

Unemployment Insurance Employer Handbook

A Guide to the Kansas Employment Security Law



Contains 2007 Legislative Updates

FOREWORD

This guide was compiled and published by the Kansas Department of Labor to help employers understand their rights and responsibilities under the Kansas Employment Security Law (K.S.A. 44-701 et.seq.). Statements in this booklet are intended for general information purposes and do not have the effect of law or regulation.

The information contained herein does not cover all phases of the law nor answer all questions. Specific questions should be directed to the Unemployment Tax Contributions Field Office or Unemployment Insurance Call Center. Consult the directories on pages 40 and 41 for the office to which you should direct your inquiry.



KANSAS DEPARTMENT OF LABOR
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Unemployment Insurance

The unemployment insurance (UI) program in the United States is more than 70 years old.

The first unemployment insurance plans, supported by dues, were adopted by some larger trade unions in Switzerland in 1789. Even earlier, a version of unemployment insurance in trade guilds was supported by levies on guild members. The first government system of unemployment compensation appeared in Great Britain in 1911. Nearly every major country has enacted an unemployment insurance system.

In the United States, Wisconsin enacted a state unemployment insurance plan in 1932 in response to the Great Depression when more than 25 percent of the adult workforce was unemployed.

Then, on August 14, 1935, President Franklin D. Roosevelt signed the Social Security bill which contained provisions for UI. This legislation was the key step toward the establishment of a UI system in the United States. In all states the system is a federal-state joint venture, financed by both federal and state unemployment taxes.

The final enactment of House Bill 542 in the 1937 Kansas legislature, signed by Governor Walter Huxman on March 26, created the Division of Unemployment Compensation.

Today, the UI program is administered by the Kansas Department of Labor, Division of Employment Security. It administers the unemployment insurance program to provide temporary, weekly compensation to qualified unemployed workers. The two units of this division are benefits and tax. The benefits unit determines claimant eligibility and payment of unemployment benefits. The tax unit collects the state unemployment tax from subject employers.

Business, labor and government give credit to the unemployment insurance program as a force in reducing the severity of the recessions and other fluctuations in the economy. Such fluctuations may come from the transition from peacetime to war, natural disasters and other crises that create involuntary unemployment.

The unemployment insurance program has a beneficial influence for the individual worker or the community where the peaks and valleys of economic activity are much sharper than those occurring statewide.

Unemployment insurance cannot solve the problem of joblessness. Only more jobs can reduce unemployment. A healthy economy is the key to more jobs. KDOL's programs can help develop and maintain that economy.

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SECTION I

Employer Liability

WHICH EMPLOYING UNITS ARE SUBJECT

All employing units doing business in Kansas are subject to the provisions of the Employment Security Law. However, not all employing units are subject to the taxing provisions of the law. Coverage is determined by the type and nature of the business, the number of workers employed and the amount of wages paid for services in employment.

Every employing unit that begins business operations in Kansas is required to file form K-CNS 010, *Status Report*, within 15 days of the date of first employment. Upon receipt of the completed form, a determination of employer liability will be made and the employing unit notified accordingly.

You are automatically liable for coverage if:

- you acquire all, or substantially all, of the employing enterprises, organizations, trade or business, or substantially all of the assets of another employer subject to this act.
- you acquire less than 100 percent of an employer's annual payroll when the partial successor employing unit is controlled substantially by the same interests as the predecessor employer and intends to continue the acquired portion as an ongoing business.
- you are liable to the federal government for Federal Unemployment Tax (FUTA).
- you are a state or local governmental organization or an instrumentality of a state or local government or Indian Tribe.

You will establish liability for coverage if:

- **your employment is in a business other than agricultural, domestic or certain qualifying**

nonprofit organizations, and you have one or more employees who work for any portion of a day in 20 different weeks in a calendar year, or if your gross payroll for any calendar quarter is \$1,500 or more or if you elect to have an account established at initial registration.

- **your employment is agricultural**, and you employ 10 or more workers in any portion of 20 different weeks in a calendar year, or have a payroll of \$20,000 or more cash wages in any one calendar quarter.
- **your employment is domestic service** performed in a private home, local college club, fraternity or sorority, and you have a quarterly payroll of \$1,000 or more cash wages in any one calendar year.
- **you qualify as a nonprofit organization** for unemployment insurance purposes. To qualify, you must have been issued a 501(c)(3) exemption letter by the Internal Revenue Service and employ four or more workers in any portion of 20 different weeks in a calendar year.
- **your employment follows a period of less than three years' inactivity** in which your previously established unemployment insurance account was never officially terminated.
- **you are not otherwise subject to the taxing provisions of the law and you voluntarily elect** to become a covered employer for a period of not less than two calendar years.

PERIOD OF LIABILITY

If you meet liability requirements at any time during a year, you must file a *Quarterly Wage Report and Unemployment Tax Return* for all quarters of that year in which you had any employment. A quarterly wage report must be filed each quarter thereafter.

SECTION II

Federal Unemployment Tax Act (FUTA)

LIABILITY REQUIREMENTS

Unemployment insurance is financed by both federal and state payroll taxes. The Federal Unemployment Tax Act (FUTA) was created to finance all administrative expenses of the federal/state unemployment insurance system and the federal costs involved in extended benefits. The Kansas unemployment tax is used only for the payment of benefits to qualified unemployed workers.

Most employers liable for Kansas unemployment tax are also liable for the FUTA tax:

If your employment is agricultural, you are liable if you employ 10 or more workers in any portion of 20 different weeks in a calendar year, or have a payroll of \$20,000 or more cash wages in any calendar quarter.

If your employment is domestic service, you are liable if you have a quarterly payroll of \$1,000 or more cash wages in any one calendar quarter during the current or previous calendar year.

If your employment is in a business other than a agricultural, domestic or nonprofit organization exempt under Sec. 501(c)(3) of the Internal Revenue Code, you are liable if you have one or more employees who work for any portion of a day in 20 different weeks in a calendar year, or if your gross payroll for any calendar quarter is \$1,500 or more.

Nonprofit organizations exempt under Sec. 501(c)(3) and governmental entities are not subject FUTA.

Under the current FUTA, a payroll tax of 6.2 percent is levied on the first \$7,000 annual earnings paid each employee. As an enticement for states to maintain their

own unemployment insurance programs, federal law provides a tax credit offset of 5.4 percent for contributions paid timely into an approved state unemployment insurance fund.

FUTA Tax Rate.....	6.2%
(less) Employer Credit.....	- 5.4%
Net FUTA Tax.....	0.8%

All employers in Kansas, regardless if their experience rate is lesser or greater than 5.4 percent, are allowed the 5.4 percent credit.

Form 940, Employer’s Annual Federal Unemployment Tax Return, must be filed with the Internal Revenue Service on or before January 31, following a year when liability requirements are met. FUTA tax should be computed on a quarterly basis to determine if a deposit is required for any of the first three quarters. To compute, multiply that part of the first \$7,000 of each employee’s annual wages paid during the quarter by .008. If the tax due is more than \$100, it must be deposited by the end of the next month. If the tax due is less than \$100, no deposit is required, but it must be added to the next quarter(s) in determining the \$100 threshold.

EXAMPLE: If the tax for each of the first two calendar quarters is \$60, no deposit is required for the first quarter. However, at the end of the second quarter a deposit is required because the total undeposited tax is now more than \$100 (\$60 x 2 = \$120). If the tax for the third quarter is more than \$100, a deposit is required.

The Internal Revenue Service penalizes an employer for untimely payment of state contributions by reducing the allowable offset credit. To insure maximum credit, an employer should make certain that those contributions paid into the state unemployment fund are paid timely.

SECTION III

Covered and Excluded Employment

Liability under the Kansas Employment Security Law is incurred when an employer pays the required remuneration to persons in employment, or engages the required number of persons in employment as described in Section I.

COVERED EMPLOYMENT

The law defines employment as: any service (unless specifically excluded) performed for compensation under a contract of hire, whether the contract is expressed or implied, written or oral, and without regard to whether the service is performed on a part-time, full-time or casual basis.

Employment is service performed by an active officer of a corporation, including professional and closely-held corporations (Sub-Chapter S), or any employee under the common law employer/employee relationship. Employment also includes specific types of services, such as agent driver and commission salesperson.

Terms such as regular employment, full-time employment, commission sales, casual labor, temporary employees, part-time employees, teenage workers, etc., are all different terms for describing employment. These items generally constitute employment and are usually reportable.

A detailed explanation of the various specified persons defined to be employees is not practical. Contact your local field representative for any specific questions you might have.

STATE OF JURISDICTION

Generally, if an employee works entirely within Kansas, that employee is covered under Kansas law and all payments for services are reportable to Kansas. However, when an employee performs services in Kansas and other states, the question of whether that employee is covered by the Kansas law is determined by one of four tests listed below. Similar tests have been adopted by a majority of the states. These uniform provisions have the objective of avoiding conflicts and overlapping coverage between states where an employee performs services in more than one state for a single employer.

These tests require the use of four conditions which are applied in successive order. Once a condition is met, jurisdiction is established and no further test is considered. The tests must be applied to each employee, not the employer.

- (1) **Location of Services.** If services are performed entirely within a state, that is the state of jurisdiction. If some of the services are performed outside the state and such services are only isolated, temporary or incidental, then they are deemed to be localized within the state where the majority of the services are performed.
- (2) **Base of Employee's Operations.** If services are not localized, then the state of jurisdiction is the state from which an employee customarily starts out to perform services and customarily returns for employer instruction or communication, to replenish stock, to repair equipment or to perform other employment-related activities.
- (3) **Place of Direction and Control.** If neither of the above tests apply, then the state of jurisdiction is the state from which the employee's services are directed and controlled.
- (4) **Employee's Residence.** If none of the above tests apply, then the state of jurisdiction is the state in which the employee resides, provided the employee performs some services there.

Kansas, as well as most other states, participates in making reciprocal arrangements with appropriate and duly authorized agencies of other states. These arrangements are made in order to prevent the reporting of a worker's wages to more than one state, as well as to concentrate and simplify an employer's unemployment tax reporting.

The Kansas law permits an election to cover multistate work if the worker:

- (1) performs some services in Kansas
OR
- (2) has a residence in Kansas
OR
- (3) has an employer which maintains a place of business in Kansas

An employer may make an election to cover multistate workers in Kansas by filing form K-CNS 412, *Employer's Election to Cover Multi-State Workers Under the*

Kansas Employment Security Law, with the Chief of Contributions, Kansas Department of Labor, 401 SW Topeka Boulevard, Topeka, KS 66603-3182. The election must be approved by all states where the individual worker may do some work for the employer and under whose law they might otherwise be covered.

Since questions of jurisdiction of coverage are technical, an employer confronted with this type of situation should contact their field representative for a determination.

EXCLUDED EMPLOYMENT

The services of some workers are excluded from coverage under the Kansas Employment Security Law. The employment and earnings of workers in excluded employment cannot be used to qualify them for unemployment insurance benefits. However, employment performed for a liable employer is covered employment unless specifically excluded.

Employment or payrolls connected with the following types of services are excluded from coverage:

- Independent contractors are excluded from coverage under the Kansas Employment Security Law. These are persons who are actually in business for themselves and hold themselves available to the general public to perform services.

While the law does not define an independent contractor, court decisions have held that the common law tests of master and servant must be applied in making determinations of whether services rendered by an individual are in the capacity of an employee or independent contractor.

The Kansas Employment Security Law provides two specific tests to be applied to the worker's service to determine if the service constitutes that of an independent contractual nature (K.S.A. 44-703).

- (1) Such individual has been and will continue to be free from control or direction over the performance of such services, both under the individual's contract of hire and in fact.
- (2) Such service is either outside the usual course of the business for which such service is performed or that such service is performed outside of all the places of business of the enterprise for which such service is performed.

These tests are of a conjunctive nature and BOTH MUST BE MET for a worker to be considered as an individual contractor, rather than an employee.

The degree of control necessary to establish an employer/employee relationship must be assessed with regard to the custom and usage surrounding the performance of the particular service involved. A thorough examination of the employer/employee relationship should be made before classifying a person as an independent contractor.

Since matters concerning the status of persons as employees or independent contractors are often complex, it is recommended that employers contact their local field representative for a determination.

- Services covered by another unemployment insurance law (such as Railroad Retirement Act and Federal employees).
- Services performed by an individual in the employ of a son, daughter, or spouse or by a child under 21 years of age employed by the child's parents. This family exemption does not apply to any corporation. It is applicable only for an individual proprietorship or a partnership if the relationship of the exempt member is the same for all partners of the partnership.
- Services performed for a church, convention or association of churches, or an organization which is operated primarily for religious purposes and is owned, operated, controlled or principally supported by a church, or a convention, or association of churches.
- Services performed by carriers under 18 years of age in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution.
- Services of an individual performed for an organization exempt from federal income tax as set forth in Section 501(a) of the Federal Internal Revenue Code, if wages for such services are less than \$50 per calendar quarter.
- Services of an elected official, member of a legislative body or member of the judiciary of the state or its political subdivision in the performance of the duties of such office or position.
- Services performed as an insurance agent or solicitor, if all such service is performed for remuneration solely by way of commission.
- Services performed as a qualified real estate agent, if remuneration for services is directly related to sales or other output and the services are performed pursuant to a written contract and the contract provides that the individual will not be treated as an employee.
- Services performed for an employer as an extra in connection with any phase of motion pictures, or television, or television commercials for less than 14

days during any calendar year. (This exclusion shall not apply to any employer that is a governmental entity or any employer described in Section 501(c)(3) of the Federal Internal Revenue Code of 1986.)

- Services performed by oil and gas contract pumpers performing pumping and other related services on one or more oil or gas leases or on both oil and gas leases, relating to the operation and maintenance of such leases on a contractual basis. “Services” does not include services performed for a governmental entity or exempt nonprofit organization. (This exemption does not apply to governmental entities or any employer described in Section 501(c)(3) of the Federal Internal Revenue Code of 1986.)
- Service not in the course of trade or business is exempt employment unless the employee is paid \$200 or more cash remuneration in the calendar quarter for such service or the employee is regularly employed by the employer to perform such service. An individual is considered regularly employed if the individual works some portion of 24 days during the calendar quarter for the employer performing service not in the course of the employer’s trade or business or the individual was regularly employed during the preceding calendar quarter. (This exemption does not apply to governmental entities or any employer described in Section 501(c)(3) of the Federal Internal Revenue Code of 1986.)
- Services performed as a qualified direct seller. The term “direct seller” means any person who is engaged in the trade or business of selling or soliciting the sale of consumer products to any buyer on a buy-sell basis or a deposit-commission basis for resale in the home or other than in a permanent retail establishment. It also includes a person who is directly engaged in the trade

or business of selling or soliciting the sale of consumer products in the home or other than in a permanent retail establishment.

- Services by member managers/members carrying out their duties as members are exempt employment. If a member performs services for the LLC over and above their duties as a member, the services would be covered employment and compensation received for those services would be taxable.
- Services performed by election officials and election workers receiving less than \$1,000 a year are excluded from the term “employment.”
- Service performed by agricultural workers who are aliens admitted to the United States to perform labor, as provided by the immigration and nationality act.
- Service performed by an owner-operator of a motor vehicle that is leased or contracted to a licensed motor carrier with the services of a driver and is not treated under the terms of the lease agreement or contract with the licensed motor carrier as an employee.
- Other exemptions include certain services performed by students, inmates of correctional institutions, hospital patients, recipients of certain rehabilitation work-relief and work-training programs.

Any employer who is in doubt whether or not wages for services are reportable should contact their local field representative (see page 40), or write to:

Kansas Department of Labor
Unemployment Tax Contributions
401 SW Topeka Boulevard
Topeka, KS 66603-3182

SECTION IV

Wages

WAGES DEFINED

The term “wages” for the purpose of unemployment insurance means all remuneration for services rendered including salaries, commissions, bonuses, vacation and holiday pay, severance pay, and the cash value of all remuneration, including benefits, in any medium other than cash. This includes:

- Salaries, commissions and bonuses before deductions.
- Any amount actually drawn by an employee from a drawing account.
- Advances against commissions.
- Payments made to corporate officers, including corporate officers of an S corporation.
- Tips and gratuities when reported in writing to the employer by the employee. Employees must provide a written statement reporting all tips received if they total \$20 or more in a month.
- Sick pay and accident disability payments. Payments made by a third party, i.e., insurance companies, are reportable. The third party is considered the employer and responsible for the correct reporting thereof, unless they report sick pay payments to the employer.
- Employee contributions (elective deferrals) into a 401(k) Deferred Compensation Plan.
- Severance pay or dismissal payments irrespective of whether the employer is legally required to make such payment.
- Back pay awards or settlements such as a result of National Labor Relations Board decisions or binding arbitration by an independent arbitrator.

WAGE EXCLUSIONS

The following payments are not considered to be wages:

- Medical or hospitalization expenses in connection with sickness or accident disability.

- Payments to a health savings account, if such payments can be excluded from income under the Federal Internal Revenue Code of 1986.
- Death benefits for employees.
- Certain trusts, annuity plans, bond purchase plans or simplified pension plans purchased on behalf of an employee or the employee’s beneficiary.
- Certain benefits under a cafeteria plan.
- Payment of the employee’s share of social security for domestic and agricultural workers.
- Remuneration paid in any medium *other than cash* to an employee for service *not* in the employer’s normal course of business or trade.
- Moving expenses paid by an employer for an employee.
- Payment made to an employee or his dependents upon or after termination of the employment relationship because of death or disability retirement.
- Remuneration for agricultural labor paid in any medium other than cash.
- Payment of dependent care assistance programs for employees under a qualified plan.
- Meals or lodging furnished by the employer for the convenience of the employer.
- Payment made to a survivor or estate of a former employee after the calendar year in which the employee died.
- Employee achievement awards, qualified scholarships and certain fringe benefits.
- Payments or benefits relating to educational assistance under section 127 of the Federal Internal Revenue Code of 1986.
- Employer matching contributions and other forms of employer contributions to a 401(k) Deferred Compensation Plan.

SECTION V

Methods of Financing Unemployment Compensation Programs

Liable employers, under the Kansas Employment Security Law, fall into one of three main categories, either contributing, reimbursing or rated governmental, depending upon the method of financing the employer uses to satisfy the unemployment compensation tax liability.

While the majority of liable employers in Kansas are required to be “contributing” employers, provisions of the law specify that nonprofit organizations exempt under 501(c)(3) of the Internal Revenue Code and governmental entities may elect an alternative method to finance their tax liability.

Contributing Method

All employers in Kansas are required to pay contributions by the contributing method except governmental entities and 501 (c) 3 nonprofit organizations. However, at their option these entities may select the contributing method of payment. A contributing employer is required to report total wages paid each employee during a calendar quarter, but pays taxes based upon an \$8,000 taxable wage base as defined in the law.

Reimbursing Method

This alternative payment method is available only to governmental entities, Indian Tribes or nonprofit organizations that are exempt under the Internal Revenue Code, Section 501(a) and specifically described in Section 501(c)(3). With this option, the employer reports total wages paid each employee each quarter, but pays no tax at the time. Instead, this option requires the employer to reimburse the fund 100 percent for any benefits paid to their former employees. Also, this option does not have a noncharge provision for benefits, as do the other two options.

Election of the reimbursing payment option must be for a minimum of four complete calendar years. Once the minimum period has been satisfied, such employer may change their payment option by filing a written request with the Secretary of Labor not later than 30-days prior to the beginning of the calendar year for which the change is to become effective.

Bond Required

A 501(c)(3), governmental employer, or Indian Tribe electing the reimbursing option will be required to obtain a surety bond or post a surety deposit with the department or

to purchase and deliver to an escrow agent a certificate of deposit in the amount of 5.4 percent of the organization’s taxable wages (or estimated amount of taxable wages) paid during the one-year period immediately preceding the date of election. Within this option, extended benefits for a governmental entity are charged 100 percent to the employer’s account. Extended benefits for a 501(c)(3) organization are charged 50 percent to the employer and 50 percent to FUTA.

Rated Government Method

This alternative payment method is only available to a governmental entity. This employer reports total wages paid each employee each quarter and pays tax on total wages.

Election of the rated governmental payment option must be for a minimum of four complete calendar years. Once the minimum period has been satisfied, such employer may change their payment option by filing a written request with the Secretary of Labor not later than 30-days prior to the beginning of the calendar year for which the change is to become effective.

A new rated governmental employer is assigned a rate for each year until it becomes eligible for a computed rate. The assigned rate is based upon the benefit cost experience of all rated governmental employers during the previous fiscal year ending March 31. Generally, after three years the employer becomes eligible for a computed benefit cost rate.

Most governmental entities operate on a fiscal-year budget and require a much earlier notification of their future tax liability. The rated governmental payment method meets this special need since the computation date is March 31 and permits notification of an employer’s benefit cost rate in June of each year. The following points should be noted:

- (1) Rated governmental employers are eligible to participate in the noncharge provisions of the law (refer to the explanation of noncharge in the Benefit’s section).
- (2) The computed benefit cost rate for eligible employers will be based upon an employer’s own experience and an adjustment factor which is used to recover the cost of noncharged benefits paid to former employees of rated governmental employers.
- (3) The rates will vary among employers, but no rate can be less than 0.10 percent.

SECTION VI

Contribution Rates

(Applicable to Contributing Employers Only)

All Kansas employers, determined liable under the “contributing” provision of the Kansas Employment Security Law, pay into the Unemployment Trust Fund maintained to distribute unemployment insurance benefits to qualified unemployed workers. The majority of employers, called contributing employers, finance their unemployment tax liability by paying contributions determined by multiplying a specified contribution rate times a taxable payroll determined on an \$8,000 wage base earned by each employee during a calendar year. Contributing employers submit, quarterly, the K-CNS 100, *Quarterly Wage Report and Unemployment Tax Return*, to report wages and pay the amount of tax due.

NEWLY LIABLE EMPLOYER CONTRIBUTION RATES

For years prior to 2007, a newly liable contributing employer is assigned the larger tax rate determined by alternative methods. The tax rate may be the average rate assigned to all employers plus one percent. Or the rate may be the average rate for employers in a comparable industry plus one percent. The tax rate can not be lower than two percent. Beginning January 1, 2007, a new employer is assigned a rate of 4.0% except employers engaged in the construction industry. They will be assigned a rate of 6.0%. After three years, when original liability is established before July 1, the employer will have a tax rate computed with experience rate factors. When liability is established after June 30, the employer will have a computed rate after four years.

EXPERIENCE RATED EMPLOYER CONTRIBUTION RATES

Experience rating is a procedure for varying employer rates and allocating costs of the unemployment insurance program in relation to the employer’s actual and potential risk with unemployment. This is accomplished by the department keeping an individual experience rating account for each liable employer. All tax payments are added and all benefit charges are subtracted from the experience rating account. This provides an opportunity for contributing employers to “earn” a tax rate based on their own individual experience and their potential risk of unemployment. The procedure also helps to insure an adequate trust fund balance.

At the close of each fiscal year, June 30, computations are begun on each contributing employer’s tax rate for the succeeding calendar year. This computation involves the following steps and factors:

(1) Account Balance

The difference between the total contributions paid and the total benefits charged is the account balance. This indicates an employer’s actual experience with unemployment.

Total contributions paid includes contributions paid for all prior years and for the first and second quarters of the computation year, if all payments have been received on time.

Total benefits charged include benefits paid which have been charged against the employer’s experience rating account in all prior years and during the first and second quarters of the computation year.

(2) Average Annual Payroll

The average of the taxable payrolls for the last three calendar years immediately preceding the computation date (or past two years for some new employers who have completed only two years of liability). This figure indicates an employer’s potential risk in regard to unemployment.

(3) Reserve Ratio

To obtain this percentage figure, the account balance is divided by the average annual payroll and the result multiplied by 100.

$$\frac{\text{Account Balance}}{\text{Average Annual Payroll}} \times 100 = \text{RR}$$

RR = Reserve Ratio (decimal)

An employer’s basic contribution rate is fixed according to the reserve ratio table in the law. The basic rate is then adjusted as provided in the so-called “size of fund control” formula in the law which compares the total payroll with the size of the Employment Security Trust Fund.

Employers with a positive balance eligible for computed rates are divided into 51 groups in accordance with the

relative size of their reserve ratio in comparison to all other eligible positive-balanced contributing employers. Each rate group contains approximately 1.96 percent of the taxable wages paid by all eligible employers. These employers are placed in order or “arrayed” by reserve ratio with the highest placed in rate group 1 and the lowest at the bottom in rate group 51. The higher the reserve ratio, the more favorable the contribution rate.

NEGATIVE ACCOUNT BALANCE EMPLOYERS

When the benefits charged to an employer’s account exceed taxes paid and credited to that account, tax rates are based upon the employer’s negative reserve ratio.

All eligible contributing employers with a negative account balance are assigned the maximum rate provided in the law of 5.4 percent and are not included in the experience rate computation previously outlined.

In addition to the maximum rate, negative account balance employers are subject to a surcharge. The surcharge is based upon the size of the employer’s negative reserve ratio with a minimum of 0.2 percent to a maximum of 2.0 percent. Therefore, the rates will range from 5.6 percent to 7.4 percent.

RECAPTURED EMPLOYERS

A recaptured employer is an employer who is subject to the Kansas Employment Security Law and resumes paying wages after having not paid wages for a period of at least one year. The Kansas Employment Security Law allows employers to recapture their experience rating factors after they have reestablished a new period of 24 months of benefit chargeability immediately preceding the computation date of June 30. The new period begins on the date the employer resumes paying wages.

If the employer resumes paying wages in a year in which a rate has been computed, the computed rate will be used for the balance of that year. If a rate cannot be computed, the employer will be assigned the rate of rate group 51. If the employer is a negative account employer, a rate of 7.40 percent will be assigned. After the new period of 24 months of benefit chargeability has been established, the rates will be computed in the same manner as any other employer eligible for an experience computed tax rate.

IMPORTANT NOTE: To avoid being classified as a recaptured employer and being assigned the maximum rate indicated in rate group 51, an employer must pay some wages during each calendar year.

NOTIFICATION OF CHARGES

In September of each year, form K-CNS 403, *Notice of Benefit Charges*, is mailed to all contributing employers. This notice is a statement of an employer’s pro rata share of all benefit payments charged to their experience rating account during the 12-month period immediately preceding the computation date of June 30. These benefit charges will be used in the computation of the next calendar year contribution rate. Each employer should examine this notice carefully to insure its accuracy. Any questions regarding the pro rata charge of benefits, or a request for a redetermination of a benefit charge must be made within 15 days from the mailing date of this notice. The employer’s correspondence and any supporting documentation should be directed to: Kansas Department of Labor, ATTN: Benefits Unit, 401 SW Topeka Boulevard, Topeka, KS 66603-3182.

NOTIFICATION OF RATES

In December of each year, form K-CNS 404, *Experience Rating Notice*, is mailed to all contributing employers. This notice provides each employer with essential information concerning the status of the employer’s experience rating account and the contribution rate for the next calendar year. The determination of the contribution rate becomes conclusive and binding upon an employer unless within 15 days from the mailing date of this notice, the employer requests a review and redetermination and sets forth in writing the reasons for the request.

VOLUNTARY PAYMENTS

Employers are permitted to make voluntary contributions for the purpose of obtaining a more favorable contribution rate.

As part of the Experience Rating Notice, each contributing employer receives a “voluntary contribution computation.” An employer may, within a 30-day period immediately following the date of mailing, make a voluntary contribution to their experience rating account for the purpose of obtaining a reduced rate. The voluntary contribution computation provides the employer with the exact amount necessary; however, the employer must determine if the voluntary contribution payment is beneficial. The reduction in the experience rate resulting from voluntary contributions for positive account balanced employers cannot exceed five rate groups. Negative account balance employers may make a voluntary contribution in the amount of their negative

balance and receive the rate of group 51, or make an additional voluntary payment to reduce the rate to that of groups 50 through 47. Such voluntary contributions will be credited to the employer's experience account and the experience rate for the current calendar year will be recomputed. Voluntary contributions are not refundable, nor can they be used to offset FUTA taxes.

TRANSFER OF EMPLOYER'S EXPERIENCE ACCOUNT

When all or part of a subject employer's organization, trade or business is transferred to another, several provisions of the Kansas Employment Security Law control the transfer of the experience factors.

Mandatory Transfer

A mandatory transfer of a predecessor employer's experience rating factors is required whenever the successor employer has substantially common ownership, management or control of that of the predecessor employer. Some examples when mandatory transfer applies are:

- Individual owner incorporates the business and the individual is the only or the controlling corporate officer.
- A partnership incorporates and the partners are now the only corporate officers.
- One corporation is acquired by another having the same corporate officers.

MANDATORY PARTIAL TRANSFER

Voluntary Transfer

When both parties to the transfer represent different interests, the successor employer may make a voluntary Election within 120 days of the date of transfer to receive the predecessor experience rating factors.

Partial Transfer

When a successor acquires less than 100 percent of an employer's annual payroll and intends to continue the

acquired part as an ongoing business, a partial transfer of experience rating factors can be made if:

- (1) Both the predecessor and partial successor make written application within 120 days of the date of transfer.
- (2) The partial successor is or becomes an employer immediately after the transaction.

A mandatory partial transfer of a predecessor employer's experience rating factors is required when an employing unit acquires less than 100 percent of an employer's annual payroll and the partial successor employing unit has substantially common ownership, management or control of that of the predecessor employer and intends to continue the acquired portion as an ongoing business.

Anytime an employer has a mandatory full or partial successorship, the contribution rate shall be recalculated and made effective on the first day of the next calendar quarter following the date of the transfer.

In all other successorships, when the successor already has a contribution rate applicable to the year in which the transfer occurs, that rate will remain unchanged for the year. However, the following year's rate will be based on the combined experience of the predecessor and successor. A successor establishing liability as of the date of change, electing a transfer of factors, will be assigned the rate of the predecessor for the balance of the calendar year.

PROHIBITED TRANSFERS

Unemployment experience may not be transferred, and a new employer rate (or the state's standard rate) will be assigned, when a person who is not an employer acquires the trade or business of an existing employer. The prohibition applies only if the department finds that such person acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions.

The law provides civil and criminal penalties for employers attempting to manipulate their rate and other persons knowingly giving advice leading to such violations.

SECTION VII

Obligations of Liable Employers

EMPLOYER ACCOUNT NUMBER

Each liable Kansas employer is assigned a six-digit employer account number. This number should appear on all correspondence and forms submitted by the employer to the department.

QUARTERLY WAGE REPORT AND UNEMPLOYMENT TAX RETURN

Except for those employers who are liable for reimbursement payments in lieu of contributions, every liable Kansas employer is required to report and pay contributions on wages paid to its workers, both permanent and temporary, except for those specifically excluded (see Section III).

For reporting purposes, all employers are provided form K-CNS 100, *Quarterly Wage Report and Unemployment Tax Return*. This report is due on the last day of the month following the end of each calendar quarter and must be filed even if there were no reportable wages or contributions due for the quarter. The report is considered filed as of the date it is placed in the United States mail.

A *Quarterly Wage Report and Unemployment Tax Return* is mailed to registered employers approximately 30 days in advance of the due date and is imprinted with the employer's name, address, account number and contribution rate. These forms should always be used in reporting to facilitate processing and to avoid errors.

Employers who become newly liable during a calendar year must file a separate *Quarterly Wage Report and Unemployment Tax Return* for each calendar quarter in which wages were paid.

ELECTRONIC FUNDS TRANSFER

Electronic Funds Transfer (EFT) may be used to pay Kansas unemployment taxes (contributions). The Kansas Department of Labor EFT Program offers the Automated Clearing House Debit (ACH) method only to electronically transfer tax payments. The ACH system is a nationwide network designed for this purpose and

is the preferred transaction method for many financial institutions and corporations. The clearing facilities, delivery methods and settlement services operated by the Federal Reserve System are utilized within the network in order to maintain security and increase the efficiency of transactions. For further information, contact the Unemployment Tax Contributions Unit, phone 785-296-5027 or e-mail us at uitax@dol.ks.gov.

ELECTRONIC WAGE REPORTING

The department encourages all employers to file their reports electronically. There are several options available for filing and submitting the wage detail on line. For more information, go to our Web site at www.dol.ks.gov. If you have additional questions, please contact KDOL at (785) 296-5000.

IMPORTANCE OF TIMELINESS

It is important for the employer to file the *Employer's Quarterly Wage Report and Unemployment Tax Return* and pay the contribution monies due on time. Otherwise:

Penalty: Failure to file on time subjects an employer to a penalty of 0.05 percent per month, or fraction thereof, of the total wages paid in the delinquent quarter. However, in no instance will the penalty be less than \$25 or greater than \$200 per calendar quarter. To avoid this penalty, the employer should file this report timely even if unable to pay the contributions (taxes) due.

Interest: Failure to pay contributions by the due date subjects an employer to an interest charge of 1.0 percent per month, or fraction thereof, until payment is received for all quarters.

Cash Deposit or Bond: Contributing employers which are two quarters delinquent in making payments may be required to post a cash deposit or bond guaranteeing the payment of contributions. If an employer fails to make the deposit or bond, the employer's contribution rate will be increased. A surcharge of 2.0 percent must be paid in addition to the assigned rate; however, the additional surcharge will not be credited to an employer's experience rating account.

Willful Failure to Pay Contributions: Any officer, major stockholder or other person who has charge of affairs of an employer which is a corporation or association who willfully fails to pay contributions, payments in lieu of contributions, penalty and interest shall be personally liable for the total amount due if not paid by the corporation or association.

Penalty for Willful Failure to Pay: Any employer or person who willfully fails or refuses to pay contributions, reimbursing payments or benefit cost payments shall be liable for the payment of the taxes and shall be liable to pay a penalty equal to the amount of taxes evaded or not paid.

With timely contribution reports and contribution payments, employers easily avoid these measures.

FINAL REPORTS

Employers should immediately notify the department when selling all or part of the business or discontinuing business for any reason. All *Quarterly Wage Report and Unemployment Tax Returns* and taxes, including penalty and interest, are due within 15 days of selling or closing the business.

If the employer sells all or part of the business, the selling employer must supply the department with the following information concerning the transaction: buyer's name, trade name, address, date of sale and that portion of the business sold.

If the business is discontinued, the employer must supply the department with the date of closing.

UNDERREPORTING/OVERREPORTING CONTRIBUTIONS

Underreporting or overreporting of contributions on the *Quarterly Wage Report and Unemployment Tax Return* shall be corrected as soon as possible. Errors on past reports cannot be adjusted on a current report. For each quarterly wage report requiring adjustment, the employer must file form K-CNS 111, *Adjustment to Employer's Wage Report*.

On this report, the employer shows the wages and contributions originally reported, the wages and contributions which should have been reported, and the difference. In the event of an underpayment of contributions, the additional amounts should be paid promptly. In the event of an overpayment of contributions, a notice of overpayment will be issued. If the employer

wishes the overpaid amount refunded, the employer must request such in writing; otherwise, the overpayment will be used to offset future contributions due.

REQUIRED RECORD KEEPING

The law requires every employer to maintain certain records for each individual employed. These records must be retained for a period of not less than five years from the due date of contributions for the period to which they relate.

Employment records, as well as all other records of the employer's business, must be available for department inspection upon request. An employer may maintain records in any manner provided they show for each worker:

- (1) Name and social security account number.
- (2) State or states in which services were performed.
- (3) Dates hired and terminated.
- (4) The amount of wages paid and the period for which paid, showing separately:
 - a. cash wages, including special payments.
 - b. reasonable cash value or remuneration in any medium other than cash.
- (5) Amounts paid as allowances or reimbursement for business expenses.

AUDITS OF EMPLOYER RECORDS

In order to ensure compliance with the taxing provisions of the law and to promote the employer's knowledge and understanding of their requirements under the law, audits are conducted on employer's records periodically. Audits are usually computer-selected at random from a pool of employer accounts. The audit is for a minimum of one calendar year and can be expanded to include the entire five-year period allowed by regulations. The field representative completing the audit is required to inspect and verify information in all disbursement records maintained by the employer. An audit may disclose an underpayment or overpayment of taxes by an employer.

In cases of underpayment, the field representative will collect additional taxes due. In cases involving overpayment, the field representative will assist the employer in applying for a tax refund or credit adjustment.

PRIME CONTRACTOR'S PROVISION

Prior to July 1, 2007, a provision of the Kansas Employment Security Law places a special responsibility on an employer who is engaged in any type of construction. Under this provision, the subject prime contractor is made responsible for the assurance of payment of unemployment taxes owed by a subcontractor whose services have been engaged by the prime contractor.

The law specifies that the prime contractor must require the subcontractor to provide a good and sufficient bond guaranteeing payment of all taxes, penalty and interest. Failure to comply with the provisions of this section of the law will render the prime contractor directly liable for payment of all unemployment taxes, penalties and interest owed by the subcontractor.

Upon completion of a contract with the subcontractor, the prime contractor should complete and file form K-CNS 222,

Prime Contractor's Release of Liability Application. The department will search its records to determine if the subcontractor has filed and paid the required contributions during the period of the contract. As soon as the subcontractor's compliance is determined, the prime contractor is mailed a completed copy of the release.

BACK PAY AWARD

When an employer is required to pay a back pay award or settlement to a former employee, wages paid under the award or settlement are taxable and must be allocated to the week or weeks specified in the award or agreement. (Absent such specificity in the award or agreement, such wages shall be allocated to the weeks in which they would have been paid.) If the employer withholds the amount of unemployment benefits paid to the worker, the employer must remit the withheld amount to the department. If the employer pays the entire back pay award to the worker, a benefit overpayment will be established requiring the worker to repay the department.

SECTION VIII

Employee Leasing Provision

An employee leasing business is any independently established business entity, which engages in the business of leased employees to a client. An employee leasing business is liable for Kansas's unemployment tax on wages paid by the business to individuals performing services for clients.

The employee leasing business shall keep separate records and submit separate quarterly unemployment tax and wage reports for each client. The leasing entity will be assigned a separate employer account for each client.

Individual proprietors, partners or corporate officers who are shareholders or a member of the board of directors of the client cannot be leased back to the client from the employee leasing business. If the client is a corporation, such corporate officers will continue to be reported by the client as employees of the client.

The employee leasing provision provides the client shall be jointly and severally liable for any unpaid unemployment tax, interest and penalties due from the employee leasing business attributable to wages for services performed for the client by employees leased to the client.

This provision does not include private employment agencies, which provide temporary workers to clients on a temporary help basis provided the private employment agencies are liable as employers for the payment of contributions on wages paid to the temporary workers. However, if such agency also provides leased employees to a client, the employee-leasing segment of the business would be subject to the employee leasing provisions.

SECTION IX

Disputing a Determination (Contributions Appeal Process)

As an employer, you have the right to challenge any adverse decision of the Unemployment Tax Contributions Unit if you feel it is contrary to the law. An appeal process is provided for in K.A.R. 50-2-19 to resolve protests of any determination made pursuant to K.S.A. 44-703, 44-710, 44-710a, 44-710b, 44-710d, 44-717(k) and 44-719(e). Appeals generally fall into the following categories:

- Notice of liability determination (including, but not restricted to):
 - a. employer liability
 - b. employer/employee relationships
 - c. wages
 - d. agricultural labor
 - e. domestic service
- Notice of contribution rate or benefit cost rate.
- Notice of benefit payments.

An employer may protest the correctness of the **pro rata** charges of benefit payments to the employer's account.

NOTE: An employer may not protest the eligibility of a claimant to receive benefits under K.S.A. 44-705 or protest a prior determination of chargeability at the time a valid new claim is presented under K.S.A. 44-710(c) in a Contributions' protest.

- Notice of the transfer of experience rating factors.
- Willful failure assessments.

An employer must take the following steps when protesting a determination:

- (1) Within 20 days from the mailing or 15 days after delivery of the determination, request in writing, setting forth the reasons therefore, an administrative review of the determination.

NOTE: Request for an administrative review of the contribution rate or benefit cost rate must be made within 15 days of mailing and delivery of the notice.

The administrative review will be made by the Chief of Contributions or his authorized representative. The employer will be notified within 60 days of the results of the administrative review. The results of this review will become binding unless:

- (2) Within 20 days after the mailing of or 15 days after the delivery of the results of the administrative review, the employer requests an administrative hearing.

If the secretary or designee grants an administrative hearing, the employer shall be notified of that determination within 10 days and shall be granted an opportunity for a fair hearing before the secretary or designee. Upon receipt of a determination granting an administrative hearing and upon agreement of all parties in interest, the parties may notify the secretary or designee, in writing, within 10 day from the receipt of the determination, of the parties' desire for mediation. This notice shall include the names and addresses of all parties in interest and a statement that all parties in interest are agreeing to mediation.

Within 10 days from the receipt of a request for mediation, the parties shall be notified by the secretary or designee of the determination.

If the request is granted, the administrative hearing may be held in abeyance pending completion of the mediation process. The determination granting or denying a request for mediation shall not be subject to review or appeal.

If the parties are unable to reach agreement through mediation, the matter shall be set for administrative hearing.

At the administrative hearing the employer is entitled to be present, to be represented by counsel or by a designated representative of the employer's choice at the employer's own expense, and to present oral testimony or evidence. The employer will be notified within 30 days of the Secretary of Labor's findings as a result of the administrative hearing.

Requests for the administrative review and the administrative hearing must be sent to:

Kansas Department of Labor
ATTN: Chief of Contributions
401 SW Topeka Boulevard
Topeka, KS 66603-3182

- (3) An employer may appeal the Secretary of the Kansas Department of Labor's findings to the district court pursuant to K.S.A. 44-710(b) or K.S.A. 60-2101(d), whichever is applicable.

An appeal of the administrative review determination shall not stay the enforcement of the order made unless the Chief of Contributions or the authorized representative orders a suspension of enforcement.

If you should have any questions regarding the Contributions' appeal process, contact the Kansas Department of Labor in Topeka at 785-296-5023 or e-mail Joe.Vining@dol.ks.gov.

SECTION X

Claims and Benefits

The Kansas Employment Security Law was enacted to provide some income during limited unemployment for those individuals who are unemployed due to conditions in the economy or labor market and through no fault of their own. Unemployment insurance pays benefits to workers until they are recalled by the employer or until they find jobs for which they are reasonably suited in terms of training, past experience and past wages.

Unemployment insurance is paid only to those claimants who meet the requirements of the law. It is not a handout to individuals who have not worked or are unwilling to do so.

Unemployment insurance helps employers to conserve their trained labor force involuntarily laid-off for a temporary period. Also, it tends to apply a brake upon the downward spiral of business activity at the beginning of a downward trend in the economy.

To understand the benefit provisions of the law, the employer must become familiar with some of the terms. These include:

Base Period: The first four of the last five completed calendar quarters immediately preceding the first day of a claimant's benefit year is known as the base period. Benefit entitlement is determined according to the claimant's insured work record during that period.

Effective July 1, 2002, a person having a personal injury by accident arising out of and in the course of employment and receiving Workers Compensation may qualify for an Alternative Base Period.

Benefit Year: The benefit year is a one-year period commencing on the Sunday immediately preceding the day in which a valid claim is filed. During the benefit year, a claimant may not receive more than the total benefit amount established when the claim was filed.

Duration of Benefits/Total Benefit Amount: The total amount a claimant is eligible to receive in one benefit year is the "total benefit amount" calculated by 26 times the weekly benefit amount or one-third of the wages for insured work paid during the base period, whichever is less. A claimant may be paid benefits until their total benefit amount is exhausted. This is normally 26 weeks, if the claimant was entitled to the maximum total benefit

amount. However, this may be more than 26 weeks duration if the individual receives less than their weekly benefit amount due to earnings or other offset deductions.

Effect on Benefits When a Claimant Works: A claimant may earn 25 percent of their determined weekly benefit amount, before a deduction is made for earnings from employment.

Extended Benefits: During periods of high unemployment, up to an additional 13 weeks worth of benefits may be paid to the claimant.

Waiting Week Period: Each individual who files a new valid claim for benefits must serve a one-week waiting period. Effective with new claims filed July 1, 2007, the waiting week period will be waived if the individual is laid off due to lack of work because the employer terminated business operations in Kansas, declared bankruptcy or the employer initiated a Worker Adjustment and Retraining Notification (WARN) notice. Under any of these conditions, the waiting week will be paid when it is claimed.

An individual who does not meet the above criteria will be eligible to be paid for their waiting week after they have filed a weekly claim for benefits for the waiting week period and for the two consecutive weeks immediately following the waiting week. Failure to meet the eligibility requirements during one or more of those three weeks or to file a claim for any of the three weeks will result in the waiting period week not being paid. Waiting week will be paid during the fourth week of the claim if there is not a disqualifying issue.

If neither of the above criteria is met, an individual will not receive payment for the waiting week.

Weekly Benefit Amount (WBA): The claimant's weekly benefit amount is computed by multiplying 4.25 percent of the highest paid quarter in the base period. The weekly benefit amount may not exceed what the secretary establishes as the maximum weekly benefit amount by computing 60 percent of the average weekly wages paid to employees in insured work during the previous calendar year. The minimum weekly benefit payable amount to any individual is 25 percent of the maximum weekly benefit amount, which also is established by the secretary.

COMPUTATION OF BENEFIT AMOUNT

Base Period: First four of last five completed calendar quarters preceding claim effective date.				Filed valid claim Nov. 7, 2007. Benefit year begins on Sunday, Nov. 4, 2007.		Benefit Year begins Nov. 4, 2007. Benefit Year ends Nov. 3, 2008.			
BASE PERIOD				LAG QUARTER	FILING QUARTER	BENEFIT YEAR			
2006 Jul-Aug-Sep	2006 Oct-Nov-Dec	2007 Jan-Feb-Mar	2007 Apr-May-Jun	2007 Jul-Aug-Sep	2007 Oct-Nov-Dec	2008 Jan-Feb-Mar	2008 Apr-May-Jun	2008 Jul-Aug-Sep	2008 Oct-Nov-Dec
Wages \$1,750	Wages \$1,700	Wages \$2,200	Wages \$2,400	Wages in this qtr. not used					

Weekly Benefit Amount

The claimant had the highest earnings (\$2,400) in the April-May-June quarter of 2007.....\$2,400 x 4.25% = 102 WBA

Qualifying Earnings

To qualify for benefits the claimant must have been paid wages from insured employment in at least two quarters with total wages of at least thirty times the weekly benefit amount.....30 x \$102 = \$3,060 (The claimant, in this example, qualifies.)

Total Benefit Amount

\$1,750 + \$1,700 + \$2,200 + \$2,400 = \$8,050 = Total Base Period Earnings
 1/3 of \$8,050 = \$2,683
 26 x \$102 (Weekly Benefit Amount) = \$2,652
 \$2,652 is the Total Benefit Amount since it is less than \$2,683.

QUALIFYING FOR UNEMPLOYMENT INSURANCE

ELIGIBILITY REQUIREMENTS

Claimant eligibility is based upon certain conditions. An unemployed individual is eligible to receive unemployment insurance benefits if:

- a. The individual has made a claim for benefits.
- b. The individual has registered for work.
- c. The individual is able to work, available for work and is actively seeking work.
- d. The individual has been unemployed and has claimed a waiting period of one week which occurs within the benefit year.
- e. The individual has received wages from insured employment in two or more quarters of the base period, and has total base period wages equaling at least 30 times the weekly benefit amount.

- f. The individual's employment was for services not specifically excluded by the act.
- g. The individual is not disqualified in accordance with provisions of the law.

Certain Exceptions to Qualifying for Benefits

A self-employed individual is not eligible for unemployment insurance benefits.

A corporate officer of a small closely-held corporation is normally not eligible. A corporate officer is not considered unemployed when the corporation is still active and the individual is not receiving a salary. An example is: A small corporation in the construction business does not have contracts during the winter months; however, the corporate officers are still considered employed because they are actively seeking new contacts and performing other services for the corporation.

A corporate officer may be eligible if the business is totally discontinued or sold to another party and the services of that individual are no longer required.

Effective July 1, 2002, a person having a personal injury by accident arising out of and in the course of employment and receiving Workers Compensation may qualify for an Alternative Base Period. (See Base Period.) Other qualifying factors for the Alternative Base Period are:

- 1) Claimant must have filed for benefits within four (4) weeks of being released to return to work by a licensed and practicing health care provider;
- 2) Claimant must have filed for benefits within 24 months of the date the qualifying injury occurred and
- 3) Claimant must have attempted to return to work with the employer, but regular work or comparable and suitable work was not available.

FILING A CLAIM

An individual who wishes to file a claim for unemployment insurance benefits must assemble all wage and separation information and file their claim on the internet at www.uibenefits.dol.ks.gov or telephone an unemployment insurance call center. (See page 41 for phone numbers.)

An interview is conducted by a claimstaker who processes the claim and answers questions concerning the individual's benefits. Soon after this initial interview, a monetary determination is mailed to the individual. The monetary determination contains information about previous wages and employment in the base period and whether these wages are sufficient to qualify for benefits.

EMPLOYER NOTICES

When an individual files a claim for unemployment insurance benefits, that individual's last employing unit and all base period employers relating to the claim are mailed a form K-BEN 44/45, *Employer Notice* or a form K-BEN 46, *Reimbursing Employer Notice*. This notice identifies the claimant's name, social security number and the potential benefit charge to the employer's account.

If a worker is separated for other than a lack of work, the employing unit has an opportunity to provide information. The form needs to be signed and returned within 10 days from the mailing date to the unemployment insurance office address printed in the upper left-hand corner of the form.

Employer Protest to the Benefit Charge

Base period employers have the right to request reconsideration of the charges to a claim. The Kansas Employment Security Law provides that benefits are not charged to the account of a contributing or rated governmental employer if it is found the claimant was separated under any of the following conditions:

- a. Discharged for misconduct connected with the work.
- b. Discharged for gross misconduct connected with the work.
- c. Left work voluntarily without good cause attributable to the work or the employer.
- d. Was and still is a part-time employee (part time means concurrent work with two or more employers in the base period and continues part-time work while claiming benefits).

An employer having a valid reason to protest the claim must complete the reverse side of the *Employer Notice* (K-BEN 44/45) and return it within 10 days to the department. The employer must provide factual and specific reasons for the claimant's separation and furnish other facts and documentation, which may be significant in the determination of the claim.

A Reconsidered Base Period Employer Notice is issued after all the facts have been considered and a determination is made. This determination informs the employer of a reconsidered charge or noncharge. Once determined, the charge or noncharge remains in effect the entire benefit year unless changed as a result of the appeal process (see *Disputing a Claim*). *A base period notice will not be mailed to a contributing or rated governmental employer if the potential charge is \$100 or less (reimbursing employers are not eligible for non-charges).*

DISQUALIFICATION FOR UNEMPLOYMENT INSURANCE BENEFITS

Although a claimant meets all other requirements, the claimant may be disqualified from receiving unemployment insurance benefits under certain provisions of the law. Disqualifications are explained as follows:

- (1) A claimant is disqualified beginning with the day after the separation until re-employed and has had insured earnings of at least three times the determined weekly benefit amount if the claimant:

- a. Voluntarily left work without good cause attributable to the work or the employer. There are 12 specific exceptions whereby benefits may be payable. A claims representative can provide further information.
 - b. Was discharged for misconduct connected with the work. There are specific circumstances that are not disqualifying. A claims representative can provide further information.
 - c. Failed, without good cause, to apply for or to accept suitable work when offered by the employment office or an employer.
 - d. Failed, after a temporary job assignment, to affirmatively request an additional assignment on the next succeeding workday, if required by the employment agreement, after completion of a given work assignment.
- (2) A claimant discharged for gross misconduct connected with the work is disqualified until reemployed and has had insured earnings of at least eight times the determined weekly benefit amount. In addition, all wage credits attributable to the employment from which the individual was discharged for gross misconduct are canceled.
- (3) A one-year disqualification is applied for making false statements or for withholding information to obtain more benefits than due.
- (4) Benefits are denied for each week in which the claimant is:
- a. Unemployed because of a labor dispute in which the individual is interested, participating or financing.
 - b. Claiming or receiving benefits under another state or federal law.
 - c. Receiving compensation for temporary total or permanent total disability under the worker's compensation law of a state or the United States.
 - d. Not able to perform the duties of the individual's customary occupation or the duties of other occupations for which the individual is reasonably fitted by training or experience.
 - e. Not pursuing a full course of action most reasonably calculated to result in reemployment.
 - f. Considered to be in need of reemployment services through a profiling system but fails to participate in such reemployment services or to show justifiable cause for failure to participate.
- (5) Other disqualifications:
- a. Employees of educational institutions are disqualified from benefits between terms or academic years if they had a contract or reasonable assurance for their work in a recently completed academic year or term, and have a contract or reasonable assurance of employment in the same or similar position for the next academic year or term.
 - b. A school bus or other motor vehicle driver employed by a private contractor to transport pupils, students and school personnel to or from school-related functions or activities for an educational institution are disqualified between academic years or terms if the individual has a contract or assurance of employment for the next academic year. (Services as a bus or other motor vehicle driver for a private contractor to transport persons to or from nonschool related functions or activities are not disqualified.)
 - c. Employees of governmental entities and nonprofit organizations described in Section 501(c)(3) of the Federal Internal Revenue Code of 1986 that provide any services to or on behalf of an educational institution are disqualified for benefits between academic years or terms if the individual has a contract or assurance of employment for the next academic year or term.
 - d. An individual is disqualified when registered at and attending an established school, training facility or any other educational institution, or is on vacation during or between two successive academic years or terms unless engaged in full-time employment concurrent while attending school or is attending approved training. There are certain hours of attendance that are not disqualifying. A claims representative can provide further information.
 - e. Benefits based on wage credits earned as a professional athlete are not available between seasons to individuals who have been employed in the past sports season as a professional athlete and have a reasonable assurance of being again employed as a professional athlete in the following sports season.
 - f. Wages earned by aliens while working illegally in the United States are not available to establish unemployment insurance benefits.
 - g. The weekly benefit amount is reduced if the claimant is receiving a governmental or other pension, retirement or retired pay, annuity or other similar periodic payment under a plan maintained by a base period employer.
 - h. Back pay is considered as wages and is allocated to the week(s) and reported as specified in the order or agreement. If not specified, then the

back pay is allocated and reported to the week(s) that wages would have been paid.

- i. Certain remuneration is considered wages to be reported by the claimant that is deductible from the claimant's weekly benefit amount.

Remuneration considered as wages includes: Vacation pay attributable to a week claimed when work was temporarily interrupted, holiday pay with no additional conditions of attendance and severance pay, if paid as scheduled, and all other employment benefits within the employer's control continued, as though the severance had not occurred. Employment benefits within the employer's control means those benefits defined in the Federal Employee Retirement Income Security Act and which the employer has the option to continue after the employee's last day.

The following is not considered as wages reportable by the claimant: Remuneration for a public assistance work project; vacation pay, except as explained above; holiday pay with conditions of attendance attached; severance pay, in lieu of pay payable after severance of the employment relationship.

Determining Suitable Work

Certain basic criteria is considered in determining whether or not work is suitable for an individual. Some of these are: the degree of risk involved to the individual's health, safety and morals; the individual's experience and prior earnings; the length of the individual's unemployment; prospects for obtaining local work in the individual's customary occupation; and the distance of available work from the individual's residence.

SHARED WORK UNEMPLOYMENT INSURANCE PROGRAM

An employer and their employees may participate in the Shared Work Unemployment Insurance Program. An employer who employs two or more employees and who wishes to participate is required to submit a written plan for the secretary's approval.

A shared work plan is in lieu of temporary total lay-off that impacts at least 10 percent of the employees in an affected unit. A shared work plan may not be used to subsidize seasonal employees during the off season. A shared work plan reduces the normal weekly hours of work for an employee in the affected unit by not less than 20% and not more than 40%.

To be eligible, an employer must have filed all reports required to be filed under the employment security law for all past and current periods and must have paid all contributions, benefit cost payments or if a reimbursing employer has made all payments in lieu of contributions due for all past and current periods. A contributing or rated governmental employer must be eligible for a rate computation and a contributing employer can not have a negative account balance in their experience rating account.

Additional information on the Shared Work Program may be obtained by contacting the Kansas Department of Labor, Unemployment Insurance Benefits Unit, Topeka, KS at 785-296-3594.

SECTION XI

Disputing a Claim

Appeal to the Referee

An employer or the claimant has the right to appeal a determination issued by a deputy examiner. To be considered timely, the appeal must be within 16 days of the mailing date.

The Kansas Employment Security Law provides for the right of any interested party to file an appeal to a determination or decision. Appeal hearings are held on an informal basis and conducted in accordance with Adjudicatory Rules of Practice and Procedure. It is the responsibility of the appeals referee to moderate the proceedings and make certain that all of the important facts are properly presented in order that a fair, impartial decision may be made according to applicable law.

The employer and the claimant have rights at a hearing including: To be represented by a lawyer, agent or any other person who may be of assistance; giving and objecting to evidence; questioning witnesses of the opposing party and explaining or rebutting testimony.

All testimony given at the hearing is recorded in the event of further appeal by either party. Due to the strict guidelines placed upon the department by the U.S. Department of Labor, continuances may not be granted without good reason.

Appeal to the Board of Review

A referee's decision may be appealed to the Kansas Board of Review. The appeal must be filed within 16 days from the date of the decision.

The board does not conduct a hearing, but decides the matter solely on the record made at the hearing before the

Kansas Department of Labor's appeal referee. No new evidence may be introduced; however, the board may send the case back to a special hearing officer to obtain further evidence.

Confidentiality of Appeal Hearing Transcripts

Appeal hearing transcripts are specifically identified as not releasable, are sealed and are only available to a reviewing authority who shall then reseal. Transcripts may be available for use in the administration or adjudication of a claim for benefits under another state program.

Appeal to the District Court

An employer or the claimant may appeal from the decision of the Board of Review. The appeal must be filed in the proper judicial district of the district court.

Release of Information

Information in an unemployment insurance claim file is confidential and may not be released, except in certain specific circumstances. Information from a claim file may be released to federal and state officials in the performance of their official duties for the purpose of income and eligibility verification. All public officials must hold the files or information confidential.

Collateral Estoppel Provision

A collateral estoppel provision establishes that decisions made pursuant to any administrative hearings regarding unemployment insurance will not be conclusive, binding or admissible as evidence in any separate action outside the scope of the Employment Security Law.

SECTION XII

Definition of Terms

Administrative Review: Review of a contribution's determination.

Appeal: A request for review of a determination or reconsideration issued by a deputy examiner.

Appeal Referee: A person who acts as administrative law judge at a hearing resulting from an appeal of a deputy examiner's determination or reconsideration.

Average Annual Payroll: The average of the taxable payrolls of an eligible contributing employer for the last three calendar years immediately preceding the computation date. For certain new employers, the average is computed by using the last two calendar years.

Base Period: The first four quarters of the last five completed calendar quarters immediately preceding the first day of a benefit year.

Benefit Cost Payment: Quarterly tax payments made by rated governmental employers.

Benefit Determination: A determination by a deputy examiner of the Kansas Department of Labor with respect to a person's eligibility or qualification of unemployment insurance benefits.

Board of Review: A group of three individuals who decide appeals of a referee's decision.

Claimant: An individual who is seeking unemployment insurance benefits.

Contributing Employer: Any employer, other than a reimbursing employer or rated governmental employer, who pays contributions each quarter based upon a contribution rate and a taxable wage base as determined in the law.

Contributions: Quarterly tax payments made by contributing employers.

Contributions Determination: A decision by the Contributions Branch concerning liability determinations, rate or benefit payment protests and the transfer of experience rating factors.

Deputy Examiner: An individual who reviews the information received from the claimant and the employer and makes the initial determination or reconsideration of the claimant's eligibility.

Disqualification: A denial of unemployment insurance benefits.

Duration of Unemployment (Disqualification): Period of time commencing with the effective date of a determination of disqualification to receive unemployment insurance benefits and ending when the individual has returned to insured work and earned three or eight times his weekly benefit amount.

Eligible Employer: A contributing or rated governmental employer who has been subject to the Employment Security Law for a sufficient period of time to have its contribution rate or benefit cost rate computed based upon its own actual and potential risk of unemployment.

Employer: An individual or entity that is subject to the Kansas Employment Security Law.

Extended Benefits: Additional benefits allowed, based upon economic conditions, when regular benefits have been exhausted.

Governmental Employers: The State of Kansas and its political subdivisions including counties, cities, townships, water districts, cemetery districts and any other governmental units.

Issue: A question of fact or law to be decided.

Indian Tribe: Tribal units, (subdivisions, subsidiaries or business enterprises wholly owned by such Indian Tribes.

Judicial Review: Review by the district court or appellate court of the final decision by the Secretary of the Kansas Department of Labor.

Monetary Determination: A determination notifying the claimant of “base period wages” and whether the wages are sufficient to qualify for benefits. If sufficient, then a weekly benefit amount and total benefit amount are established for the benefit year.

Negative Account Balanced Employer: An eligible contributing employer whose total benefits charged have exceeded all contributions paid.

Nonmonetary Determination: A determination that is not based on wages (money). It is issued by the district office or Unemployment Insurance Benefits Unit and advises both the employer and the claimant that either a denial of benefits has or has not been assessed. Either party has appeal rights. The appeal must be filed within 16 days of the mailing date.

Payments in Lieu of Contributions: Payments that equal the full amount of regular benefits, plus one half of extended benefits for nonprofit employers and payments

that equal the full amount of regular benefits, plus the full amount of extended benefits for governmental employers.

Rated Governmental Employer: A governmental unit that elects to make benefit cost payments based upon the governmental employer rate and total wages.

Reconsideration: Review of a benefit determination upon the timely request of an employer or claimant.

Reimbursing Employer: A governmental unit, Indian Tribe or nonprofit organization described in Section 501(c)(3) of the Federal Internal Revenue Code that elects to make reimbursing payments in lieu of contributions.

Total Benefit Amount: The total benefits an individual is entitled to receive during the benefit year.

Weekly Benefit Amount: The amount that an individual may receive as weekly benefits that are based on highest quarterly earnings from the base period.

SECTION XIII


Selected Reports

Status Report, K-CNS 010

Regulations issued under the Kansas Employment Security Law provide, "Every employing unit for which services are performed in employment shall file a report to determine status within 15 days after such first employment."

The purpose of the Status Report is to provide information for this agency to determine liability/non-liability under the statutes of the law. Complete in accordance with instructions. Be sure to include the Federal Identification Number and Social Security number of the owner, all partners or corporate officers. The form must be signed and dated on the back side.

For forms and online filing, go to www.dol.ks.gov, click Employers and Businesses, under Unemployment click Apply for a Tax Account.

 KANSAS DEPARTMENT OF LABOR 401 SW Topeka Blvd., Topeka, KS 66603-3182 www.dol.ks.gov • Telephone - 785-296-5027 • Fax - 785-291-3425		FOR KDOL USE					
		ACCOUNT NUMBER		BASIS LIA		LIA EFFECTIVE	
ESTAB DATE		TYPE OWN		NAICS		SIC	
CNTY		LMIS		QTR PRINT REQUEST			
L&L		LIQ		PARTIAL		ELEC TRAN	
				MAN TRAN		NO TRAN	
EXAM UNIT				DELINQ ACCNT UNIT			

STATUS REPORT
 Unemployment Insurance Liability Determination

1. When did you first pay wages IN **KANSAS**? MM-DD-YYYY _____
2. Your nine digit **FEDERAL** Employer's Identification Number (FEIN, TIN) _____
3. To help us assign a more accurate unemployment tax rate and NAICS classification, describe, **with some detail** your MAJOR **KANSAS** business activity, product or service that generates the most revenue. Please include your Internet home page address:

4. Are you an employee leasing company, PEO, or client? No Yes If Yes, indicate PEO, or Client
5. Are you a part of a larger organization primarily providing support services to other units of the larger organization? No Yes If Yes, indicate
 Headquarters - i.e., corporate, regional management offices Storage - i.e., warehouse, distribution center
 Administrative - other than headquarters Research - i.e., R&D lab, etc.
 Other - specify, i.e., security office, maintenance, etc. _____
6. Corporate name: _____
7. Business or trade name: _____
IF DIFFERENT THAN CORPORATE NAME
8. Mailing address: _____
STREET ADDRESS AND/OR PO BOX AREA CODE TELEPHONE
- | | | | | |
|---------------------|----------------------|---------------------------|--------------------------|--------------------------|
| <small>CITY</small> | <small>STATE</small> | <small>ZIP PLUS 4</small> | <small>AREA CODE</small> | <small>TELEPHONE</small> |
|---------------------|----------------------|---------------------------|--------------------------|--------------------------|
9. **KANSAS** business location: Storefront/Physical Location Job/Construction Site Employee's Residence


<small>STREET ADDRESS (DO NOT USE PO BOX)</small>	<small>CITY</small>	<small>STATE</small>	<small>ZIP + 4</small>	<small>AREA CODE</small>	<small>TELEPHONE</small>
---	---------------------	----------------------	------------------------	--------------------------	--------------------------
10. Company or In-house payroll contact: _____
NAME AREA CODE TELEPHONE
 E-mail address: USER_NAME@DOMAIN.COM _____ Fax: _____
AREA CODE TELEPHONE
 Off-site payroll contact: _____
NAME AREA CODE TELEPHONE
11. Type of Individual Corporation Limited Liability Company Government 501(c)(3)
SERVICE BUREAU/COMPANY ADDRESS
 Ownership: Partnership Limited Partnership Limited Liability Partnership Other - specify _____
12. Owners - Partners (general & limited) - Corporate Officers - Member/Managers - etc. Use **LEGAL** names. Do **NOT** use nicknames.

Social Security No.	First Name	Middle Initial	Last Name	Title	Date of Birth	Residence Address

K-CNS 010 (Rev. 3-07)

Notice of Benefit Charges, K-CNS 403

During September of each year, a Notice of Benefit Charges is mailed to all subject contributing employers. This is a statement of the pro rata share of benefit payments charged to an account during the fiscal year ended June 30. These benefit charges will be used in the computation of the contribution rate for the next calendar year.



KANSAS DEPARTMENT OF LABOR
401 S.W. Topeka Boulevard
Topeka, Kansas 66603-3182

NOTICE OF BENEFIT CHARGES

CHARGES ARE FOR FISCAL YEAR

DATE MAILED:
ACCOUNT NO.:

*** (-) INDICATES A CREDIT**

ACCOUNT NUMBER	CLAIMANT'S NAME	SOCIAL SECURITY NUMBER	BENEFIT YEAR BEGAN	* AMOUNT CHARGED		ACCOUNT NUMBER	CLAIMANT'S NAME	SOCIAL SECURITY NUMBER	BENEFIT YEAR BEGAN	* AMOUNT CHARGED


K-CNS 403 (Rev. 6-04 C43A)

>OVER<
IMPORTANT INFORMATION

Experience Rating Notice, K-CNS 404

In December of each year, an Experience Rating Notice is mailed to all subject contributing employers. This notice provides the experience rating computation and the resulting tax rate for the upcoming calendar year.

A voluntary contribution computation is a part of the Experience Rating Notice. If you wish to make a voluntary contribution, return the lower portion to the administrative office along with the proper remittance for the option you select.

	KANSAS DEPARTMENT OF LABOR 401 S.W. Topeka Boulevard Topeka, Kansas 66603-3182	<h2 style="margin: 0;">EXPERIENCE RATING NOTICE</h2>					
		DATE MAILED: ACCOUNT NO.:					
PRIOR YEARS THRU JUNE 30, FOR FISCAL YEAR ENDED JUNE 30, TOTALS	<u>CONTRIBUTIONS PAID</u> <hr style="border-top: 1px solid black;"/> <hr style="border-top: 1px solid black;"/>	<u>BENEFITS CHARGED</u> <hr style="border-top: 1px solid black;"/> <hr style="border-top: 1px solid black;"/>	<u>TAXABLE PAYROLL</u> <hr style="border-top: 1px solid black;"/> <hr style="border-top: 1px solid black;"/>				
ACCOUNT BALANCE IS:	$\frac{\text{(Contributions Paid Less Benefits Charged)}}{\text{RATE COMPUTATION}}$		TOTAL Average of Taxable Payrolls Shown is →				
ACCOUNT BALANCE	\div	AVERAGE ANNUAL TAXABLE PAYROLL	=	RESERVE RATIO	RATE GROUP	YOUR CONTRIBUTION RATE FOR IS %	
IF YOU HAVE ANY QUESTIONS REGARDING YOUR COMPUTATION SHOWN BELOW, CONTACT:		CONTRIBUTION RATE COMPUTATION SHOWN ABOVE or the VOLUNTARY CONTRIBUTION PHONE:					
If you desire to make a voluntary contribution to reduce your tax rate, cut off this portion and return it with your remittance							
VOLUNTARY CONTRIBUTION COMPUTATION							
OPTION I: FOR RATE GROUP	\times	Average Annual Taxable Payroll	=	Account Balance Required to Lower Rate	- Present Account Balance	IS Amount of Voluntary Contribution Required to Lower Tax Rate	If you select this option your New Rate is %
OPTION II: FOR RATE GROUP							%
OPTION III: FOR RATE GROUP							%
OPTION IV: FOR RATE GROUP							%
OPTION V: FOR RATE GROUP							%
ACCOUNT NO.	FILL IN YOUR OPTION AND AMOUNT OF PAYMENT: OPTION _____ \$ _____ Your voluntary contribution must be postmarked by:						
K-CNS 404 (Rev. 6-04 C44A)	>OVER< APPEAL RIGHTS			Signature of Owner, Partner or Corporate Officer			

Employer Notice, K-BEN 44/45

When a claim is filed, an Employer Notice is mailed to all contributing and rated governmental base period employers and to the last employing unit that is an interested party to the claim. Complete and return the notice within 10 days, supplying the requested information, or to protest a claim or protest a potential charge as shown on the form.

KANSAS DEPARTMENT OF LABOR

EMPLOYER NOTICE

REPLY TO THIS ADDRESS:

DATE MAILED:
CLAIMANT:
SSN:
BENEFIT YEAR BEGINS:
LOCATION WORKED:

POTENTIAL BENEFIT CHARGE
TO YOUR ACCOUNT: \$
EMPLOYER NUMBER:
OFFICE USE:

IMPORTANT: 10-DAY TIME LIMIT TO POSTMARK OR FAX YOUR RESPONSE. PLEASE READ AND FOLLOW ALL INSTRUCTIONS. IF YOU FAX YOUR RESPONSE, DO NOT MAIL. FAILURE TO TIMELY SUBMIT THIS INFORMATION SHALL BAR YOU FROM PROTESTING ANY SUBSEQUENT DECISION MADE REGARDING THIS CLAIM. {K.S.A. 44-709 (b); K.S.A. 44-710 (c) (3)}

The individual listed above has filed an unemployment insurance claim. You are the claimant's last and/or base period employer. (See the box below.) Request Second Notice (see Part B. on back)

YOU ARE THE CLAIMANT'S MOST RECENT EMPLOYING UNIT (LAST EMPLOYER), AND ALSO A BASE PERIOD EMPLOYER. SEE PART "A" AND PART "B" FOR INSTRUCTIONS ON REVERSE SIDE.

You reported wages for the following calendar quarter of this base period:

Provide complete details regarding the circumstances surrounding the separation (attach additional pages if needed).

LACK OF WORK (Was Lack of Work due to business closing in Kansas; Bankruptcy; WARN Notice? *See back side for explanation.) DISCHARGED VOLUNTARILY QUIT OTHER

LAST DAY WORKED _____ SEPARATION DATE (if different from last day worked) _____

If this response is mailed or faxed beyond the time limit, you must include any explanation for the delay. Your late response will be considered only if you can establish excusable neglect. This form is mailed or faxed late because;

EMPLOYER'S CERTIFICATION (You must sign this document) I do hereby certify that the information submitted is correct and complete, and I have read the instructions on the reverse side. I acknowledge that willful misrepresentation or failure to disclose a material fact is punishable by imprisonment for up to 60 days and/or a fine of up to \$200 for each day of failure or refusal to disclose correct and complete facts. {K.S.A. 44-719 (b)}. If signed by an employer agent, who is not an employee of the employing unit, the response must include the name and title of the contact person from the employer who certifies the information to be correct and complete (K.A.R. 50-3-1).

Signature

Title

Telephone No. & Ext.

Printed Name

Date

If you are returning this form by mail, this original must be returned with an original signature.

K-BEN 44/45 (04/03, B441)

Employer Notice, K-BEN 44/45

(Reverse Side of K-BEN 44/45)

*Effective July 1, 2007 if an individual is laid off due to lack of work because the employer terminated business operations in Kansas, declared bankruptcy or initiated a Worker Adjustment and Retraining Notification (WARN) notice, the claimant will not be required to serve the one week waiting period.

There may be instances where you will receive two employer notices for the same individual. If you receive two notices containing the same "Date Mailed", complete only one and return both forms to the Call Center.

PART A. LAST EMPLOYER INSTRUCTIONS (K.S.A. 44-709)

The claimant listed you as the LAST EMPLOYER. You must respond and furnish complete, accurate separation information even if you do not wish to protest this claim. You may also supply eligibility information and/or job offer/refusal information. **YOUR COMPLETE, ACCURATE RESPONSE MUST BE POSTMARKED OR FAXED WITHIN 10 CALENDAR DAYS AFTER THE DATE MAILED ON THE FRONT SIDE TO BE CONSIDERED, OTHERWISE A DETERMINATION WILL BE MADE BASED ON AVAILABLE INFORMATION.** If the 10th day falls on a Saturday, Sunday or legal holiday, the period runs to the next day which is not a Saturday, Sunday or legal holiday. Your failure to timely submit this information shall bar you from protesting any subsequent decision made regarding this claim.

Provide complete details regarding the circumstances surrounding the separation (attach additional pages if needed). Include all policies violated, warning(s) issued, test results considered and related documents, resignations offered, witness statements, or any other documents related to the separation. **YOUR FAILURE TO SUBMIT COMPLETE INFORMATION SHALL BAR YOU FROM PROTESTING ANY SUBSEQUENT DECISION MADE REGARDING THIS CLAIM.** {K.S.A. 44-709 (b); K.S.A. 44-710 (c) (3); K.A.R. 50-3-1 (d)}

PART B. BASE PERIOD EMPLOYER INSTRUCTIONS

Base period employer means you have paid wages during the calendar quarters used to establish this claim. Your account will be charged based upon wages you have paid this claimant unless you furnish detailed information justifying relief from such charges. Your account will be charged as noted on the front side next to "Potential Benefit Charge To Your Account", if you are a base period employer, or if you do not return this form with complete, accurate information.

Your account will be charged unless, as shown by the details and evidence you provide, the claimant's LAST EMPLOYMENT WITH YOUR FIRM ended for one of the following reasons: DISCHARGE for misconduct, QUIT without good cause, or WAS and STILL IS a part-time employee. (Part time means CONCURRENT work with TWO OR MORE employers and which continues WHILE claiming benefits.)

YOUR COMPLETE, ACCURATE RESPONSE MUST BE POSTMARKED OR FAXED WITHIN 10 CALENDAR DAYS AFTER THE DATE MAILED ON THE FRONT SIDE TO BE CONSIDERED, OTHERWISE A DETERMINATION WILL BE MADE BASED ON AVAILABLE INFORMATION.

Provide complete details regarding the circumstances surrounding the separation (attach additional pages if needed). Include all policies violated, warning(s) issued, test results considered and related documents, resignations offered, witness statements, or any other documents related to the separation. **YOUR FAILURE TO SUBMIT COMPLETE INFORMATION SHALL BAR YOU FROM PROTESTING ANY SUBSEQUENT DECISION MADE REGARDING THIS CLAIM.** {K.S.A. 44-709 (b); K.S.A. 44-710 (c) (3); K.A.R. 50-3-1 (d)}

"Notice of Separation and Request for Reconsideration under Section 44-710 (c), Kansas Employment Security Law"

Returning this form will constitute a request for reconsideration of the benefit charge indicated on the front side of this form, if any. You may request that your charge/non-charge determination be deferred until a first payment is made following an additional claim. (You may want this option if the claimant is currently between school terms, on a leave of absence, or involved in a labor dispute.) If you wish to use this option, check the Second Notice box on the front of this form so that a second Employer Notice will be mailed to you if first payment is made following an additional claim.

Reimbursing Employer Notice, K-BEN 46

Only if the claimant worked for a reimbursing employer, a Reimbursing Employer Notice is mailed to all base period reimbursing employers who are interested parties to the claim.

KANSAS DEPARTMENT OF LABOR

REIMBURSING EMPLOYER NOTICE

REPLY TO THIS ADDRESS:

UNEMPLOYMENT CALL CENTER
PO BOX 3539
TOPEKA, KS 66601-3539
TEL 785-575-1460
FAX 785-296-3249

DATE MAILED:
CLAIMANT:
SSN:
BENEFIT YEAR BEGINS:
LOCATION WORKED:

**POTENTIAL BENEFIT CHARGE
TO YOUR ACCOUNT:
EMPLOYER NUMBER:
OFFICE USE:**

IMPORTANT: 10-DAY TIME LIMIT TO POSTMARK OR FAX YOUR RESPONSE. PLEASE READ AND FOLLOW ALL INSTRUCTIONS. IF YOU FAX YOUR RESPONSE, DO NOT MAIL. FAILURE TO TIMELY SUBMIT THIS INFORMATION SHALL BAR YOU FROM PROTESTING ANY SUBSEQUENT DECISION MADE REGARDING THIS CLAIM. {K.S.A. 44-709 (b); K.S.A. 44-710 (c) (3)}

The individual listed above has filed an unemployment insurance claim.

YOU ARE A BASE PERIOD EMPLOYER. SEE PART "B" (REVERSE SIDE).

You reported wages for the following calendar quarter of this base period:

Provide complete details regarding the circumstances surrounding the separation (attach additional pages if needed).

LACK OF WORK (Was Lack of Work due to business closing in Kansas; Bankruptcy; WARN Notice? *See back side for explanation.) DISCHARGED VOLUNTARILY QUIT OTHER

LAST DAY WORKED _____ SEPARATION DATE (if different from last day worked) _____

If this response is mailed or faxed beyond the time limit, you must include any explanation for the delay. Your late response will be considered only if you can establish excusable neglect. This form is mailed or faxed late because;

EMPLOYER'S CERTIFICATION (You must sign this document) I do hereby certify that the information submitted is correct and complete, and I have read the instructions on the reverse side. I acknowledge that willful misrepresentation or failure to disclose a material fact is punishable by imprisonment for up to 60 days and/or a fine of up to \$200 for each day of failure or refusal to disclose correct and complete facts. {K.S.A. 44-719 (b)}. If signed by an employer agent, who is not an employee of the employing unit, the response must include the name and title of the contact person from the employer who certifies the information to be correct and complete (K.A.R. 50-3-1).

Signature

Title

Date

Employer Contact Name

Title

Date

Telephone No. & Ext.

If you are returning this form by mail, this original must be returned with an original signature.

K-BEN 46 (Revised 6-2004)

Reimbursing Employer Reply, K-BEN 46

(Reverse Side of K-BEN 46)

Complete and return the Reimbursing Employer Reply to the office indicated within 10 days to supply any requested information.

***Effective July 1, 2007 if an individual is laid off due to lack of work because the employer terminated business operations in Kansas, declared bankruptcy or initiated a Worker Adjustment and Retraining Notification (WARN) notice, the claimant will not be required to serve the one week waiting period.**

There may be instances where you will receive two employer notices for the same individual. If you receive two notices containing the same "Date Mailed", complete only one and return both forms to the Unemployment Call Center.

PART A. LAST EMPLOYER INSTRUCTIONS (K.S.A. 44-709)

The claimant listed you as the LAST EMPLOYER. **You must respond and furnish complete, accurate separation information even if you do not wish to protest this claim.** You may also supply eligibility information and/or job offer/refusal information. **YOUR COMPLETE, ACCURATE RESPONSE MUST BE POSTMARKED OR FAXED WITHIN 10 CALENDAR DAYS AFTER THE DATE MAILED ON THE FRONT SIDE TO BE CONSIDERED, OTHERWISE A DETERMINATION WILL BE MADE BASED ON AVAILABLE INFORMATION.** If the 10th day falls on a Saturday, Sunday or legal holiday, the period runs to the next day which is not a Saturday, Sunday or legal holiday. **Your failure to timely submit this information shall bar you from protesting any subsequent decision made regarding this claim.**

Provide complete details regarding the circumstances surrounding the separation (attach additional pages if needed). Include all policies violated, warning(s) issued, test results considered and related documents, resignations offered, witness statements, or any other documents related to the separation. **YOUR FAILURE TO SUBMIT COMPLETE INFORMATION SHALL BAR YOU FROM PROTESTING ANY SUBSEQUENT DECISION MADE REGARDING THIS CLAIM. {K.S.A. 44-709 (b); K.S.A. 44-710 (c) (3); K.A.R. 50-3-1 (d)}**


PART B. BASE PERIOD EMPLOYER INSTRUCTIONS

Our records show that you paid wages to the claimant in the base period as shown on the front side. **YOUR ACCOUNT WILL BE CHARGED FOR YOUR PRO RATA SHARE OF BENEFITS PAID THE CLAIMANT.** The total amount that may be charged to your account is shown in the upper right corner on the front side. If you have suitable work to offer, or if you have information which indicates that the claimant is currently employed or self-employed or is not able or available for work, please furnish details on the front side.

If you are identified as a base period employer only (and not the last employment unit), you do NOT need to respond to this notice because your reimbursing account is not eligible for a non-charge.

Employer's Separation Statement, K-BEN 3109

The Employer's Separation Statement is enclosed with the Employer Notice, K-BEN 44/45, and Reimbursing Employer Notice, K-BEN 46. Complete this form to provide information regarding the worker's separation and return it with the K-BEN 44/45 or K-BEN 46 within 10 days.

 <p>KANSAS DEPARTMENT OF LABOR Division of Employment Security</p>	<h2>EMPLOYER'S SEPARATION STATEMENT</h2>	For Office Use Only:
<p>IMPORTANT: Please complete all information related to the separation and return with Employer Notice, K-Ben 44/45. This form must be attached to the Employer Notice along with any supporting documentation.</p>		
<p>Supporting documentation may include written warnings, company policies, medical statements, etc. Failure to submit complete information shall bar you from protesting any subsequent decision made regarding this claim (K.S.A. 44-709(b)). The information provided will be used to determine if benefits should be paid and if your account will be charged as a base period employer. A determination will be mailed to you at a later date.</p>		
Claimant's Name _____ Social Security Number _____		
Company Name _____		
<input type="checkbox"/> I do not wish to provide any separation information.		
Leave of Absence (Complete if reason for separation was leave of absence.)		
Date Leave began _____ Date leave will end _____ (If no definite return date, please explain.) _____ _____		
Did claimant request the leave or was this leave mandatory? (Please explain - include reason for leave.) _____ _____ _____		
Discharged (Complete if reason for separation was discharge. If more space is needed, attach additional sheets and any supporting documents you have.)		
Who discharged the claimant? (Give name and title.) _____		
What reason was claimant given for discharge? _____ _____		
What was the final incident that led to claimant's discharge? (Explain in detail.) _____ _____ _____		
Was the claimant discharged due to a violation of company policy? <input type="checkbox"/> Yes <input type="checkbox"/> No (If yes, what policy was violated?) _____ (Please attach copy of policy violated.)		
Was the claimant given any verbal warnings? <input type="checkbox"/> Yes <input type="checkbox"/> No Written warnings? <input type="checkbox"/> Yes <input type="checkbox"/> No (If yes, provide dates and reasons for each warning.) _____ _____		
How was the claimant made aware of the policy? (written policy, company handbook, etc.) _____ _____		
Was claimant discharged due to absenteeism? <input type="checkbox"/> Yes <input type="checkbox"/> No Was claimant given any written warnings? <input type="checkbox"/> Yes <input type="checkbox"/> No (If yes, provide dates and reasons for absences) _____ _____		
Do you have a written policy regarding attendance/absenteeism? <input type="checkbox"/> Yes <input type="checkbox"/> No (If yes, provide a copy of the specific policy that relates to this separation.) _____		
<small>K-Ben 3109 (Rev. 11-06) - continued on back side -</small>		

Employer's Separation Statement, K-BEN 3109

(Reverse Side of K-BEN 3109)

Claimant's Name _____ Social Security Number _____

Was claimant given written notice that future absence may or will result in discharge? Yes No (If yes, give dates.) _____

Was claimant discharged because of the use or sale of alcohol or drugs on the job? Yes No (What caused you to suspect the use of alcohol or drugs on the job?) _____

Is there proof relating to the incident? (witnesses, signed statement, charges filed, police reports, test results, etc.)

Yes No (If yes, please provide copy of proof.)

Did claimant refuse to submit to, or fail a chemical test required by law? Yes No (What law? Please explain.) _____

Did claimant refuse to submit to a chemical test pursuant to an employee assistance program or other drug or alcohol treatment program the claimant was participating in? Yes No (If yes, please explain.) _____

Was the test a required condition of employment for the claimant's job? Yes No

Quit – Complete if reason for separation was quit. If more space is needed, attach additional sheets and supporting documents.

Did the claimant give notice of leaving? Yes No (If yes, what was the effective date of resignation?) _____

What reason did the claimant give for quitting? _____

Did claimant request a job transfer prior to leaving? Yes No (Was one available? Please explain) _____

Did claimant quit because of medical reasons? Yes No Did the claimant give you medical proof of his/her inability to perform customary duties? Yes No (If yes, please explain) _____

Was work available within the claimant's medical restrictions? Yes No (If yes, was the claimant offered this work? Did claimant accept this work? Please explain.) _____

If you are a temporary agency that provides temporary employees, complete the following:

Did the claimant complete the last assignment? Yes No

If yes, did the claimant contact you and request another assignment? Yes No

If yes, what date did the claimant contact your office? _____

Do you have a written company policy regarding how and when the employee is to contact you? Yes No

Additional Statement: Please include any additional comments that you may have regarding separation. _____

I do hereby certify that the information submitted is correct and complete.

Signature _____ Title _____ Date _____

Telephone Number & Extension (_____) _____ Fax Number (_____) _____

You must also sign the Employer Notice (K-Ben 44/45) and return with this form.

Reconsidered Base Period Employer Notice, K-BEN 452

The Reconsidered Base Period Employer Notice is issued as a result of an employer requesting reconsideration on a K-BEN 44/45. This notice informs the employer of a reconsidered charge or noncharge. Once determined, the charge or noncharge remains in effect the entire benefit year unless appealed within 16 days.

KANSAS DEPARTMENT OF LABOR

401 SW TOPEKA BLVD
TOPEKA KS 66603-3182
TELEPHONE: 785-296-3497

EXAMINER'S DETERMINATION

SSN:
BYB:
NAME:
SERIAL:
EXAMINER:
CODE:
MAILED:

RECONSIDERED BASE PERIOD EMPLOYER DETERMINATION

BENEFITS PAID ON THIS CLAIM WILL NOT BE CHARGED TO YOUR FIRM'S ACCOUNT.

Appeal Rights: This determination becomes final sixteen(16) days after it is mailed, unless appealed in writing on or before the final date. (If the 16th day falls on a Saturday, Sunday or a Holiday, the next working day is the final date). If you disagree with this determination, an appeal may be filed by letter stating you wish to file an appeal and the reason(s) you disagree with the decision. Mail your appeal to the Office of Appeals, 401 SW Topeka Blvd., Topeka, KS 66603-3182 or fax to 785-296-4065. Please include in your letter, your name, mailing address, telephone number and social security number. You may also contact the Call Center for additional information and assistance about filing an appeal. If you do not file a timely appeal, it may still be considered timely if you can establish a timely response was impossible due to excusable neglect.

K-BEN 452

Nonmonetary Determination, K-BEN 4211

A nonmonetary determination is made when there is a separation issue from the claimant's last employment, or if there is a current eligibility issue which affects benefit payments. The determination informs the claimant and the employer of a disqualification or clearance for benefit payments. Either party has 16 days to appeal the determination if they disagree. In addition, the charge or noncharge determination will appear at the bottom of a separation determination if the last employer is also a base period employer.

KANSAS DEPARTMENT OF LABOR

REPLY TO THIS ADDRESS:

U. I. CALL CENTER
P O BOX 3539
TOPEKA KS 66601-3539
785-575-1460 FAX: 785-296-3249

NOTICE OF DETERMINATION

SSN:
BYB:
CLAIMANT:
EMPLOYER:
EMPLOYER NO:

EXAMINER:
CODE: 23117
BEGINS: 05-20-2004
ENDS:
MAILED: 08-11-2004

CLAIMANT IS DENIED UNEMPLOYMENT INSURANCE BENEFITS UNDER THE PROVISIONS OF THE EMPLOYMENT SECURITY LAW, K.S.A. 44-706.

THE DISQUALIFICATION BEGINS 05-20-2004 AND ENDS WHEN CLAIMANT RETURNS TO WORK AND EARNS THREE TIMES THE WEEKLY BENEFIT AMOUNT OR \$ 543, FROM AN EMPLOYER THAT PAYS UNEMPLOYMENT INSURANCE TAXES. IF YOU RETURN TO WORK AND THEN BECOME UNEMPLOYED AGAIN, YOU MAY FILE ANOTHER CLAIM. WE WILL DETERMINE WHETHER YOU ARE ELIGIBLE FOR BENEFITS AT THAT TIME, BASED ON THE REASON YOU ARE SEPARATED FROM THE SUBSEQUENT EMPLOYMENT. WEEKS CLAIMED PRIOR TO THE TIME YOU RETURNED TO WORK AND EARNED WAGES SUFFICIENT TO SATISFY THIS DISQUALIFICATION ARE NOT PAYABLE.

FINDINGS: CLAIMANT LEFT WORK TO BECOME SELF-EMPLOYED. CLAIMANT LEFT WORK WITHOUT GOOD CAUSE ATTRIBUTABLE TO THE WORK OR THE EMPLOYER.

(SEE REVERSE SIDE FOR APPEAL RIGHTS)

K-BEN 4211

NONMONETARY DETERMINATION

Nonmonetary Determination, K-BEN 4211
(Reverse Side of K-BEN 4211)

APPEAL RIGHTS: THIS DETERMINATION BECOMES FINAL SIXTEEN (16) DAYS AFTER IT IS MAILED, UNLESS APPEALED IN WRITING ON OR BEFORE THE THE FINAL DATE. (IF THE 16TH DAY FALLS ON A SATURDAY, SUNDAY OR A HOLIDAY, THE NEXT WORKING DAY IS THE FINAL DATE.)

IF YOU DISAGREE WITH THIS DETERMINATION, AN APPEAL MAY BE FILED BY LETTER STATING YOU WISH TO FILE AN APPEAL AND THE REASON(S) YOU DISAGREE WITH THE DECISION. MAIL YOUR APPEAL TO THE OFFICE OF APPEALS, 401 SW TOPEKA BLVD., TOPEKA, KS 66603-3182 OR FAX TO 785-296-4065. PLEASE INCLUDE IN YOUR LETTER, YOUR NAME, MAILING ADDRESS, TELEPHONE NUMBER AND SOCIAL SECURITY NUMBER. YOU MAY ALSO CONTACT THE CALL CENTER FOR ADDITIONAL INFORMATION AND ASSISTANCE ABOUT FILING AN APPEAL.

IF YOU DO NOT FILE A TIMELY APPEAL, IT MAY STILL BE CONSIDERED TIMELY IF YOU CAN ESTABLISH THAT A TIMELY RESPONSE WAS IMPOSSIBLE DUE TO EXCUSABLE NEGLIGENCE.

IMPORTANT TO THE CLAIMANT

IF YOU APPEAL, CONTINUE TO FILE YOUR WEEKLY CLAIMS AS LONG AS YOU REMAIN UNEMPLOYED.

K-BEN 4211

NONMONETARY DETERMINATION

SECTION XIV

Directory of Unemployment Tax Contributions Offices

Our staff of field representatives can answer your inquiries regarding unemployment insurance tax problems. If you have questions, please contact your local Unemployment Tax Contributions Office.

<u>LOCATION</u>	<u>ADDRESS</u>	<u>PHONE</u>	<u>FAX</u>
Garden City	407 N. Campus Drive, 67846-0994.....	620-276-0807	620-276-4038
Great Bend	1025 Main, 67530-4429	620-792-2804	620-792-2360
Hays	332 E. 8th, 67601-1515	785-625-6652	785-623-4819
Independence	200 Arco Place, Suite 101, 67301-3363	620-332-1670 620-332-1671	316-332-1229
Junction City	1012-A W. 6th Street, 66441-1067.....	785-238-5538	785-762-3676
Manhattan	205 S. 4th, Suite 1J, 66505-0940	785-776-5434 785-776-1753	785-776-0568
Overland Park	8417 Santa Fe Drive, Room 105, 66212-2749.....	913-648-6161	913-648-8746
Salina	119 W. Iron, Suite 801, 67402-2207.....	785-827-8760 785-827-8769	785-827-0942
Topeka	401 S.W. Topeka Boulevard, 66603-3182.....	785-296-1796 785-296-1797 785-296-1798 785-296-1799 785-296-5031 785-296-2003	785-296-5779
Wichita	402 E. Second Street, 67202-2504	316-266-8640	316-266-8665

SECTION XV

Directory of Unemployment Insurance Call Centers

Information about benefit claims may be obtained
from the Unemployment Insurance office listed below:

Unemployment Insurance Call Center
PO Box 3539
Topeka, KS 66601-3539

Topeka area 785-575-1460
Kansas City area 913-596-3500
Wichita area 316-383-9947

Toll Free: 1-800-292-6333

Web site: www.uibenefits.dol.ks.gov

Online Employer Resources

Visit us on the Web at: www.dol.ks.gov

Under the **EMPLOYERS AND BUSINESSES** tab you can:

- View and Print the Employer Handbook
 - File Online
- Update Employer Tax Accounts
 - Download and Print Forms

View and Print the Employer Handbook

1. Go to **Unemployment**, then click on **Employer Handbook**.
2. You can then click on each section individually, or view the PDF version.

File Online

1. Go to **Unemployment**, then click on **Apply for a Tax Account**.
2. You have been assigned a PIN number that will allow you to file documents online. Your PIN number is located on the K-CNS 050, Notice of Establishment or Change, that is enclosed.
3. Click on **New User Register Here** if you have not applied online before. If you do not have a user name or password, you will need to create one. Click on **Login** if you already have a user name and password for this site.
4. Select **File a Notice of Change** or **File a Quarterly Wage Report** to register your user name and password. You do not have to finish the report, you just need to tie together the user name, password, PIN and account number.

Download and Print Forms

- **Status Determination Reports**
- **Wage Reports**
- **Adjustments**
- **Authorizations**
- **Notice of Change Forms**

1. Highlight **Forms and Publications**.
2. Click on **Unemployment** (a list of printable forms will appear on the screen).
3. Click on the form you want to download or print.

If you encounter any problems, please call our office at 785-296-5027
or e-mail us at uitax@dol.ks.gov.



Photography by Jon Hardesty

K-CNS 430 (Rev. 7-07)