



Missouri Division of Workforce Development
DWD Issuance 06-2016

Issued: November 10, 2016
Effective: November 10, 2016

Subject: Exemptions from Unemployment Insurance Wage Reporting for Participants in Work-relief or Work-training Programs Who Are Employed by Governmental Entities or by 501(c)(3) Not-for-profit Entities

1. Purpose: This Issuance describes the *exemption* from Unemployment Insurance (UI) reporting requirements for the wages of certain participants in work-relief and work-training programs. This includes internships, work experiences, transitional jobs, disaster-relief employment, summer employment opportunities, and other employment opportunities authorized by the Workforce Innovation and Opportunity Act (WIOA).¹

This reporting exemption applies to those participants employed by governmental entities or by not-for-profit entities that are tax-exempt under section 501(c)(3) of the Internal Revenue Code. This includes participants employed by Local Workforce Development Boards (Local WDB) and their subrecipients.

This Issuance clarifies that the exemption applies to a broader range of work-relief and work-training programs than previous guidance² might have implied. Wages paid to participants by the employers as described, in the programs as described, are *not* credited to the participant for UI or unemployment compensation (UC) purposes.

2. Background: For UI tax purposes, Missouri governmental entities and entities with 501(c)(3) not-for-profit status, acting as the employer of record, are not required to report the wages of authorized participants in work-relief or work-training programs, *provided* that those programs are assisted or financed *in whole or in part* by a federal, State, or local governmental agency.³

Guidance⁴ from the U.S. Department of Labor (DOL) further interprets Section 3309(b)(5) of the Federal Unemployment Tax Act (FUTA), which permits an exception to the coverage requirements of FUTA Section 3304(a)(6)(A) for services performed as part of an unemployment work-relief or work-training program.

Previous DWD Issuance 01-2009 (July 22, 2009) specifically addressed the application of this exemption to the Next Generation Jobs Team Program of 2009. However, the exemption predates, extends beyond, and endures beyond, that particular program.

3. Substance: The characteristics both of the employer of record and of the relief or training program determine whether the wage-reporting exemption applies.

¹ Pub. Law 113-128 [29 U.S.C. 3101 et seq.].

² DWD Issuance 01-2009, July 22, 2009; rescinded by this Issuance.

³ RSMo 288.034 and Section 3309(b)(5) of the Federal Unemployment Tax Act [26 U.S.C. 3301 et seq.].

⁴ U.S. Department of Labor, Employment and Training Administration, Unemployment Insurance Program Letter No. 30-96, "Work-relief and Work-training Exclusion," August 8, 1996.

Participants in work-relief or work-training programs⁵ authorized by WIOA, or any other programs⁶ funded *in whole or in part* by federal, State, or local awards or grants, are exempt from UI wage reporting requirements *if* the employer of record is:

- The State, or any (local) political subdivision of the State, or any instrumentality (board, commission, etc.) of the same; **or**
- A not-for-profit corporation, community chest fund, or foundation organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, or other organization as described in Section 501(c)(3) of the Internal Revenue Code.

For the purposes of this exemption, DOL's guidance⁷ defines work-relief and work-training programs thus:

- Conditions for all work-relief and work-training programs require:
 - The employer-employee relationship is based more on the participants' and communities' needs than on normal economic considerations (such as increased demand or the filling of a bona fide job vacancy); **and**
 - The products or services are secondary to providing financial assistance, training, or work experience to individuals to relieve them of their unemployment or poverty or to reduce their dependence on various measures of relief, even though the work may be meaningful or serve a useful public purpose.
- Both work-relief and work-training programs also must have **one or more** of the following characteristics:
 - The wages, hours, and conditions of work are not commensurate with those prevailing in the locality for similar work; **or**
 - The jobs did not, or rarely did, exist before the program began (other than under similar programs) and there is little likelihood they will be continued when the program is discontinued; **or**
 - The services furnished, if any, are in the public interest and are not otherwise provided by the employer or its contractors; **or**
 - The jobs do not displace regularly employed workers or impair existing contracts for services.
- For **work-relief** programs only, the qualifications for the jobs must take into account as indispensable factors the economic status (i.e., the standing conferred by income and assets) of the applicants.

4. Action: Wage information should **not** be reported for UI and UC purposes for participants whose employers and programs are described in this Issuance. Effective immediately, this information should be distributed or conveyed to all current (and future) governmental entities and entities with 501(c)(3) not-for-profit status that are the employers of record for authorized work-relief or work-training programs.

5. Contact: Direct questions or comments regarding this issuance to Julie Carter, DWD Fiscal Manager, at (573) 526-1644, or julie.carter@ded.mo.gov.

⁵ For example, WIOA On-the-Job Training, disaster-relief employment funded under a National Dislocated Worker Grant (NDWG), or any training authorized under WIOA Title I Section 122.

⁶ For example, summer youth jobs programs receiving funding from Temporary Assistance to Needy Families (TANF) or training provided through Trade Adjustment Assistance.

⁷ U.S. Department of Labor, Employment and Training Administration, Unemployment Insurance Program Letter No. 30-96, "Work-relief and Work-training Exclusion," August 8, 1996.

6. Reference: Revised Missouri Statutes, Chapter 288, "Employment Security," Section 288.034.
<http://www.moga.mo.gov/mostatutes/stathtml/28800000341.html>
- U.S. Department of Labor Unemployment Insurance Program Letter 30-96, "Work-relief and Work-training Exclusion," August 8, 1996.
<https://wdr.doleta.gov/directives/attach/UIPL30-96.cfm>
7. Rescissions: This Issuance supersedes and replaces DWD Issuance 01-2009, "Wages of the Participants in the Next Generation Jobs Team Program Employed by Governmental Entities or by Entities with 501(c)(3) Not-for-profit Status," dated July 22, 2009.
8. Attachments: None.

The Missouri Division of Workforce Development is an equal opportunity employer/program.
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Missouri TTY Users can call (800) 735-2966 or dial 7-1-1.



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