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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

Eligibility and benefits for a worker are set by state law. The minimum weekly benefit is currently \$128 and the maximum weekly benefit is \$549. 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 the last five calendar quarters completed at the time an initial claim is filed. In order to qualify, an individual's total base period wages must be at least 150 percent of wages earned during the highest quarter in the base period and include at least \$1,000 of wages earned in subject employment, or the individual must have worked 500 hours in subject employment. Claimants who do not have enough wages or 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. A claimant's benefit year lasts for 52 weeks starting with the first week of filing, and the claimant is eligible to receive 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 20 additional weeks of benefits during periods of high unemployment. If a claimant is eligible for an extension, the 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 statewide [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 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 with a WorkSource Oregon office where Employment Department and partner staff help claimants find new jobs. Employment Department staff matches claimants with potential employers by looking at the job listings they maintain as well as the claimant's work history and other information. 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, seeking, 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 is not able, available, or seeking work, or 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 example, 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 who attend school may be disqualified for weeks depending on the amount of time that they are looking for and accepting work. Claimants who 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 benefits if they were self-employed and also worked as an employee of one or more other employers, or were employed by their own incorporated 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 notified in writing via a written notice

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

(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. Hearings are conducted by administrative law judges from the Office of Administrative Hearings and people are given an opportunity, usually over the telephone, to provide information related to whether the person should receive benefits. In most circumstances, claimants and employers who disagree with the administrative law judge's decision can further appeal to the Employment Appeals Board. Claimants who are found to have intentionally withheld or misrepresented 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 who are facing the prospect of laying off employees by providing partial unemployment benefits to supplement the reduced wages of qualified employees. Employers apply for the program by completing a written plan that includes information on the employees with reduced work hours and who are authorized to receive Work Share benefits, a statement that the employees' work hours and wages will be reduced 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](#) 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-employment counseling and training programs 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. The Employment Department partners with Small Business Development Centers to make training and guidance on entrepreneurship available to people participating in the Self Employment Assistance program.

Individuals can also receive benefits if their unemployment was caused as a direct result of a major disaster ([Disaster Unemployment Assistance](#)) or from foreign trade entering U.S. 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 the claimant attends 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. 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

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

quarter or employs one or more individuals in each of 18 separate weeks during any calendar year. An agricultural employer is considered 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 who employ domestic workers 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 exempt from being considered 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 as well as minors and aliens. Some types of services are not covered, such as for members of a limited liability company (LLC) or partnership, or by an independent contractor, although in some cases, business can elect to have these non-covered services covered by the UI system.

Oregon employers provide the funds to pay UI benefits. 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 employers can choose to 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 in the workplace a notice about UI benefits, 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. The Employment Department works with other agencies that also deal with employer and employee related issues as part of the statutorily created Interagency Compliance Network.

Employers pay UI tax on an annual rate schedule. New employers are assigned a "base rate" until they qualify for an "experience rate," which is typically after three years. In 2014, the base tax rate is 3.1 percent of taxable payroll, and the experience rate ranges from 1.8 to 5.4 percent, calculated on each employee's first \$35,000 of wages.

Wages paid above the taxable wage base are called "excess wages," in which the employer reports but does not pay the unemployment tax. 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 while remaining solvent. There are eight tax schedules set in statute. 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, employers can take a credit against the FUTA tax for amounts paid into state unemployment funds as long as state UI laws are consistent with federal requirements. 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 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, 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 connect employers to qualified job applicants.

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