

ADOPTED RULE WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS REGISTER. THIS DOCUMENT WILL NOT HAVE ANY SUBSTANTIVE CHANGES BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE TEXAS REGISTER.

The Texas Workforce Commission (Commission) adopts the repeal of and new §815.107 regarding Reports Required and Their Due Dates and amendments to §815.109 regarding Payments of Contributions and Reimbursements without changes to the proposed rules as published in the November 30, 2001 issue of the *Texas Register* (26 TexReg 9767). The rules will not be republished.

Purpose. The purposes of the rule changes are to (1) implement provisions relating to the election by certain employers of domestic workers to report wage information and pay tax contributions pursuant to Texas Labor Code § 201.027; (2) add a requirement that service agents filing reports on a cumulative total of 250 or more employees are also required to make the filings electronically in the same manner as a single employer reporting on a total of 250 or more employees; and (3) reorganize and clarify the provisions relating to how and when to file required reports.

Regarding the first change, the 77th Legislature and the Governor approved House Bill 1109, now codified in §201.027 of the Texas Labor Code, which allows certain employers to report information regarding wages paid to employees yearly instead of quarterly. New subsection 815.107(g) is added to include provisions specifically addressing the annual reporting requirements and the method of making the election. Minor amendments to §815.109 are made to address the new statutory provisions relating to contributions due by employers of domestic service workers that have made elections.

Regarding the second change found in §815.107(a)(3)(A), a requirement is added that service agents filing reports on a cumulative total of 250 or more employees are also required to make the filings electronically in the same manner as a single employer reporting on a total of 250 or more employees. The purpose of this requirement is to expedite and simplify the filing process. Although traditionally service agents have been filing electronically when filing reports covering a cumulative total of 250 or more employees, the rule is changed to make the electronic filing requirement clear in the rule.

Background/History: The Commission, as the entity responsible for the administration and implementation of Texas Unemployment Compensation Act (the Act), Texas Labor Code §201.001 et seq., and related statutes, endeavors to provide streamlined processes, including opportunities for employers to save time while meeting their statutory responsibilities. The Commission now maintains an online tax system that was launched in FY 1999, and gives employers 24-hour access to tax forms and information, as well as secure access to current information about their accounts. Employers without Internet access may call a toll-free number to register their businesses, determine their tax rates and calculate the taxes they owe. They also can access information any time through an automated voice response system. In FY 2000, the Commission launched a pilot Internet project that employers use to file their quarterly tax reports online. Administrative tax hearings are now resolved in a more timely manner because of the

online reporting. Efforts to enhance tax services have been so successful that in FY 2000, the Commission received a regional award for performance from the U.S. Department of Labor. The Commission envisions that the streamlining of the reporting requirements for Domestic Service Employers and service agents will add another step forward in creating further efficiencies for the benefit of the employer.

No comments were received on the proposed repeal of and new §815.107 or the proposed amendments to §815.109.

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The repeal is proposed under Texas Labor Code §301.061 and §302.002, which provide the Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Agency services and activities.

The proposed repeal affects Texas Labor Code, Title 4.

§815.107. Reports Required and Their Due Dates

The new rule and amendments are proposed under Texas Labor Code §301.061 and §302.002, which provide the Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Agency services and activities.

The proposed new rule and amendments affect Texas Labor Code, Title 4.

§815.107. Reports Required and Their Due Dates.

- (a) All Reports and Forms required by the Agency or the Act shall be filed with the Agency in one of the following formats unless a different format is approved in writing by the Agency or specified in this Chapter.
 - (1) General Format of Reports and Forms and Methods of Submission. The reports and forms referenced in this section shall be filed by using:
 - (A) forms printed by the Agency;
 - (B) magnetic or electronic media in a format prescribed by this Agency; or
 - (C) any other manner approved and prescribed by the Agency in writing.
 - (2) Content. The reports and forms shall contain all facts and information necessary to a determination of the amounts due by the employing unit. The Agency may require the furnishing of additional information as it deems necessary for the proper administration of the Act.
 - (3) Magnetic and Electronic Media reporting.

- (A) Required Magnetic or Electronic Media. Regarding filing of quarterly benefit wage credit reports as required by §207.004 of the Act, the following shall file benefit wage credit reports on magnetic or electronic media using a format prescribed by the Agency:
 - (i) Employers who have to file a report on 250 or more employees in any one calendar quarter; and
 - (ii) other entities, including agents reporting on behalf of multiple employers, who have to file reports on a cumulative total of 250 or more employees in any one calendar quarter.
- (B) Voluntary Use of Magnetic or Electronic Media. Employers, including agents reporting on behalf of multiple employers, who file a benefit wage credit report on a cumulative total of less than 250 employees in any one calendar quarter, as defined §207.004 of the Act, may voluntarily elect to use magnetic or electronic media reporting.
- (C) A magnetic or electronic media wage report may contain information from more than one employer.

(b) General Deadlines for Filing Reports and Forms.

- (1) Unless otherwise provided in this subchapter, any report or form shall be completed and filed with the Agency within ten days after the requested report or form is either:
 - (A) mailed to the individual or employing unit at the address on record with the Agency, or
 - (B) personally delivered to the individual or employing unit by an Agency representative.
- (2) Failure to receive notice regarding the reports shall not relieve the individual or employing unit of the responsibility of filing the reports the date the reports are due.
- (3) Good Cause for Extending Deadlines. When good cause is shown, the Agency may extend the due date for filing of a report required under this section; however, the extension shall only be effective if authorized in writing by an Agency representative.

(c) Status Reports.

- (1) Status Reports In General. Each employing unit shall file with the Agency a status report within ten days from the date upon which the employing unit becomes subject to the Act.
- (2) Status Reports for New Acquisitions. Any employing unit in the State of Texas, which acquires another business or substantially all the assets of another business shall file a new status report to the Agency within ten days of the date on which the employing unit made the acquisition.
- (3) Status Reports for Additional Information. Each employing unit shall file additional status reports at any time upon the request of the Agency.
- (4) Evidence in Support of Status Reports. Employing units filing status reports to the Agency shall:

- (A) file with the Agency all facts necessary to a determination of the taxable status of the employing unit, and
 - (B) if requested, file with the Agency evidence to establish the correctness of information contained in the employing unit's status reports.
- (d) Quarterly Reports from Taxed Employers. Each taxed employer, other than a domestic employer who has elected to report and pay annually under §201.027(b) of the Act, shall file with the Agency, within the month during which contributions for any period become due, and not later than the date on which contributions are required to be paid to the Agency, an employer's quarterly report showing for the preceding calendar quarter:
 - (1) the total amount of remuneration paid for employment (or showing that no remuneration was paid during the quarter);
 - (2) the total amount of wages paid for employment (as defined in the Act, §201.081 and §201.082);
 - (3) the amount of wages for benefit wage credits (as defined in the Act, §207.004) paid to each individual employee;
 - (4) the name and social security number of each individual to whom the wages were paid; and
 - (5) any other information requested on the employer's quarterly report, including all facts and information necessary to make a determination of the amount of contributions due.
- (e) Quarterly Reports from Reimbursing Employers and Group Representatives of a Group Account. Each reimbursing employer and the group representative of a group account shall file an employer's quarterly report, by the end of the month following each calendar quarter, that furnishes the following information for the preceding calendar quarter, information specified in subsection (d)(1)-(4) of this section and any other information necessary to make a determination of the amount of reimbursements due.
- (f) Benefits Financed by the Federal Government. Each employer which has employees whose benefits are to be financed by the federal government shall file a separate quarterly report furnishing the names of the employees, their social security numbers, and the wages paid to each. The report shall be filed by the end of the month following each calendar quarter.
- (g) Annual Reports from Domestic Employers.
 - (1) Making the Election. An election to report wages paid and pay contributions on an annual basis must be made in a format or on a form authorized by the Agency by the deadline specified in §201.027 of the Act.
 - (2) Each Domestic Employer that qualifies under the Act and who has made an election as referenced in paragraph (1) of this subsection (g), shall file with the Agency, by January 31 of the year after the wages were paid, in a format consistent with subsection (a) of this section, a domestic employer's annual report showing for the preceding calendar year in which wages were paid the following:
 - (A) the information specified in paragraphs (d)(1)-(4) of this section subtotaled for each quarter; and

- (B) other information called for on the domestic employer's annual report including all facts and information necessary to make a determination of the amount of contributions due.
- (3) Penalties and interest incurred under this section shall be the same as applicable to other employer reporting requirements as provided in Chapter 213 of the Act and this Subchapter C. relating to Tax Provisions.

§815.109. Payment of Contributions and Reimbursements.

- (a) When, in any calendar year, an individual or employing unit becomes an employer (other than a reimbursing employer) subject to this Act, the employer shall, on or before the last day of the month following the month during which the employer became a subject employer, file a report as specified in §815.107 and pay contributions with respect to all completed calendar quarters in the calendar year. Contributions for the quarter during which the employer becomes a subject employer shall be due on the first day of the month immediately following the quarter and shall be paid on or before the last day of the month. Contributions shall accrue quarterly and shall become due on the first day of the month immediately following the calendar quarter. They shall be paid to the Agency on or before the last day of the month. The provisions in this subsection (a) shall apply unless otherwise provided in §201.027 of the Act.
- (b) Reimbursements shall become due on the last day of the month following the end of each quarter and shall be paid to the Agency on or before the last day of the next month.
- (c) When the last day for payment of contributions or reimbursements falls on a Saturday, Sunday, or a legal holiday on which the Agency office is closed, the payment may be made on the next regular business day.
- (d) An employer or other entity, including agents paying on behalf of multiple employers, which paid contributions in the preceding state fiscal year of \$250,000 or more, and which is reasonably anticipated to do the same in the current fiscal year, is required to transfer payment amounts of contributions by electronic funds transfer on or before the date the contributions are due, unless the Agency in writing has approved another method or form of payment. Except as otherwise provided in this subsection, employers, including agents may voluntarily transfer payment of contributions by electronic funds transfer on or before the date the contributions are due, unless the Agency in writing has approved another method or form of payment. The transfers, when applicable, shall be subject to the provisions of the Texas Government Code, §404.095, and to rules adopted by the state comptroller pursuant to that section.
- (e) When good cause is shown, the Agency may extend the due date for the payment of contributions or reimbursements, however, the extension may not exceed 60 days and shall not be effective unless the extension is authorized in writing by the Agency. In the event the Agency for good cause shown extends the due date for payment of contributions or reimbursements the payments shall be made to the Agency on or before the 30th day following the extended due date.
- (f) An agent or other entity making a payment on behalf of 20 or more employers shall furnish an allocation list on magnetic or electronic media using a format prescribed by

this Agency, unless the Agency has approved another format and method in writing. This list shall be furnished with the remittance, and the remittance shall be allocated to the credit of the employers according to the order in which the employers appear on the list.