

**RULES
 OF
 TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
 DIVISION OF EMPLOYMENT SECURITY
 BUREAU OF UNEMPLOYMENT INSURANCE
 UNEMPLOYMENT INSURANCE PREMIUMS**

**CHAPTER 0800-10-03
 EMPLOYER**

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0800-10-03-.01 EACH EMPLOYING UNIT SHALL FILE A STATUS REPORT TO DETERMINE LIABILITY.

- (1) Every employing unit in Tennessee, as defined in T.C.A. Section 50-7-206, regardless of the number of workers, shall file a status report with the Department of Labor and Workforce Development, Division of Employment Security. Such status report is to be made on forms provided by the Tennessee Department of Labor and Workforce Development, Division of Employment Security, for the purpose of determining status.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001. August 15, 2009, the Secretary of State transferred 0560-02-03 to 0800-10-03 per Chapter 520 of Public Acts of 1999 and T.C.A. 4-5-221(a)(1).

0800-10-03-.02 ELECTION BY EMPLOYING UNIT.

- (1) An employing unit, not otherwise subject to the Law, may file a written election with the Administrator to become an employer subject to the Law. If the Administrator gives written approval to the election, the employing unit shall become an employer as defined by the Law as of the first of January of the calendar year in which the election becomes effective.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001. August 15, 2009, the Secretary of State transferred 0560-02-03 to 0800-10-03 per Chapter 520 of Public Acts of 1999 and T.C.A. 4-5-221(a)(1).

0800-10-03-.03 PERSONS REQUIRED TO SIGN ELECTIONS BY CORPORATE UNITS.

- (1) The statement of election to become subject to the Tennessee Employment Security Law by corporate employing units not otherwise subject to the Law shall be signed by the president, vice-president or other chief executive officer, and by the treasurer, assistant treasurer or chief accounting officer of the corporation.

(Rule 0800-10-03-03, continued)

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001. August 15, 2009, the Secretary of State transferred 0560-02-03 to 0800-10-03 per Chapter 520 of Public Acts of 1999 and T.C.A. 4-5-221(a)(1).

0800-10-03-.04 PERSONS REQUIRED TO SIGN ELECTION BY PARTNERSHIPS, AND OTHERS.

- (1) The statement of election to become subject to the Tennessee Employment Security Law by partnership or other unincorporated employing unit not otherwise subject to the Law shall be signed by a responsible and duly authorized member having knowledge of its affairs and, if the partnership or other unincorporated employing unit has a manager or chief executive officer, by such manager or chief executive officer.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001. August 15, 2009, the Secretary of State transferred 0560-02-03 to 0800-10-03 per Chapter 520 of Public Acts of 1999 and T.C.A. 4-5-221(a)(1).

0800-10-03-.05 ELECTIONS TO EXTEND COVERAGE TO EXEMPTED SERVICES.

- (1) Applications for elective coverage, as provided in T.C.A. Section 50-7-405(d)(2), by employing units for services that do not constitute employment as defined in the Law, if given written approval of the Administrator, become effective as of the first of January of the calendar year in which the election becomes effective.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001. August 15, 2009, the Secretary of State transferred 0560-02-03 to 0800-10-03 per Chapter 520 of Public Acts of 1999 and T.C.A. 4-5-221(a)(1).

0800-10-03-.06 PERSONS REQUIRED TO SIGN ELECTIONS BY CORPORATIONS EXTENDING COVERAGE TO EXEMPT SERVICES.

- (1) Statements of election by corporate employing units to extend the Law to employments, that do not constitute "employment" as defined by the Law, shall be signed by the president, vice-president or other chief executive officer and by the treasurer, assistant treasurer or chief accounting officer of the corporation.
- (2) Notices of election referred to in 0800-10-03-.05 that are filed by political subdivisions must be signed by the administrative head of the political subdivision involved.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001. August 15, 2009, the Secretary of State transferred 0560-02-03 to 0800-10-03 per Chapter 520 of Public Acts of 1999 and T.C.A. 4-5-221(a)(1).

0800-10-03-.07 PERSONS REQUIRED TO SIGN ELECTIONS BY PARTNERSHIPS EXTENDING COVERAGE TO EXEMPT SERVICES.

- (1) Statement of election by partnerships or other unincorporated employing units to extend the coverage to employments that do not constitute "employment" as defined by the Law, shall be signed by a responsible and duly authorized member having knowledge of its affairs and, if the partnership or other unincorporated employing unit has a manager or chief executive officer, by such manager or chief executive officer.

(Rule 0800-10-03-07, continued)

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001. August 15, 2009, the Secretary of State transferred 0560-02-03 to 0800-10-03 per Chapter 520 of Public Acts of 1999 and T.C.A. 4-5-221(a)(1).

0800-10-03-.08 DISTRIBUTION OF MATERIAL.

- (1) Employers covered by the Tennessee Employment Security Law shall, when requested by the Department, distribute to workers in their employ such literature and material relating to unemployment insurance as may be furnished them by the Department.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001. August 15, 2009, the Secretary of State transferred 0560-02-03 to 0800-10-03 per Chapter 520 of Public Acts of 1999 and T.C.A. 4-5-221(a)(1).

0800-10-03-.09 POSTING OF NOTICES, ETC.

- (1) Employers covered by the Tennessee Employment Security Law shall, when requested by the Department, post in appropriate locations in their establishment such notices and posters relating to unemployment compensation as may be furnished them by the Department.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001. August 15, 2009, the Secretary of State transferred 0560-02-03 to 0800-10-03 per Chapter 520 of Public Acts of 1999 and T.C.A. 4-5-221(a)(1).

0800-10-03-.10 RECORDS TO BE KEPT BY EMPLOYING UNITS.

- (1) The Commissioner may require of any employing unit such reports in connection with such employing unit's business, covered employment, wages, hours of employment, and related matters as the Commissioner deems necessary to the effective administration of the Law.
- (2) Books and records of every employing unit subject to the Law must be maintained in such manner as to permit ready comparison or reconciliation between reports required by the Employment Security Law with the information required by the Treasury Department of the United States Government for returns of the excise tax on employers under Section 3301 et seq. of the Internal Revenue Code.
- (3) If the employing unit is subject to the Law, and is engaged in business in more than one state, such employing unit shall maintain such records as will enable the employing unit to furnish reports which are required by the Commissioner for services, covered by the Law, by its workers.
- (4) (a) Each employing unit shall keep payroll records which shall show:
 1. the time period covered by the payroll,
 2. the place of employment within the State, and
 3. the scheduled hours per day or week.
- (b) For each individual worker and each pay period the payroll records shall show:
 1. the individual's entire social security account number;

(Rule 0800-10-03-.10, continued)

2. the individual's name,
 3. the number of hours for which the individual was paid, except for workers paid on a salary or fixed stipend, and
 4. the individual's wages for employment under this Law.
- (5) (a) The worker's place of employment shall be recorded as the city of 10,000 or over in which the worker performs the work.
- (b) If the worker is not employed in a city of 10,000 or more, the worker's place of employment shall be recorded as the county in which the worker performs the work.
- (c) The place of employment of a worker who performs the work in more than one such city or county shall be recorded as:
1. the city or county in Tennessee in which the worker has the worker's base of operations; or,
 2. if the worker has no base of operations in Tennessee, as the city or county in Tennessee from which the worker received principal or immediate direction or control; or,
 3. if the place from which the worker receives the principal or immediate direction or control is also outside Tennessee, as the city or county within Tennessee in which the worker has residence.
- (6) Each employing unit which has any workers in covered employment shall keep a record for each worker which shall show:
- (a) The date on which the worker was hired, rehired, or returned to work after temporary lay-off;
 - (b) The date when work was terminated by layoff, quit, discharge, or death;
 - (c) Scheduled hours (except for workers without a fixed schedule of hours, such as those working outside their employer's establishment in such a manner that the employer has no record or definite knowledge of their working hours);
 - (d) Full-time weekly wage (except for workers such as those on a piece-meal work, commission, or other variable pay basis whose full-time weekly wage is not readily determinable, or where there is no customary full-time week for the particular occupation);
 - (e) The worker's money wages in each pay period and the worker's total wages for all pay periods in each month showing separately:
 1. money wages,
 2. the cash value of all other remunerations, including the amount of gratuities (tips) actually received and reported to the employing unit by the worker, or reasonable valuation of the remunerations from that source, and
 3. the total of 1. and 2.;

(Rule 0800-10-03-.10, continued)

- (f) Any special payments for services other than those rendered exclusively in a given month, such as annual bonuses, gifts, prizes, etc., showing separately:
 - 1. money payments,
 - 2. other remunerations
 - 3. total of 1. and 2., and
 - 4. the nature of said payments.
- (7) (a) Each employer shall report quarterly, as prescribed by these Rules, on forms furnished by the Department, on magnetic media or by electronic transmission in the format approved by the Department.
- (b) Effective January 1, 1997, employers or employer agents who report 250 or more employees shall file the employer's Wage Report on magnetic media in the format approved by the Department.
- (c) The information an employer shall report is:
 - 1. the departmental registration number of the employer, the employer's name, and the address at which payroll records are maintained,
 - 2. the entire social security account number and name of each worker, and
 - 3. such information as may be prescribed on the quarterly wage and premium reports.
- (d) Upon notification of liability by the Tennessee Department of Labor and Workforce Development, Division of Employment Security, the employer must submit completed quarterly wage and premium reports for all calendar quarters beginning with the first calendar quarter in which wages were paid during the calendar year in which liability was established and including the most recent completed calendar quarter prior to notification of liability.
- (e) All such quarterly wage and premium reports must be submitted by the last day of the month following the month in which notification of liability is given.
- (f) Subsequent to the initial reports described above, all wage and premium reports must be submitted in accordance with these Rules.
- (8) All records which employing units are required by this regulation to maintain shall be preserved for a period of not less than seven (7) years.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Amendment filed May 26, 1982; effective August 30, 1982. Amendment filed July 8, 1983; effective August 8, 1983. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001. August 15, 2009, the Secretary of State transferred 0560-02-03 to 0800-10-03 per Chapter 520 of Public Acts of 1999 and T.C.A. 4-5-221(a)(1).

0800-10-03-.11 EMPLOYER TO PROCURE SOCIAL SECURITY ACCOUNT NUMBERS.

- (1) Each employer shall ascertain the social security account number of each worker employed by the employer.
- (2) If an employer has in such employer's employ a worker who does not have such a social security account number, the employer shall request the worker to show such employer a receipt issued by an office of the Social Security Administration indicating that the worker has filed an application for a social security account number. The receipt shall be retained by the worker.
- (3) If a worker fails to report to such worker's employer such worker's correct account number or fails to show such employer a receipt issued by an office of the Social Security Administration indicating that the worker has filed an application for a social security account number, the employer shall inform the worker that Regulations of the Internal Revenue Service, United States Treasury Department, under the Federal Insurance Contributions Act, provide that:
 - (a) Each worker shall report to every employer for whom such worker is engaged in employment such worker's social security account number and such worker's name exactly as shown on the account number card issued to such worker by the Social Security Administration.
 - (b)
 1. Each such worker who has not secured a social security account number shall file an application for a social security account number on Form SS-5 of the Treasury Department, Internal Revenue Service.
 2. The application shall be filed on or before the seventh day after the date on which the worker first performs employment for wages, except that the application shall be filed on or before the date the worker leaves the employ of such worker's employer if such date precedes such seventh day.
 - (c)
 1. If, on the fourteenth (14th) day after the date on which the worker first performs employment for wages for the employer, or on the day on which the worker leaves the employ of the employer, whichever is earlier, the worker does not have a social security account number, and has not shown the employer a receipt issued to the worker by an office of the Social Security Administration indicating that the worker has filed an application for a social security account number, the worker shall furnish the employer an application on Form SS-5, completely filled in and signed by the worker.
 2. If a copy of Form SS-5 is not available, the worker shall furnish the employer a written statement signed by the worker which shows:
 - (i) the date of the statement,
 - (ii) the worker's full name,
 - (iii) the worker's present address,
 - (iv) the worker's date and place of birth,
 - (v) the worker's father's full name and mother's full name before marriage,
 - (vi) the worker's sex,

(Rule 0800-10-03-.11, continued)

- (vii) the worker's race/ethnic description (this information is voluntary), and
 - (viii) a statement as to whether the worker had previously filed an application on Form SS-5 and, if so, the date and place of such filing.
 - 3. Furnishing the employer with an executed Form SS-5, or statement in lieu thereof, does not relieve the worker of such worker's obligation to make an application on Form SS-5 as set forth in sub-section (b) of this section.
- (4) Each employer shall inform such employer's workers, in instances in which the information is pertinent, that:
 - (a) Copies of Form SS-5, "Application for a Social Security Account Number" can be secured at any field office of the Social Security Administration, the local post office, or from any Collector of Internal Revenue. The Application for a Social Security Account Number shall be filed with the Social Security Administration field office or, if the worker is not working in the United States, with the Social Security Administration in Baltimore, Maryland.
 - (b) Any worker who has lost such worker's social security account number card may secure a duplicate card by applying at the field office of the Social Security Administration nearest the worker's place of employment.
 - (c)
 - 1 Any worker may have such worker's social security account number changed at any time by applying to a field office of the Social Security Administration and showing good reason for a change.
 - 2. Any worker whose name is changed by marriage or otherwise, or who has stated incorrect information on Form SS-5, should report such change or correction to a field office of the Social Security Administration. Copies of appropriate forms for making such reports may be obtained from any field office of the Social Security Administration.
 - (d) Any worker who has more than one social security account number shall report all numbers to the field office of the Social Security Administration nearest the worker's place of employment.
- (5) If a worker fails to comply with Section (3) of this Regulation, the worker's employer shall execute a Form SS-5, "Application for a Social Security Account Number" or a statement signed by the employer setting forth as fully and as clearly as possible:
 - (a) the worker's full name,
 - (b) the worker's present or last known address,
 - (c) the worker's date and place of birth,
 - (d) the worker's father's full name and mother's full name before marriage,
 - (e) the worker's sex,
 - (f) the worker's race/ethnic description (this information is voluntary), and
 - (g) a statement as to whether an application for a social security account number has previously been filed by the worker and, if so, the date and place of such filing.

(Rule 0800-10-03-.11, continued)

- (6) Each employer shall report a worker's social security account number in making any report required by the Commissioner with respect to such worker.
 - (a) If the worker has no such number, but has shown the worker's employer a receipt indicating that the worker has filed application for one, the employer shall, in making any report required by the Commissioner with respect to such worker, report the date of the issue of the receipt, its termination date, the address of the issuing office, and the name and address of the worker exactly as shown in the receipt.
 - (b) If the worker fails to show the worker's employer either such number or such receipt, the employer shall attach to any report required by the Commissioner with respect to such worker the statement or Form SS-5, executed in compliance with Section (3)(c) or Section (5) of this Regulation.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001. August 15, 2009, the Secretary of State transferred 0560-02-03 to 0800-10-03 per Chapter 520 of Public Acts of 1999 and T.C.A. 4-5-221(a)(1).

0800-10-03-.12 SUCCESSORSHIPS AND MERGERS.

- (1) T.C.A. Section 50-7-403(b)(2) states, "In the event of a successorship or merger of employers or employing units, and the combined or successor employer is a new entity, the combined taxable payroll, benefit and premium experience of the employers or employing units involved shall be computed as of the effective date of successorship or merger to determine a new reserve ratio and premium rate applicable to said combined or successor employer."
- (2)
 - (a) "In the event that any employing unit subsequent to January 1, 1951, acquires or has acquired a distinct, severable, identifiable and segregable portion of the business of an employer and continues or has continued such an acquired portion of the business of the predecessor, the successor shall succeed to that part of the taxable payroll, benefit and premium experience of the predecessor which is attributable solely to that portion of the business which was acquired."
 - (b) Pursuant to this provision, the method by which the payroll and benefit experience attributable solely to the portion of the business transferred shall be computed as follows:
 1. If the Department has maintained a separate account of the payroll and benefit experience of the acquired portion of the business of the predecessor, all experience shown by such account shall be transferred to the account of the successor.
 2. If the Department has not maintained a separate account of payroll and benefit experience of the acquired portion of the business of the predecessor, the successor employer shall assume the portion of such employer with respect to the resources and liabilities of such reserve account in proportion to the extent of such succession or acquisition as agreed upon by the parties in interest and approved by the Department.
- (3) The transfer percentage when used to divide premiums paid by the predecessor shall also be used to divide charges for benefits paid as a result of the taxable wages on which the premiums were paid, even though such benefits are paid after the distinct, severable,

(Rule 0800-10-03-.12, continued)

identifiable and segregable portion of the business has been transferred from the predecessor to the successor.

- (4) Where a total or partial transfer of payroll and benefit experience under T.C.A. Section 50-7-403(b)(2) occurs on some date, other than the end of a calendar quarter, the predecessor employer will submit required reports covering the predecessor employer's operations from the beginning of the calendar quarter to the date of the transfer. The successor employer will submit required reports covering the successor employer's operations from the date of the transfer to the end of the calendar quarter.
- (5) (a) If either or both employers are corporations, the request shall be signed by an officer of each or both corporations.
- (b) If either or both employers are partnerships or other unincorporated units the requests shall be signed by responsible and duly authorized members having knowledge of their affairs and, if the partnerships or other unincorporated units have managers or chief executive officers, by such managers or chief executive officers.
- (c) If either or both employers are individuals, the request shall be signed by the individuals.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Amendment filed January 2, 1975; effective February 1, 1975. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001. August 15, 2009, the Secretary of State transferred 0560-02-03 to 0800-10-03 per Chapter 520 of Public Acts of 1999 and T.C.A. 4-5-221(a)(1).

0800-10-03-.13 GROUP ACCOUNTS.

- (1) Where a group account has been established pursuant to T.C.A. Section 50-7-403(h)(5)(A), the members of the group will select, identify and authorize one person to represent the group or each member of a group in matters before the Department. The group representative will be responsible for the proper and timely filing of all reports, the timely payment of moneys due the Department and for notifying the Department of any change in the group.
- (2) Members of a group may not withdraw from the group, nor may new applicants be added to the group except at the beginning of a new taxable year.
- (3) Notice of addition of a member, the withdrawal of a member or the dissolution of a group will be filed with the Administrator ninety (90) days prior to the end of a taxable year.
- (4) The group account agreement must be signed by an authorized official of each organization, giving the name of the organization, the authorized official's title and the date of signing.

Authority: T.C.A. §§50-7-602 and 50-7-603. **Administrative History:** Original rule certified May 17, 1974. Repeal and new rule filed January 22, 1996; effective May 30, 1996. Amendment filed May 22, 2001; effective September 28, 2001. August 15, 2009, the Secretary of State transferred 0560-02-03 to 0800-10-03 per Chapter 520 of Public Acts of 1999 and T.C.A. 4-5-221(a)(1).