** Report the workers included in the professional employer arrangement under the employer account number of the client without an experience rate transfer. Ref. Section 72-1349B, Idaho Code. (3-15-02)

**02. Joint Transfer of Experience Rate.** In order to effect a transfer of a client's experience rate into the experience rate of a professional employer organization, both the client and the professional employer organization shall jointly apply for the transfer of the experience rate within the same timeframes as required of employers by Section 72-1351(5), Idaho Code, from the date of the contract entered into between the professional employer organization and the client required by Section 44-2405, Idaho Code. Failure to submit a timely joint request for transfer of experience rate shall result in the professional employer organization reporting wages for the client under the employer account number of the client. Ref. Section 72-1351(5), Idaho Code. (3-22-07)

**03. Partial Transfers of Experience Rate Prohibited.** In the event that a client and a professional employer organization jointly apply to transfer the experience rate of the client into that of the professional employer, the client's entire experience rate and factors of experience rate shall be transferred into that of the professional employer, and no partial transfers of experience factors or the experience rate shall be allowed. Ref. Section 72-1349B, Idaho Code. (3-15-02)

**04. Partial Reporting of Workers.** If some of the client's workers are included in the professional employer arrangement and some are not included, and the professional employer organization and the client elect to report the workers included in the professional employer arrangement under the employer account number of the client, then only one (1) quarterly report shall be remitted to the Department, which shall list or include all the client's workers whether or not included in the professional employer arrangement. Ref. Section 72-1349B, Idaho Code. (3-15-02)

**05. Combined Wages or Services for Purposes of Coverage.** If a client employer has employees or employment, or both, that does not independently meet the coverage or threshold requirements necessary to constitute covered employment, such employees, services or employment shall nonetheless be deemed to meet the coverage requirements of the Employment Security Law if, in combination with other employees, employment or services of such other employees of the professional employer organization or any of its clients, such wages, services or employees do jointly meet coverage requirements. (3-15-02)



# Idaho Statutes

## TITLE 44

### LABOR

#### CHAPTER 24

##### IDAHO PROFESSIONAL EMPLOYER

44-2405. MINIMUM STANDARDS. (1) Each professional employer shall, as a condition to being recognized by this chapter, agree to the following standards:

(a) Have a written contract between the client and the professional employer setting forth the responsibilities and duties of each party. The contract shall disclose to the client the services to be rendered, the respective rights and obligations of the parties, and provide that the professional employer:

(i) Reserves a right of direction and control over workers assigned to the client's location. However, the client may retain such sufficient direction and control over the assigned workers as is necessary to conduct the client's business and without which the client would be unable to conduct its business, discharge any fiduciary responsibility which it may have, or comply with any applicable licensure, regulatory or statutory requirement of the client;

(ii) Assume responsibility for the withholding and remittance of payroll-related taxes and employee benefits from its own accounts, as long as the contract between the client and professional employer remains in force;

(iii) Retain authority to hire, terminate, discipline, and reassign assigned workers. However, the client, if it accepts the responsibility for its action, may have the right to accept or cancel the arrangement of any assigned worker.

(b) Give written notice of the general nature of the relationship between the professional employer and the client to the workers assigned to the client and the public at large. Such notice may be posted in a visible and conspicuous manner at the client's work site.

(2) It is anticipated that under this chapter professional employers will, from time to time, receive from client companies, moneys which represent assigned workers' wages, withholdings, taxes, and benefit plan payments. Each professional employer shall keep in force, in the state of Idaho, a separate bank account or accounts for the purpose of keeping such money separate from the professional employer's operating funds. Assigned workers' wages, withholdings, taxes, and benefit plan payments shall be promptly paid from such trust accounts.



(3) A professional employer shall be considered an employer for purposes of withholding state income tax pursuant to section 63-3035, Idaho Code, to the same extent as the professional employer is an employer for withholding federal income taxes pursuant to the Internal Revenue Code. As long as the professional employer's contract with the client remains in force, the professional employer shall have a right to and shall perform the following responsibilities:

(a) Pay wages and collect, report and pay employment taxes from its trust accounts;

(b) Pay unemployment taxes as required in Idaho state unemployment laws, chapter 13, title 72, Idaho Code;

(c) Work with the client in securing and providing worker's compensation coverage for all of its assigned workers.

(4) A recognized professional employer shall be deemed the employer for the purposes of sponsoring and maintaining benefit and welfare plans for its assigned workers.

(5) Subject to any contrary provisions of the contract between the client and the professional employer, the professional employer arrangement that exists between a professional employer and its clients shall be interpreted for the purposes of sales tax on services, insurance and bonding as follows:

(a) A professional employer shall not be liable for the acts, errors or omissions of a client or of any assigned worker acting under the direction and control of a client. A client shall not be liable for the acts, errors or omissions of a professional employer or of any assigned worker of a professional employer acting under the direction and control of the professional employer. Nothing herein shall limit any contractual liability between the professional employer and the client, nor shall this subsection in any way limit the liabilities of any professional employer or client as defined elsewhere in this chapter;

(b) Workers assigned or contracted to a client by a professional employer are not deemed employees of the professional employer for purposes of general liability insurance, automobile insurance, fidelity bonds, surety bonds, employer's liability which is not covered by worker's compensation, or liquor liability insurance carried by the professional employer unless the employees are included by specific reference in the applicable employment arrangement contract, insurance contract or bond;

(c) If Idaho enacts a tax on services similar to the sales tax, the administration fee will be the amount which is taxed.

(6) The sale of professional employer arrangements in conformance with the provisions of this chapter shall not constitute the sale of insurance within the meaning of applicable Idaho law.

History:

[44-2405, added 1994, ch. 129, sec. 1, p. 288.]



# Idaho Statutes

## TITLE 72

### WORKER'S COMPENSATION AND RELATED LAWS – INDUSTRIAL COMMISSION CHAPTER 13

#### EMPLOYMENT SECURITY LAW

72-1349B. FINANCING OF BENEFITS PAYMENTS BY PROFESSIONAL EMPLOYERS AND THEIR CLIENTS. (1) Nonprofit organizations and governmental entities excepted. Financing of benefits for workers assigned by a professional employer to a nonprofit organization or a governmental entity shall be paid as provided in section 72-1349A, Idaho Code. Financing of benefits for workers assigned by a professional employer to any entity other than a nonprofit organization or governmental entity shall be made in accordance with the provisions of this section.

(2) Liability for contributions. Unless a professional employer meets the minimum requirements of this chapter, its client shall remain liable as a covered employer for any payments due under the provisions of this chapter. During the term of a professional employer arrangement, a professional employer is liable for the payment of all moneys due pursuant to this chapter as a result of wages paid to employees assigned to a client company, except compensation paid to sole proprietors or partners in the client company.

(3) Joint and several liability. A client is jointly and severally liable for any unpaid moneys due under the provisions of this chapter from the professional employer for wages paid to workers assigned to the client.

(4) Reporting requirements. The professional employer shall report and make all payments under its state employer account number. The professional employer shall keep separate records and submit separate quarterly wage reports for each of its clients. The professional employer shall pay contributions for its clients collectively using the professional employer's contribution rate unless it elects to pay the contribution for certain clients individually in which instance the contribution shall be paid using the individual client's contribution rate.

(5) Interested party. As between a professional employer and its client, the professional employer company shall be deemed to be the interested party for purposes of section 72-1323, Idaho Code, and all proceedings to determine rights to benefits under the provisions of this chapter.

(6) Temporary workers. The provisions of this section do not apply to an entity that provides temporary workers on a temporary help basis, provided that the entity is liable as the employer for all payments due under the provisions of this chapter as a result of wages paid to those temporary workers.

(7) Rebuttable presumption. When a professional employer assigns workers to only one (1) client and its affiliates, there is a rebuttable presumption that the client entered into a professional employer arrangement to avoid calculation of the proper taxable wage rate. If the professional employer fails to rebut this presumption, the director, pursuant to section 72-1353, Idaho Code, shall issue an administrative determination of coverage holding the client to be the covered employer for purposes of this chapter.

(8) A client ceasing to pay wages. Whenever a client ceases to pay wages, such client shall be subject to termination of its employer account and experience rating records in the same manner as any other employer, in accordance with the provisions of sections 72-1351 and 72-1352, Idaho Code. If a client which has ceased to pay wages subsequently becomes subject to this chapter because it resumes paying wages, it will be assigned the appropriate experience rate in accordance with the provisions of section 72-1351, Idaho Code.

(9) Succession of experience factors. Whenever a professional employer arrangement is entered, the separate account and experience factors of payroll and reserve shall be transferred to the professional employer for the purpose of determining the professional employer's contribution rate to be paid on behalf of the client. Upon the expiration or termination of the professional employer arrangement, so much of the professional employer's separate account and experience factors of payroll and reserve as is attributable to the client shall be transferred to the terminating client for the purpose of determining the client's subsequent rate of contribution. In the event the professional employer elects to pay the client's contribution separately as provided in subsection (4) of this section, then the client's experience factors of payroll and reserve shall remain with the client employer for the duration of the professional employer arrangement.

History:

[(72-1349B), added 1977, ch. 179, sec. 14, p. 486, am. 1978, ch. 112, sec. 7, p. 243; am. 1982, ch. 326, sec. 8, p. 817; am. and redesisg. 1998, ch. 1, sec. 65, p. 49.]



# Idaho Statutes

## TITLE 72

### WORKER'S COMPENSATION AND RELATED LAWS - INDUSTRIAL COMMISSION CHAPTER 13

#### EMPLOYMENT SECURITY LAW

72-1351. EXPERIENCE RATING AND VOLUNTARY TRANSFERS OF EXPERIENCE RATING ACCOUNTS. (1) Subject to the other provisions of this chapter, each eligible and deficit employer's, except cost reimbursement employers, taxable wage rate shall be determined in the manner set forth below for each calendar year:

(a) (i) Each eligible employer shall be given an "experience factor" which shall be the ratio of excess of contributions over benefits paid on the employer's account since December 31, 1939, to his average annual taxable payroll rounded to the next lower dollar amount for the four (4) fiscal years immediately preceding the computation date, except that when an employer first becomes eligible, his "experience factor" will be computed on his average annual taxable payroll for the two (2) fiscal years or more, but not to exceed four (4) fiscal years, immediately preceding the computation date. The computation of such "experience factor" shall be to six (6) decimal places.

(ii) Each deficit employer shall be given a "deficit experience factor" which shall be the ratio of excess of benefits paid on the employer's account over contributions since December 31, 1939, to his average annual taxable payroll rounded to the next lower dollar amount for one (1) or more fiscal years, but not to exceed four (4) fiscal years, for which he had covered employment ending on the computation date; provided, however, that any employer who on any computation date has a "deficit experience factor" for the period immediately preceding such computation date but who has filed all reports, paid all contributions and penalties due on or before the cut-off date, and has during the last four (4) fiscal years paid contributions at a rate of not less than the standard rate applicable for each such year and in excess of benefits charged to his experience rating account during such years, shall have any balance of benefits charged to his account which on the computation date immediately preceding such four (4) fiscal years was in excess of contributions paid, deleted from his account, and the excess benefits so deleted shall not be considered in the computation of his taxable wage rate for the rate years following such four (4) fiscal years. For the rate year following such

computation date, he shall be given the standard rate for that year.

(iii) In the event an employer's coverage has been terminated because he has ceased to do business or because he has not had covered employment for a period of four (4) years, and if said employer thereafter becomes a covered employer, he will be considered as though he were a new employer, and he shall not be credited with his previous experience under this chapter for the purpose of computing any future "experience factor."

(iv) Benefits paid to a claimant whose employment terminated because the claimant's employer was called to active military duty shall not be used as a factor in determining the taxable wage rate of that employer.

(b) Schedules shall be prepared listing all eligible employers in inverse numerical order of their experience factors, and all deficit employers in numerical order of their deficit experience factors. There shall be listed on such schedules for each such employer in addition to the experience factor: (i) the amount of his taxable payroll for the fiscal year ending on the computation date, and (ii) a cumulative total consisting of the sum of such employer's taxable payroll for the fiscal year ending on the computation date and the corresponding taxable payrolls for all other employers preceding him on such schedules.

(c) The cumulative taxable payroll amounts listed on the schedules provided for in paragraph (b) of this subsection shall be segregated into groups whose limits shall be those set out in the table provided in section 72-1350(7), Idaho Code. Each of such groups shall be identified by the rate class number listed in the table which represents the percentage limits of each group. Each employer on the schedules shall be assigned a taxable wage rate in accordance with section 72-1350, Idaho Code.

(d) (i) If the grouping of rate classes requires the inclusion of exactly one-half (1/2) of an employer's taxable payroll, the employer shall be assigned the lower of the two (2) rates designated for the two (2) classes in which the halves of his taxable payroll are so required.

(ii) If the group of rate classes requires the inclusion of a portion other than exactly one-half (1/2) of an employer's taxable payroll, the employer shall be assigned the rate designated for the class in which the greater part of his taxable payroll is so required.

(iii) If one (1) or more employers on the schedules have experience factors identical to that of the last employer included in a particular rate class, all such employers shall be included in and assigned the taxable wage rate specified for such class, notwithstanding the provisions of paragraph (c) of this subsection.

(e) If the taxable payroll amount or the experience factor or both such taxable payroll amount and experience factor of any eligible or deficit employer listed on the schedules is changed, the employer shall be placed in that position on the schedules which he would have occupied had his taxable payroll amount and/or experience factor as changed been used in determining his position in the first instance, but such change shall not affect the position or rate classification of any other employer listed on the schedules and shall not affect the rate determination for previous years.

(2) For experience rating purposes, all previously accumulated benefit charges to covered employers' accounts, except cost reimbursement employers, shall not be changed except as provided in this chapter. Benefits paid prior to June 30 shall, as of June 30 of each year preceding the calendar year for which a covered employer's taxable wage rate is effective, be charged to the account of the covered employer, except cost reimbursement employers, who paid the largest individual amount of base period wages as shown on the determination used as the basis for the payment of such benefits, except that no charge shall be made to the account of such covered employer with respect to benefits paid under the following situations:

(a) If paid to a worker who terminated his services voluntarily without good cause attributable to such covered employer, or who had been discharged for misconduct in connection with such services;

(b) If paid in accordance with the provisions of section 72-1368(10), Idaho Code, and the decision to pay benefits is subsequently reversed;

(c) For that portion of benefits paid to multistate claimants pursuant to section 72-1344, Idaho Code, which exceeds the amount of benefits that would have been charged had only Idaho wages been used in paying the claim;

(d) If paid in accordance with the extended benefit program triggered by either national or state indicators;

(e) If paid to a worker who continues to perform services for such covered employer without a reduction in his customary work schedule, and who is eligible to receive benefits due to layoff or a reduction in earnings from another employer;

(f) If paid to a worker who turns down an offer of suitable work because of participation in a job training program pursuant to the requirements of section 72-1366(8), Idaho Code.

(3) A covered employer whose experience rating account is chargeable, as prescribed by this section, is an interested party as defined in section 72-1323, Idaho Code. A determination of chargeability shall become final unless, within fourteen (14) days after notice as provided in section 72-1368(5), Idaho Code, an appeal is filed by an interested party with the department in accordance with the department's

rules. Appeal proceedings shall be in accordance with the provisions of section 72-1361, Idaho Code.

(4) An experience rating record shall be maintained for each covered employer. The record shall be credited with all contributions which the covered employer has paid for covered employment prior to the cut-off date, pursuant to the provisions of this and preceding acts, and which covered employment occurred prior to the computation date. The record shall also be charged with the amount of benefits paid which are chargeable to the covered employer's account as provided by the appropriate provisions of the employment security law and regulations thereunder in effect at the time such benefits were paid. Nothing in this section shall be construed to grant any covered employer or individual in his service a priority with respect to any claim or right because of amounts paid by such covered employer into the employment security fund.

(5) (a) Whenever any individual or type of organization, whether or not a covered employer within the meaning of section 72-1315, Idaho Code, in any manner succeeds to, or acquires all or substantially all, of the business of an employer who at the time of acquisition was a covered employer, and in respect to whom the director finds that the business of the predecessor is continued solely by the successor, the separate experience rating account of the predecessor shall, upon the joint application of the predecessor and the successor within the one hundred eighty (180) days after such acquisition and approval by the director, be transferred to the successor employer for the purpose of determining such successor's liability and taxable wage rate and any successor who was not an employer on the date of acquisition shall as of such date become a covered employer as defined in this chapter. Such one hundred eighty (180) day period may be extended at the discretion of the director.

(b) Whenever any individual or type of organization, whether or not a covered employer within the meaning of section 72-1315, Idaho Code, in any manner succeeds to, or acquires, part of the business of an employer who at the time of acquisition was a covered employer, and such portion of the business is continued by the successor, so much of the separate experience rating account of the predecessor as is attributable to the portion of the business transferred, as determined on a pro rata basis in the same ratio that the wages of covered employees properly allocable to the transferred portion of the business bears to the payroll of the predecessor in the last four (4) completed calendar quarters immediately preceding the date of transfer, shall, upon the joint application of the predecessor and the successor within one hundred eighty (180) days after such acquisition and approval by the director, be transferred to the successor employer for the purpose of determining such successor's liability and taxable wage rate, and any successor who was not an



employer on the date of acquisition shall, as of such date, become a covered employer as defined in this chapter. Such one hundred eighty (180) day period may be extended at the discretion of the director.

(c) (i) If the successor was a covered employer prior to the date of the acquisition of all or a part of the predecessor's business, his taxable wage rate, effective the first day of the calendar quarter immediately following the date of acquisition, shall be a newly computed rate based on the combined experience of the predecessor and successor, the resulting rate remaining in effect the balance of the rate year.

(ii) If the successor was not a covered employer prior to the date of the acquisition of all or a part of the predecessor's business, his rate shall be the rate applicable to the predecessor with respect to the period immediately preceding the date of acquisition, but if there were more than one (1) predecessor the successor's rate shall be a newly computed rate based on the combined experience of the predecessors, becoming effective immediately after the date of acquisition, and shall remain in effect the balance of the rate year.

(d) For purposes of this section, an employer's experience rating account shall consist of the actual contribution, benefit and taxable payroll experience of the employer and any amounts due from the employer under this chapter. When a transferred experience rating account includes amounts due from the employer under this chapter, both the predecessor employer and the successor employer shall be jointly and severally liable for those amounts.

History:

[72-1351, added 1947, ch. 269, sec. 51, p. 793; am. 1949, ch. 144, sec. 51, p. 252; am. 1951, ch. 236, sec. 6, p. 482; am. 1953, ch. 180, sec. 1, p. 272; am. 1955, ch. 18, sec. 6, p. 20; am. 1957, ch. 158, sec. 2, p. 274; am. 1963, ch. 314, sec. 7, p. 841; am. 1965, ch. 203, sec. 1, p. 456; am. 1967, ch. 117, sec. 8, p. 233; am. 1971, ch. 142, sec. 12, p. 595; am. 1975, ch. 126, sec. 6, p. 259; am. 1980, ch. 264, sec. 5, p. 686; am. 1986, ch. 24, sec. 2, p. 71; am. 1991, ch. 119, sec. 7, p. 254; am. 1998, ch. 1, sec. 67, p. 55; am. 2004, ch. 24, sec. 4, p. 37; am. 2005, ch. 5, sec. 9, p. 17; am. 2008, ch. 44, sec. 3, p. 110; am. 2010, ch. 183, sec. 2, p. 377; am. 2011, ch. 94, sec. 1, p. 202; am. 2016, ch. 158, sec. 3, p. 434.]



# Idaho Statutes

## TITLE 72

### WORKER'S COMPENSATION AND RELATED LAWS — INDUSTRIAL COMMISSION CHAPTER 13

#### EMPLOYMENT SECURITY LAW

72-1372. CIVIL PENALTIES. (1) The following civil penalties shall be assessed by the director:

(a) If a determination is made finding that an employer willfully filed a false report, a monetary penalty equal to one hundred percent (100%) of the amount that would be due if the employer had filed a correct report or two hundred fifty dollars (\$250), whichever is greater, shall be added to the liability of the employer for each quarter for which the employer willfully filed a false report. For the purposes of this section, a false report includes, but is not limited to, a report for a period wherein an employer pays remuneration for personal services which meets the definition of "wages" under section 72-1328, Idaho Code, and the payment is concealed, hidden, or otherwise not reported to the department.

(b) If a determination is made finding that an employer willfully failed to file the employer's quarterly unemployment insurance tax report when due, the director shall assess a monetary penalty equal to:

(i) Seventy-five dollars (\$75.00) or twenty-five percent (25%) of the amount that would be due if the employer had filed a timely quarterly report, whichever is greater, if the employer had not been found in any previous determination to have willfully failed to file a timely quarterly report for any of the sixteen (16) preceding consecutive calendar quarters; or

(ii) One hundred fifty dollars (\$150) or fifty percent (50%) of the amount that would be due if the employer had filed a timely quarterly report, whichever is greater, if the employer had been found in any previous determination to have willfully failed to file a timely quarterly report for no more than one (1) of the sixteen (16) preceding consecutive calendar quarters; or

(iii) Two hundred fifty dollars (\$250) or one hundred percent (100%) of the amount that would be due if the employer had filed a timely quarterly report, whichever is greater, if the employer had been found in any previous determination or determinations to have willfully failed to file a timely quarterly report for two (2) or more of the sixteen (16) preceding consecutive calendar quarters.

(c) If a determination is made finding that an employer, or any officer or agent or employee of the employer with

the employer's knowledge, willfully made a false statement or representation or willfully failed to report a material fact when submitting facts to the department concerning a claimant's separation from the employer, a penalty in an amount equal to ten (10) times the weekly benefit amount of such claimant shall be added to the liability of the employer.

(d) If a determination is made finding that an employer has induced, solicited, coerced or colluded with an employee or former employee to file a false or fraudulent claim for benefits under this chapter, a penalty in an amount equal to ten (10) times the weekly benefit amount of such employee or former employee shall be added to the liability of the employer.

(e) If a determination is made finding that an employer failed to complete and submit an Idaho business registration form when due, as required by section 72-1337 (1), Idaho Code, a penalty of five hundred dollars (\$500) shall be assessed against the employer.

(f) For purposes of paragraphs (c) and (d) of this subsection, the term "weekly benefit amount" means the amount determined by the director pursuant to section 72-1367(2), Idaho Code.

(g) If a determination is made finding that a person has made any unauthorized disclosure of employment security information in violation of the provisions of chapter 1, title 74, Idaho Code, or section 72-1342, Idaho Code, or rules promulgated thereunder, a penalty of five hundred dollars (\$500) for each act of unauthorized disclosure shall be assessed against the person.

(h) If a determination is made finding that a professional employer failed to submit a separate quarterly wage report for each client as required in section 72-1349B(4), Idaho Code, the director shall assess a monetary penalty equal to one hundred dollars (\$100) for each client not separately reported by the professional employer; provided that the maximum penalty for any quarter shall not exceed five thousand dollars (\$5,000).

(2) At the discretion of the director, the department may waive all or any part of the penalties imposed pursuant to subsection (1) of this section if the employer shows to the satisfaction of the director that it had good cause for failing to comply with the requirements of this chapter and rules promulgated thereunder.

(3) Determinations imposing civil penalties pursuant to this section shall be served in accordance with section 72-1368(5), Idaho Code. Penalties imposed pursuant to this section shall be due and payable twenty (20) days after the date the determination was served unless an appeal is filed in accordance with section 72-1368, Idaho Code, and rules promulgated thereunder. Such appeals shall be conducted in accordance with section 72-1368, Idaho Code, and rules promulgated thereunder.

(4) Civil penalties imposed by this section shall be in addition to any other penalties authorized by this chapter. The provisions of this chapter that apply to the collection of contributions, and the rules promulgated thereunder, shall also apply to the collection of penalties imposed pursuant to this section. Amounts collected pursuant to this section shall be paid into the state employment security administrative and reimbursement fund as established by section 72-1348, Idaho Code.

History:

[72-1372, added 2005, ch. 5, sec. 16, p. 31; am. 2007, ch. 64, sec. 1, p. 157; am. 2008, ch. 44, sec. 5, p. 116; am. 2008, ch. 99, sec. 3, p. 276; am. 2011, ch. 117, sec. 1, p. 326; am. 2015, ch. 141, sec. 196, p. 530; am. 2016, ch. 280, sec. 3, p. 777.]