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Background Brief on ...

# Unemployment Insurance

Congress enacted the unemployment insurance (UI) program as part of the Social Security Act (SSA) in 1935, as a response to the Great Depression. The program is a federal-state partnership with oversight from the U.S. Department of Labor. The SSA provides grants to states with UI laws that adhere to federal requirements for the purpose of administering the UI program and overseeing the payment of benefits. UI benefits replace part of the income lost when workers become unemployed through no fault of their own. Because UI provides a means for unemployed workers to maintain some level of consumer demand in hard times, UI has been credited as one reason the nation has avoided deep depressions since the 1930s.

## Benefit Eligibility

Total benefits for a worker are set by state law. The minimum weekly benefit is currently \$122 and the maximum weekly benefit is \$524. Claims and the weekly benefit amount is based on the recipient's work record for a 12-month period known as the Base Year, which is comprised of the first four of five calendar quarters completed at the time an initial claim is filed. In order to qualify for a valid claim, an individual's total base period wages must be at least one and one half times of wages earned during the highest quarter in the base period and at least \$1000 of wages earned in subject employment, or must have worked 500 hours of subject employment. Claimants who do not have enough wages and hours to qualify for UI benefits under the regular base year may qualify by using an Alternative Base Year, in which wages and hours during the most recent four completed calendar quarters are used. The total amount of benefits is also established by state law. A claimant's benefit year lasts for 52 weeks starting with the first week of filing, and are eligible for receiving up to 26 weeks of benefits during that time period unless

Oregon has received a [benefit extension](#), either an extended benefit period, established either through enacted legislation from Congress or the Oregon Legislature. Oregon statute (ORS 657.321 to 657.329) provides up to 13 additional weeks of benefits during periods of high unemployment. If a claimant is eligible for an extension, the Oregon Employment Department will send an advisory letter.

The Employment Department's website provides an [estimator](#) of how much a claimant can receive on a new UI claim.

### **Unemployment Claims Process**

To obtain benefits, an unemployed worker must file a claim with the Employment Department through the worker's local [UI call center](#) or [online](#). Claimants must show that they are unemployed through no fault of their own and are able to work, available for work, and actively seeking work. Claimants must also provide accurate information on past employment for all employers within the previous two years.

Benefits start after one week after the first week of the claim in which the worker meets all eligibility requirements, called the "waiting week," and are thereafter claimed one calendar week at a time. Unless exempted<sup>1</sup>, claimants are required to register and use [iMatchSkills](#), an online system that matches employers and potential employees based on skill sets and qualifications. Job listings are updated every two hours and are available at both [iMatchSkills](#) and the agency [website](#). Claimants are also required to claim each week that they are able, available, and willing to accept suitable work.

Benefits may not be received if a claimant voluntarily left work without good cause, was discharged or suspended from work for misconduct connected with work, fails to accept suitable work when offered, or fails to apply for

suitable work when referred to a job by the Employment Department.

Benefits may be denied on a week-to-week basis if a claimant fails to be able to work, fails to be available for work, is not actively seeking work, fails to register and use [iMatchSkills](#), or does not claim benefits. Claimants must also inform the Employment Department if they were away from their permanent residence for more than three days in the prior week; benefits can be received if they were looking for work and were willing, ready, and able to take a job in the other area. If the reason for leaving the claimant's labor market was for other reasons, such as a vacation, they may not be eligible for benefits for that week.

There are a number of situations that can affect week-to-week eligibility, and/or the benefit amount. For instance, claimants who receive retirement pay may have their weekly benefits reduced by a prorated weekly share of retirement pay, if the payment(s) are received from any retirement plan maintained or contributed to by their base period employer(s). Claimants that attend school may be disqualified for weeks depending on the amount of time that they are looking for and accepting work. Claimants that are working part-time can receive reduced benefits as long as they are following the eligibility criteria and are earning less than their established weekly benefit amount.

Self-employed individuals may be eligible for filing a claim if they were self-employed and also worked as an employee of one or more other employers, and/or were self-employed and incorporated their business. Claimants can be self-employed and receive benefits depending on a number of factors, such as the type and size of their business, the amount of time spent on the business, and whether they are willing and able to drop self-employment for full-time work.

In all circumstances, when a claimant is working full-time or earning more than the weekly benefit amount, they are no longer eligible for benefits. When the Employment Department reduces or denies benefits, the claimant is

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<sup>1</sup> Claimants who are scheduled to return to work within four weeks, or who limited to seeking work through their union hiring hall.

notified in writing via a written notice (Administrative Decision). If the claimant does not agree with the Department's decision, they have the right to have the decision reviewed through a hearing. Employers have the same right if a written decision allows benefits to be issued. Claimants that are found to intentionally withhold or misrepresent facts to obtain benefits can be penalized for up to 52 unpaid weeks, and are required to pay back the benefits and face other penalties that could include a jail sentence.

UI benefits are fully taxable income, and can be received either through direct deposit or a ReliaCard Visa debit account.

### **Special Unemployment Programs**

The [Work Share Program](#) provides an alternative to employers that are facing the prospect of laying off employees by providing partial unemployment benefits to supplement the reduced wages of qualified employees. Employers qualify for the program by completing a written plan that includes information such as the employees with reduced work hours and authorized to receive Work Share benefits; a statement that the employees' work hours and wages will be reduced from between 20 to 40 percent per week, and that the employees' normal work week is less than 40 hours. In turn, each employee must have worked full-time for six months or part-time for 12 months before the Work Share plan is submitted.

The [Self Employment Assistance Program \(SEAP\)](#) is an option for claimants who have been identified, via a computerized mathematical formula, as likely to run out of benefits before returning to work. Qualifications for the program also include having a viable business idea, the willingness to work full time in developing the business, and the ability to obtain financial backing needed to start and sustain the business until it is self-supported. Enrolled claimants can attend self-employed assistance counseling and training and engage in self-employment activities on a full time basis, and are required to complete both a written business plan and a market feasibility study.

Individuals can also receive benefits if their unemployment was caused as a direct result of a major disaster (Disaster Unemployment Assistance) or from a foreign trade coming into the United States markets or production being shifted to other foreign countries ([Trade Act Program](#)). Also, eligible dislocated workers can be certified by the Employment Department to attend school and receive benefits at the same time; the Training Unemployment Insurance program does not pay for training but waives the availability and work search requirements while attending school full-time.

Most of these programs are financed by federal funding or administered with collaborative efforts with other organizations.

### **Source of Benefit Payments**

UI benefits are paid out of the Unemployment Insurance Trust Fund. The fund is financed by employer payroll taxes that are set according to an annual self-adjusting rate schedule (see *Employer Responsibilities* section). The UI Trust Fund maintains a balance based on statutory requirements tied to the solvency of the fund, and no contributions are from employee wages. Oregon is one of the few states in the country that requires a solvent UI Trust Fund.

### **Employer Responsibilities**

The Employment Department defines a subject employer as an employing unit<sup>2</sup> that pays wages of at least \$1,000 to employees in a calendar quarter (three-month time period) or employs one or more individuals in each of 18 separate weeks during any calendar year. Agricultural employers are considered as a subject employer if they pay at least \$20,000 cash wages in a calendar quarter or have 10 or more employees on 20 days, with each day being in a separate calendar week during a calendar year. Employers that employ domestic employees in a private home, local college club or local fraternity or sorority chapter must have paid at least \$1,000 in cash wages in a calendar quarter. There are a number of groups that are statutorily

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<sup>2</sup> Individual or organization that has at least one individual performing services for it.

exempt from being considered as a subject employer.

An employee is any individual who performs services for another person or organization under the direction and control of that person or organization. This includes contract, casual temporary labor, and cottage industry homeworkers; and minors and aliens. Employment Department law does not cover some types of services, such as for members of a limited liability company (**LLC**) or partnership, or by an independent contractor.

The funding for paying Oregon UI benefits comes from Oregon employers. The method of payment varies depending on the employer type. Private for-profit employers pay a quarterly tax to the State of Oregon, while state and federal agencies reimburse the state for benefits paid to former employees. Local governments, Native American tribes, and nonprofit (501(c)(3)) employers can choose to either pay the tax or reimburse the state for paid benefits. Funding for administration of the UI program comes from a federal tax that is assessed on all for-profit employers and paid to the Internal Revenue Service (**IRS**).

All employers must register with the Employment Department by completing and sending a Combined Employer's Registration Form to the Oregon Department of Revenue. Employers must also post a notice about UI benefits where employees can read it, keep adequate payroll records, pay taxes or reimbursements when due, file the required quarterly or annual tax forms on time with complete information, and inform the Employment Department and the Department of Revenue of any changes to the organization or its status.

Employers that are subject to paying unemployment tax do such at an annual rate schedule. New employers are assigned a "base rate" until they qualify for an "experience rate" based tax rate, which is usually after about three years. In 2012, the base tax rate is 3.3 percent of taxable payroll, and the experience rate ranging

from 2.2 to 5.4 percent, calculated on each employee's first \$33,000 of wages.

Amounts paid above the taxable wage base are called "excess wages," in which the employer reports but does not pay the unemployment tax. All wages paid to each employee must be reported; wages include all cash and non-cash remuneration for employment. For agricultural and domestic employment, only paid cash wages must be reported.

The statutory formula for establishing the annual rate schedule is tied to the solvency of the Unemployment Insurance Trust Fund, which is set in such a way to finance benefits over a period of business cycles without going into debt, such as a 1.5 reserve multiple or enough reserves to pay 18 months in benefits. There are eight tax schedules set in statute. The calculation of the schedule must be the ratio of the amount in the UI Trust on August 31st preceding the calculation to "a calculated amount of benefits that would be paid during the following calendar year if high unemployment were to occur" (ORS 657.459). Each September, the Employment Department determines which tax schedule will go into effect for the following calendar year, and notices are mailed to employers in November on the upcoming year's tax schedule.

In addition to state unemployment taxes, most employers also pay a federal tax according to the Federal Unemployment Tax Act (**FUTA**). The FUTA tax rate is 6 percent on the first \$7,000 of an employee's wages. In general, paying employers can take a credit against the FUTA tax for amounts paid into state unemployment funds. The maximum allowable credit is 5.4 percent, resulting in a net payable FUTA tax rate of 0.6 percent on the first \$7,000 for each employee. These funds are collected by the Internal Revenue Service (**IRS**) to fund some of the administrative costs of the Employment Department and UI programs throughout the country.

The Employment Department also administers a number of programs for employers, such as seminars and events regarding employer issues

via the [Oregon Employer Council](#), and two types of [tax credits](#) that provide incentives for private sector businesses to hire individuals who have consistently faced significant barriers to employment (Work Opportunity Tax Credit), and for dependent care assistance for employees (Dependent Care Tax Credit).

## **WorkSource Oregon**

Beyond administering the UI benefits program, the Employment Department collaborates with state agencies and private partners to operate WorkSource Oregon, a comprehensive resource for connecting businesses and workers with resources needed to succeed. A primary resource is local [WorkSource Centers](#) that help workers find suitable employment, and connects employers to qualified job applicants.

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