

Filed December 18, 1974  
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STATE OF WISCONSIN )  
 ) SS  
DEPARTMENT OF INDUSTRY, )  
LABOR AND HUMAN RELATIONS )

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Stephen J. Reilly, Executive Secretary of the Department of Industry, Labor and Human Relations, and custodian of the official records of said Department, do hereby certify that the attached rules to Wisconsin Administrative Code Chapters Ind UC 100-150, Unemployment Compensation, were adopted by the Department of Industry, Labor and Human Relations on December 18, 1974.

I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Capitol, in the City of Madison, this 18 day of December, A. D., 1974.

  
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Stephen J. Reilly, Executive Secretary

## Summary of Rules and Rule Changes

1. To make corrections in unit identifications resulting from adoption of legislation pursuant to Kellett reorganization and from departmental reorganization.
2. To update rules in accordance with changes necessitated by adoption of legislation providing coverage under Chapter 108, Wis. Stats., of nonprofit organizations and wider coverage of government units.
3. To adopt rule changes to include establishment of the limits of the active canning season for potatoes, to update the value of meals and lodging as a part of an employe's wages, to clarify the treatment of "tips" for contribution purposes, to implement specific reporting requirements for reimbursement account employers, to require reimbursement of benefit charges from government units on a monthly rather than quarterly basis, to improve the hearing procedures for more prompt and orderly disposition of cases, and to clarify certain requirements relating to registrations for work.

ORDER OF THE

DEPARTMENT OF INDUSTRY, LABOR AND HUMAN RELATIONS  
ADOPTING, AMENDING, REPEALING AND RECREATING RULES

Pursuant to authority vested in the Department of Industry, Labor and Human Relations by sections 108.02 (5) (g) 22, 108.03 (1), 108.04 (2), 108.04 (13), 108.14 (2), 108.15 (3) and 108.17 (2), Wis. Stats., the Department hereby adopts, amends, repeals and recreates rules as follows:

SECTION 1. Section IND-UC 101.01 (3) of the Wisconsin Administrative Code is amended to read:

Ind-UC 101.01 (3) Each employing unit which thus employs one or more individuals in Wisconsin on any kind of work covered by chapter 108, Wis. Stats., or by the federal unemployment tax act, on any day (whether or not at the same moment of time) shall thenceforth keep an accurate daily record of all its employment, unless or until it is a covered employer under chapter 108, Wis. Stats.

SECTION 2. Section IND-UC 101.03 (2) of the Wisconsin Administrative Code is amended to read:

Ind-UC 101.03 (2) Whenever any employing unit, which is not already a covered employer under chapter 108, Wis. Stats., has paid wages which totaled \$1,500 or more during a calendar quarter or employed, in employment covered by said chapter or by the federal unemployment tax act, one or more individuals (4 or more individuals if the employing unit is a nonprofit organization) in each of 20 different calendar weeks within a calendar year (whether or not they were the same individuals, and whether or not those weeks were consecutive), such unit shall promptly after the close of such calendar quarter or the close of such twentieth week, notify the employment security division and file such a true and complete report on all

its employment as will enable the division to determine the coverage status of such unit under said chapter.

SECTION 3. Chapter IND-UC 110 of the Wisconsin Administrative Code is amended to read:

Ind-UC REPORTS AND CONTRIBUTIONS

SECTION 4. Section IND-UC 110.01 of the Wisconsin Administrative Code is amended to read:

Ind-UC 110.01 APPLICABLE REPORTING PERIOD. Each employer subject to payment of contributions shall file his contribution report and pay his contributions to the department for each calendar quarter. Each government unit, and each nonprofit organization which has elected reimbursement financing, shall file employment and wage reports with the department for each calendar quarter.

SECTION 5. Sections IND-UC 110.03 (1) and (2) of the Wisconsin Administrative Code are amended to read:

Ind-UC 110.03 DUE-DATE OF REPORTS AND PAYMENTS. (1) Each employment and wage report or contribution report and payment shall be due at the close of the month next following the end of each calendar quarter, except as hereinafter provided.

(2) If an employing unit becomes newly subject to chapter 108, Wis. Stats., as of the beginning of a calendar year, pursuant to section 108.02 (4) (b), (c) or (d), Wis. Stats., the due-date for his employment and wage reports or contribution reports and payments shall be

(a) For calendar quarters ended before the earliest date on which his employment required his coverage, 60 days from such earliest date.

(b) For the calendar quarter which includes the earliest date on which his employment required his coverage, 60 days from such earliest date or the close of the month next following the end of such quarter, whichever is later.

(c) But in no case shall such due-date be later than January 31 of the next following year.

SECTION 6. Section IND-UC 110.03 (3) of the Wisconsin Administrative Code is adopted to read:

Ind-UC 110.03 (3) If an employer is or has been delinquent in making by the assigned due-date any contribution report or payment to the department required of him under chapter 108, Wis. Stats., or chapter Ind-UC 110 of this code, his contribution report and payments shall, upon request of the department, be due at the close of the month next following the end of each calendar month.

SECTION 7. Sections IND-UC 110.04 (1) and (2) of the Wisconsin Administrative Code are amended to read:

Ind-UC 110.04 DELINQUENT REPORTS. (1) Each report form shall, when mailed to the employer, bear a clear statement of the applicable due-date and such statement shall constitute notice to the employer of such due-date.

(2) Any required report or payment is "delinquent", within the meaning of section 108.22 (1), Wis. Stats., unless it is filed with (received by) the department of industry, labor and human relations not later than its due-date.

SECTION 8. Sections IND-UC 110.05 (1) and (2) of the Wisconsin Administrative Code are amended to read:

Ind-UC 110.05 REPORTING PAYROLL AND COMPUTING CONTRIBUTIONS.

(1) Total Wisconsin payroll. Each employer's employment and wage or contribution report shall include under "total Wisconsin payroll" all items whatsoever regularly handled by the employer as payroll items. Such report shall include every item required to be treated as "wages" pursuant to section 108.02 (6), Wis. Stats., even though such items may not be treated as payroll items by the employer. Moreover, all wages paid by the employer to persons employed by him partly outside Wisconsin shall be included by him in his "total Wisconsin payroll". Such wages shall also be included in the employer's "defined payroll" unless such wages are not paid with respect to "employment" under section 108.02 (5) (b), (c), (dm) or (dn), Wis. Stats.

(2) VALUE OF ROOM OR MEALS. In determining an employe's wages from any employing unit under chapter 108, Wis. Stats., any lodging or meals furnished as part of the employe's pay shall, unless a different specific showing is made, be valued as follows:

(a) Lodging - \$15.05 per week or \$2.15 per day; and

(b) Meals - \$22.55 per week or \$1.05 per meal.

SECTION 9. Section IND-UC 110.05 (9) of the Wisconsin Administrative Code is adopted to read:

Ind-UC 110.05 (9) REPORTING "TIPS" FOR CONTRIBUTION PURPOSES.

"Tips" are considered "wages" when taken into account by the employer in determining the employe's compensation under Wisconsin's minimum wage law, or when paid by the customer as an arbitrary service charge

set by the employer, or when pooled and distributed to the employees by the employer.

SECTION 10. Section IND-UC 110.07 (1) of the Wisconsin Administrative Code is amended to read:

Ind-UC 110.07 REPORTS AND REMITTANCES. (1) Required Reports. Each employer shall, regardless of whether any contributions or reimbursements in lieu of contributions may be currently payable by him, report his payroll and employment on the reports (forms UC-101 or UC-101N) supplied to him by the employment security division. The employer shall complete all applicable items of his report, including exclusions over \$4,200, other statutory exclusions and monthly data on his number of employees.

SECTION 11. Section IND-UC 110.08 of the Wisconsin Administrative Code is adopted to read:

Ind-UC 110.08 VOLUNTARY CONTRIBUTIONS. For the purpose of the 1.3% additional contribution assessment under section 108.18 (2), Wis. Stats., a voluntary contribution made by the employer after June shall not cancel the overdraft (a negative reserve percentage) in his account as of the June 30 computation date.

SECTION 12. Chapter IND-UC 112 of the Wisconsin Administrative Code is repealed and recreated to read:

#### Chapter Ind-UC 112

##### SPECIAL PROCEDURE FOR GOVERNMENT UNITS

Ind-UC 112.01 Government Units

Ind-UC 112.01 GOVERNMENT UNITS. (1) Whenever a government unit's account in the fund has a negative balance as of the close

of any calendar month, the fund's treasurer shall promptly bill such employer, requesting it to reimburse the fund, for that portion of its negative balance which has resulted from the net benefits charged to its account within that month.

(2) Each such bill or reimbursement request shall be due and payable 30 days after the billing date.

SECTION 13. Section IND-UC 115.01 of the Wisconsin Administrative Code is repealed and recreated to read:

Ind-UC 115.01 REPORTS OF TRANSFER OF BUSINESS OR ASSETS. (1) Each "employer" who transfers all or part of his business or other activity, or transfers any of his assets by any means, other than in the ordinary course of trade or other operation of the employer, shall notify the employment security division in writing of such transfer within 30 days after the effective date of the transfer.

(2) The transferor and transferee shall promptly submit to the employment security division in writing such information as the division may request relating to the transfer.

SECTION 14. Section IND-UC 115.02 of the Wisconsin Administrative Code is adopted to read:

Ind-UC 115.02 DETERMINATION OF TRANSFER OF BUSINESS. (1) Based on information contained in any reports submitted by the transferor and transferee and on any other relevant information, obtained by audit or otherwise, in the division's files, a department deputy shall determine whether the transfer constituted a "transfer of business" and whether the transfer was a total or partial "transfer of business" and issue a written determination to the parties accordingly.



(2) If it is determined that the transfer was a "transfer of business", the deputy's determination shall also set forth the effects of the business transfer with respect to any account or accounts of the transferor and transferee.

(3) If either the transferor or transferee is a nonprofit organization which has elected reimbursement financing, the deputy's determination shall also set forth the effects of the business transfer with respect to whether the election of reimbursement financing is terminated and any required adjustments in the amount of assurance of reimbursement to be furnished, if applicable.

SECTION 15. Sections IND-UC 126.02 (4), (7) and (8) (a) of the Wisconsin Administrative Code are amended to read:

Ind-UC 126.02 (4) A definite error related to the employee's registration, made by the personnel of the employment security division.

(7) An applicable waiver of the registration requirement for such week by the employer, pursuant to section 108.04 (13) (b), Wis. Stats., if approved by a department deputy.

(8) (a) An applicable waiver of the registration requirement for such week, as to a given employer's employees (or a group or class thereof), made by a department deputy hereunder.

SECTION 16. Section IND-UC 126.03 (1) (intro.) of the Wisconsin Administrative Code is amended to read:

Ind-UC 126.03 (1) (intro.) As to any week in which a claimant performs some wage-earning services and is partially unemployed:

SECTION 17. Sections IND-UC 130.03 (1) (a) and (3) (a) of the Wisconsin Administrative Code are amended to read:

Ind-UC 130.03 TREATMENT OF "TIPS". (1) Status of "tips".

(a) Under section 108.02 (6), Wis. Stats., "tips" received by an employe in connection with his employment are not counted as "wages" in determining an employer's "payroll" (for contribution purposes) except as required under Ind-UC 110.05 (9).

(3) DETERMINATION OF THE AMOUNT OF TIPS. (a) If an employe reports to his employer the amount of tips he received in connection with his employment by the employer, the employer shall include the amount thus reported as wages on any benefit report filed under Ind-UC 123.01 or 123.03.

SECTION 18. Section IND-UC 132.01 (2) of the Wisconsin Administrative Code is amended to read:

Ind-UC 132.01 (2) There shall be included as wages, in calculating an employe's average weekly wage from an employer, the total gross wages as defined by section 108.02 (6), Wis. Stats., paid the employe with respect to his personal services for the employer in employment covered by chapter 108, Wis. Stats., for the employe's weeks of employment within the applicable base period determined in accordance with section 108.02 (7) (a), Wis. Stats. Vacation pay or dismissal or termination pay for a week during which the employe does no work at all for the employer shall not be included unless section 108.02 (13), Wis. Stats., applies.

SECTION 19. Section IND-UC 140.01 of the Wisconsin Administrative Code is repealed and recreated to read:

Ind-UC 140.01 REQUEST FOR HEARING. (1) A request for hearing as to any initial determination under section 108.09, Wis. Stats., must be filed with a local office or with a local office employe or with the central state administrative office of the employment security division, 201 East Washington Avenue, P. O. Box 644, Madison, Wisconsin 53701, or, in the case of an interstate claimant, with a qualified employe of the agent state.

(2) A request for hearing as to any initial determination under section 108.10, Wis. Stats., must be filed with the central state administrative office of the employment security division, 201 East Washington Avenue, P. O. Box 644, Madison, Wisconsin 53701, except as a department deputy may waive that place of filing in a specific case.

(3) Any such request must be in writing and specify on what grounds the requesting party believes the determination to be in error.

SECTION 20. Section IND-UC 140.03 of the Wisconsin Administrative Code is repealed and recreated to read:

Ind-UC 140.03 PETITION FOR COMMISSION REVIEW. (1) A petition for commission review of an appeal tribunal decision under section 108.09, Wis. Stats., must be filed with a local office or with a local office employe or with the central state administrative office of the employment security division, 201 East Washington Avenue, P. O. Box 644, Madison, Wisconsin 53701, or, in the case of an interstate claimant, with a qualified employe of the agent state.

(2) A petition for commission review of an appeal tribunal decision under section 108.10, Wis. Stats., must be filed with the central state administrative office of the employment security division, 201 East Washington Avenue, P. O. Box 644, Madison, Wisconsin 53701, except as a department deputy may waive that place of filing in a specific case.

(3) Any such petition must be in writing and specify on what grounds the petitioning party believes the decision to be in error.

SECTION 21. Sections IND-UC 140.05 (2), (3), (5) and (6) of the Wisconsin Administrative Code are amended to read:

Ind-UC 140.05 (2) Parties shall be given an opportunity to be heard at the earliest practicable time from the date the appeal is filed. Several pending issues involving the same parties may be consolidated for hearing or decision or both. An issue or issues involving more than one appellant or more than one respondent or both and arising substantially out of the same circumstances or closely similar circumstances may be consolidated for hearing or decision or both to avoid needless multiplicity of hearings or decisions or both. A notice of hearing shall be mailed to each of the parties at least 5 days in advance of the hearing, giving the time and place of the hearing.

(3) The notice of hearing shall concisely set forth the issues involved. As to any issues not thus set forth the decision shall reflect consideration of such other issues, provided the parties are so notified at the time of the hearing and do not object.

(5) The hearing officer shall administer the oath or affirmation to each witness. The parties, their attorneys or agents shall

be given an opportunity to examine and cross-examine witnesses. However, it is also the responsibility of the hearing officer to develop the facts and, to this end, he may examine any witness or call any witness, as he deems necessary. The hearing officer may determine the order in which witnesses are called and the order of examination of each witness.

(6) The investigation containing summations of interviews, used by the deputy in arriving at his initial determination, is not evidence. However, signed statements of parties can be used if received in evidence at a hearing.

SECTION 22. Sections IND-UC 145.01 (1), (2) and (3) of the Wisconsin Administrative Code are amended to read:

Ind-UC 145.01 (1) ACTIVE CANNING SEASONS. (1) The department hereby determines that the outside limits of active canning seasons for all employers engaged in the canning of fresh perishable fruits or vegetables in Wisconsin occur entirely between the following specified dates each year:

Type of Fruit or Vegetable	. Active Canning Season	
	Earliest Week	Latest Week
Apples.....	First week ending in September	Second week ending in November
Asparagus.....	First week ending in May	Third week ending in July
Beans.....	Second week ending in June	Last week ending in October
Beets.....	Third week ending in July	First week ending in December
Blueberries.....	First week ending in June	Last week ending in August
Cabbage.....	First week ending in July	First week ending in December
Carrots.....	Last week ending in July	First week ending in December
Cherries.....	Third week ending in June	Third week ending in August
Corn.....	Fourth week ending in July	Fourth week ending in October
Cranberries.....	Third week ending in September	Last week ending in November
Cucumbers.....	Third week ending in July	Third week ending in October
Peas.....	First week ending in June	Third week ending in August
Potatoes.....	First week ending in July	First week ending in December
Pumpkin.....	First week ending in September	Third week ending in November
Rhubarb.....	Second week ending in May	Last week ending in October
Spinach (spring crop)..	Third week ending in May	Third week ending in July
Spinach (fall crop)....	Last week ending in August	Fourth week ending in November
Strawberries.....	First week ending in June	Third week ending in July
Squash.....	Second week ending in September	Third week ending in November
Tomatoes.....	First week ending in August	Fourth week ending in October
Turnips.....	Second week ending in August	First week ending in December

(2) Of those canned commercially in Wisconsin only those fruits or vegetables listed in subsection (1) are "fresh perishable", within the meaning of section 108.02 (5) (g) 22, Wis. Stats.

(3) In determining the eligibility of any given employe under section 108.02 (5) (g) 22, Wis. Stats., the department's deputy under section 108.09, Wis. Stats., shall in any contested claim and may in any claim determine between what dates, within the limits imposed by subsection (1), the active canning season or seasons actually occurred in the establishment in which the employe was employed.

SECTION 23. Section IND-UC 145.01 (4) of the Wisconsin Administrative Code is repealed.

SECTION 24. Sections IND-UC 150.05 (2) (d) and (e) of the Wisconsin Administrative Code are amended to read:

Ind-UC 150.05 (2) CONTRIBUTIONS. (d) UC-100B - Notice of Employer's Contribution Rate

(e) UC-101H - Benefit Reimbursement Request, for Government Units and Nonprofit Organizations

SECTION 25. Section IND-UC 150.05 (2) (f) of the Wisconsin Administrative Code is adopted to read:

Ind-UC 150.05 (2) CONTRIBUTIONS. (f) UC-101N - Employment and Wage Report, for Government Units and Nonprofit Organizations

SECTION 26. Sections IND-UC 150.05 (3) (j) and (4) (g) of the Wisconsin Administrative Code are amended to read:

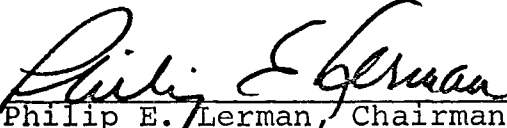
Ind-UC 150.05 (3) BENEFIT NOTICES AND REPORTS, REQUIRED OF EMPLOYERS. (j) UC-623 - Report by Seasonal Employers as to Filing Form UC-203

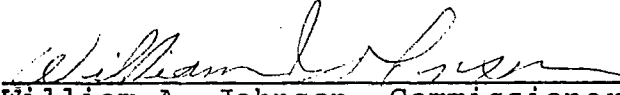
(4) BENEFIT CLAIMS AND PAYMENTS. (g) UC-355 - Claimant Statement on Availability

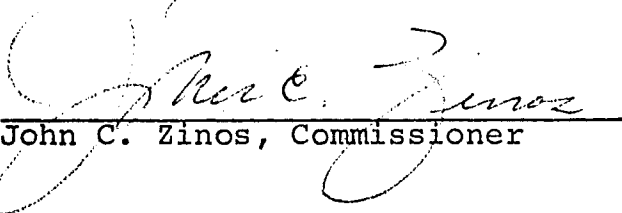
SECTION 27. Wherever the term "unemployment compensation" appears in sections IND-UC 101.03 (1) and (3), 110.05 (7), 120.01, 120.02, 123.01 (2) and (4) (c), 123.03 (1), 126.01 (3), 126.03 (1) (b) 1, 126.05 (1) and (4) (intro.), 132.01 (1) and (3), 132.02 (1), 140.05 (1) and (9) and 150.05 (intro.) of the administrative code, the term "employment security" is substituted.

SECTION 28. In the following sections of the administrative code, wherever the term "commission's" appears, the term "department's" is substituted, and wherever the term "commission" appears, the term "department" is substituted: 110.05 (7), 123.01 (intro.), 126.01 (2), 126.04 (3), 132.02 (1), 140.09, 150.01 (title), (intro.), (1) and (2) and 150.03 (intro.).

DEPARTMENT OF INDUSTRY, LABOR AND HUMAN RELATIONS

  
Philip E. Lerman, Chairman

  
William A. Johnson, Commissioner

  
John C. Zinos, Commissioner

December 18, 1974