

## ● TEXAS UNEMPLOYMENT COMPENSATION ACT

*STATUTORY CITATION:* Tex. Labor Code §§ 201.001 – 215.044

*GENERAL SUMMARY:* The Texas Unemployment Compensation Act provides for the payment of weekly cash benefits to workers who are temporarily unemployed, have recent earnings from insured employment, and meet other eligibility criteria. Benefits are payable from the state unemployment compensation fund, which is financed by contributions from employers. In general, employers are subject to payment of UI contributions if they (1) paid wages of \$1,500 or more during a calendar quarter in the current or preceding calendar year, or (2) employed at least one individual for a portion of at least one day during 20 or more different calendar weeks this year or last.

### *PROVISIONS APPLICABLE TO AGRICULTURE*

**EMPLOYER CONTRIBUTIONS** — In most instances, with respect to wages paid for farmwork performed by migrant, seasonal and other agricultural workers under the circumstances outlined below, farm operators and other agricultural establishments in Texas are liable for unemployment insurance contributions on their workers' behalf. Generally, the amount of a subject employer's contributions is equal to the employer's total wage payments during the calendar year up to a taxable wage limit of \$9,000 per worker, multiplied by the employer's contribution rate, which is determined annually by the state administering agency on the basis of the employer's UI claims experience and other factors.

**Migrant Workers** — All wages paid to a farmworker for agricultural services which require the worker to be absent overnight from his or her permanent place of residence are subject to contributions from the employer, and all such wages are countable in determining the worker's eligibility for and the amount of UI benefits.

**Seasonal Workers** — Wages paid for agricultural services which do not require the worker's overnight absence from home are subject to employer contributions and are counted for UI benefit purposes under either of the following conditions:

(1) When the worker is performing services in an orchard, in a vineyard, or on a farm primarily devoted to the production of fruit, vegetables, potatoes, sugarbeets or vegetable seeds.

(2) When the worker is working for a farm operator or farm labor contractor who employs migrant workers doing the same work, at the same time, and at the same location as the seasonal worker.

**Other Agricultural Workers** — Wages paid to any non-migrant, non-seasonal worker performing agricultural services are subject to employer contributions and are countable in determining the worker's eligibility for benefits under either of these conditions:

(1) When the worker is employed by an employer who, during any calendar quarter of the current or preceding calendar year, paid cash wages of \$6,250 or more for agricultural labor.

(2) When the worker is employed by an employer who, for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year, employed at least 3 workers in agricultural labor.

**ELIGIBILITY FOR BENEFITS** — An unemployed farmworker, like any other jobless individual not otherwise disqualified, is generally eligible to receive unemployment benefits only if the state agency finds that the worker (1) has registered for work and continued to report as instructed, (2) has made a valid claim for benefits, (3) is able to work and available for work, and (4) has, during the first four of the last five completed calendar quarters immediately preceding the initial claim for benefits, earned UI-insured wages amounting to at least 37 times the worker's weekly benefit amount (explained below) and had insured earnings in at least two quarters of the four-quarter base period.

**AMOUNT OF BENEFITS** — The weekly benefit amount for an eligible claimant who is totally unemployed in any given week is generally equal to 1/25 of the worker's wages from insured employment during the one quarter of the four-quarter base period in which wages were highest. Minimum and maximum amounts are tied to the statewide average weekly wage for UI-covered employment, but benefits currently range between \$66 and \$493 per week. For any week of partial unemployment, a worker is generally eligible for a UI payment at the weekly benefit amount, plus \$5 or 25 percent of the benefit amount, whichever is greater, minus the wages earned that week from part-time work.

### *SPECIAL NOTES OR ADVISORIES*

**LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS** — If a farm labor contractor or labor agent furnishes farmworkers to perform agricultural services for a farm operator, the contractor is liable for the payment of UI taxes as if the contractor were the employer of the workers, without regard to the right of control or other factors commonly used to determine the employer-employee relationship. If, however, the labor contractor does not pay taxes as required, the farm operator or other person for whom the workers' services are being performed is jointly liable, together with the contractor, for the payment of contributions. Labor contractors are obligated to notify each farm operator with whom they contract as to whether or not they pay UI taxes in Texas and, if so, must present evidence to that effect.

### *ADMINISTRATION AND ENFORCEMENT*

**PRIMARY ENFORCEMENT AGENCY** — *Unemployment Insurance and Regulation Division, Texas Workforce Commission, Austin, Texas 78778 (512-463-7234; toll-free 800-939-6631).* The Commission has sole responsibility for

## Texas / Insurance & Compensation / Unemployment Insurance

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administering the state's unemployment insurance system, including employer tax liability determinations, collection of contributions, benefit eligibility determinations, payment of benefits, and adjudication of tax and benefit appeals. Claims for unemployment compensation may be filed online, at <https://apps.twc.state.tx.us/UBS/security/logon.do>.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *None.*