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Extension of Unemployment Insurance to Michigan Agricultural Workers
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Extension of Unemployment Insurance to Michigan Agricultural Workers

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Questions & Answers

Federal legislation passed and signed into law during 1976 extended unemployment insurance coverage to some Michigan agricultural workers effective January 1, 1978. The Unemployment Compensation Amendments of 1976 established minimum coverage provisions, while permitting the individual states to legislate beyond these minimum provisions. The amendments raised the Federal (FUTA) taxable wage base to \$6,000.

In 1977, Michigan passed legislation that (a) covered agriculture to the same extent as the federal provisions (Public Act 277) and (b) changed the financing of the Unemployment Insurance program (Public Act 155).

The following questions and answers are an attempt to alert farm employers to the provisions of these two acts, including:

—who must comply	Questions 1-5
—who is an employee	Questions 6-9
—registration and reporting	Questions 10-13
—the tax	Questions 14-17
—employee benefits	Questions 18-28

1. What are the new coverage provisions for agricultural workers?

Effective January 1, 1978, coverage was extended to **agricultural labor** for employers with 10 or more workers in 20 weeks or who pay \$20,000 or more in cash wages in any calendar quarter.

2. How is the "10 workers in 20 weeks" counted?

Start at the beginning of January, and count the number of weeks in which you have ten or more eligible workers (part-time, full-time or seasonal) on any day within each week. If you get to 20 weeks before the end of the year, you are a liable employer, retroactive to January 1 of that year. The 20 weeks need not be consecutive, and you need not employ the same workers to be liable. (Some workers are excluded from coverage and are not counted when determining liability. See Question 6 for excluded workers.) This provision applies to the current or previous year, so if you had 10 workers in 20 weeks in 1977 you would be liable for 1978.

3. What does the "\$2,000 in a calendar quarter" mean?

If, during any calendar quarter in the calendar year or preceding calendar year (example, April 1 to June 30), your **cash** payroll is equal to or greater than \$20,000, you are a liable employer retroactive to January 1 of the calendar year. Again, see Question 6 for workers whose wages are to be excluded in determining liability.

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4. **What is included in "payroll?"** Only the **cash** wages paid to farm employees.
5. **What if I only meet one of the preceding provisions?** You are a liable employer if you meet either of the provisions.
6. **Are all employees of a liable employer included for coverage?** No, according to Michigan Employment Security Commission regulations, certain services are **excluded from coverage**. These services are not included when calculating the number of workers or payroll, and individuals performing these services cannot collect benefits. The following excluded services would most likely apply to farming operations.
- (a) Services performed by individual owners of a business and members of a partnership (such as custom operators, the farmer, partners, etc.).
 - (b) Services performed by an individual working for his or her son, daughter or spouse or for a partnership which is composed exclusively of sons, daughters or husband and wife; or a son or daughter under 18 years of age working for his or her father, mother or both.
 - (c) Services performed by students under 18, working after school hours or working during vacation if they return to school. Students under 18, working a full-time job while attending classes are **not** excluded.
 - (d) Services performed by students who are under the age of 22 and the employment is a part of the regular school curriculum such as a cooperative or work experience program.
 - (e) Services performed by a registered crew leader and by members of his crew.
7. **Do I have to pay a tax on wages paid to a student when I know he will not be able to collect benefits?** Taxes do not have to be paid on high school students who are minors, but taxes generally have to be paid on college students. (See Question 6 for exclusions.)
8. **Is it legal to pay the tax on wages I pay my spouse?** No, unless you and your spouse are paid employees of a legal corporation or your spouse is a paid employee of a partnership composed of yourself and someone besides your spouse, son or daughter. (See Question 6.)
9. **Can an employee waive his coverage?** No, but if an employee makes no claims, then your account is not charged. However, you still must pay unemployment taxes on the employee's wages.
10. **How does a liable farm employer come under the unemployment compensation program?** It is the responsibility of the farmer (or employing unit) to recognize when a liable status is obtained and to report that status to MESC.
11. **How do I report that I am liable?** MESC sends registration forms and instructions to all employers who pay social security on labor. (These will be sent to farm employers in late January or February, 1978.) If you think you are liable but have not received a registration form by April, call the nearest MESC office or your county Cooperative Extension office.
12. **What is the procedure for reporting and paying the tax?** A liable employer must report and pay the tax each calendar quarter within 25 days following the end of each quarter. A form is provided by MESC to report the relevant information and compute the tax.

13. What are the penalties for failure to report a liable status and/or pay the tax?

If an employer is newly liable, and if no fraud is involved, then there is a small penalty charged plus interest on the tax due. If an employer who has already paid taxes under the system fails to file and pay taxes, then a larger penalty plus interest is imposed. However, if a report is filed but the payments are not made at that time, then only interest is charged on the tax due. In addition, failure to file the quarterly report and pay taxes anytime after the second year of participation will result in an increase in the rate paid by the employer in the following year.

14. Can I deduct the tax from my employee's wages?

No. The law does not permit the employer to deduct or accept any part of the required tax from the employee. The employer is solely responsible for the payment of the tax.

15. Are the unemployment taxes deductible on my federal income tax?

Yes. They are a farm expense.

16. How is the amount of the tax that I must pay determined?

Taxes for the first two years of an employer's participation is 3.4% (2.7% state plus .7% federal) of the first \$6,000 in annual wages for each employee. This results in a maximum of \$204 per employee. After the first two years of participation, the amount of tax is dependent, in part, on the benefit claims made against the employer's account.

17. By how much will the tax rate change over time?

If a liable employer had no claims against his account, his rate would fall to slightly below 3% after the second year. If he had many large claims against his account, the rate could rise to almost 7% after the second year and almost 10% by the seventh year.

18. What are the requirements for an employee to collect benefits?

In order to collect benefits, a worker must (a) have been laid off, (b) have earned \$25.01 or more each week for at least 14 separate calendar weeks from one or more liable employers during the 52 weeks immediately preceding the claim, (c) be available for similar employment for any shift when his or her occupation of work is customarily performed and (d) be active in pursuing a job.

19. Can a worker who voluntarily quits or is fired for misconduct collect benefits if he or she meets all other requirements?

No. Such work termination disqualifies the claimant. The worker will be able to collect after a 13-week requalifying period. However, a worker fired for any reason other than misconduct is not disqualified.

20. Can a worker such as a local housewife collect if she meets claim requirements but does not intend to work anywhere else?

No. Any unemployed worker must illustrate if he or she is "attached to the labor force" by actively searching for claimant must fill out an eligibility review questionnaire and be interviewed by an MESC interviewer to determine eligibility.

21. Can college students collect unemployment benefits?

Generally no, at least not while the student is actively enrolled in a public or private educational institution. However, students can collect if they meet the same criteria as other qualified persons making claims. (See Question 18.)

22. Can high school students collect unemployment benefits?

No, except in some very unusual circumstances. (See Question 6.)

23. In recent years, my workers have collected benefits when laid off even though they did not pay into the program. Will this program still be available for workers on small farms?

No. All farm workers have been eligible to collect benefits (if they met the other requirements) in recent years under Special Unemployment Assistance (SUA). SUA was terminated as of Dec. 31, 1977, so now only work performed for liable employers will count toward eligibility.

24. My farm is too small to meet either the 10 in 20 weeks or \$20,000 in a quarter test, but I would prefer that my workers be covered. What can I do?

Any nonliable employer can join the program voluntarily. Just contact your nearest MESC office.

25. How many weeks can an eligible employee collect benefits if no similar employment becomes available?

An eligible employee can collect three weeks of benefits for every four weeks worked up to a maximum of 26 weeks of benefits. Additional benefits can be collected (maximum of 13 weeks) under a federal program in states experiencing a high unemployment rate. Michigan presently falls in this category.

26. How much does an eligible employee receive in weekly benefits?

Benefits equal 60% of the employee's gross average weekly wage within a minimum-maximum range. The minimum is \$16, and the maximum varies with the number of dependents. An employee with no dependents could not receive benefits in excess of \$97 per week, while one with four or more dependents could receive a maximum of \$136.

27. Are employee unemployment benefits subject to federal income tax?

No.

28. Assume I was the last employer of a worker who has been collecting benefits for 12 weeks so far. He worked for me eight weeks. Will all of his benefits be charged against my account?

No. For every four weeks he worked for you, three weeks of benefits will be charged against your account. (In this example then, six weeks would be charged to you and the remainder to previous employers.) If an employee has worked for you 34 or more weeks, all benefits are charged to your account. Also, if a worker quit another job to accept a job with you, all benefits would be charged to your account.