



POTENTIAL LIABILITY FOR UNEMPLOYMENT INSURANCE BENEFITS WHEN ELECTING THE REIMBURSABLE METHOD OF FINANCING UNDER THE CALIFORNIA UNEMPLOYMENT INSURANCE CODE (CUIC)

A nonprofit organization, defined under Section 501(c)(3) of the Internal Revenue Code, public entity, or Indian tribe as defined under Sections 801 or 802 of the CUIC may elect to reimburse the cost of benefits (including extended duration benefits and federal-state extended benefits) paid in lieu of contributions normally required of tax-rated employers. An election of the cost-of-benefits method must remain in effect for not less than five (5) complete calendar years for a nonprofit organization or two (2) complete calendar years for a public entity or Indian tribe. However, CUIC, Section 803(g)(2) requires the Department to terminate all such elections of any Indian tribe that is more than 90 days delinquent in the payment of contributions, bonds, advances, reimbursements, or applicable penalties or interest.

"The cost of benefits paid" means the proportion of the total amount of benefits or payments made to a claimant which the total wages paid to that claimant in his or her base period by that entity bears to the total wages paid to that claimant in employment by all employers in his or her base period.

A public entity or Indian tribe electing the cost-of-benefits method of financing could have a potential liability of \$35,100 per employee separated from employment if such employee files claims in two succeeding years and the public entity or Indian tribe is the base period employer for both claims. Each such employee could be paid \$17,550 in the first benefit year and also \$17,550 in a second benefit year (\$450 a week for 39 weeks, including 13 weeks of California extended duration benefits or federal-state extended benefits). Public entity and tribal employers pay the full cost of regular and extended benefits. See chart below. Please note that these amounts could change in future years as the result of federal or state legislative action.

<u>Max Wkly. Amt.</u>	<u>Max. Number Weeks Allowed 26</u>	<u>Cal/Fed-State Extended Benefit</u>	<u>1st Year</u>	<u>2nd Year</u>	<u>Total Potential Liability</u>
\$450	11,700	5,850	17,550	17,550	35,100

A nonprofit organization under the same election and set of circumstances, however, could have a potential liability of \$28,800 per employee. Nonprofits pay 100 percent of regular benefits (\$23,400 for two succeeding benefit years) and only 50 percent of the cost of the last 12 weeks of federal-state extended benefits (\$5,400 for two succeeding benefit years). The first week of federal-state extended benefits is paid by the federal government. See chart below. Please note that these amounts could change in future years as the result of federal or state legislative action.

\$450	11,700	2,700*	14,400	14,400	28,800
*Last 12 weeks represents 50 percent Fed-State Extended Benefit					

If other employers have base period wages for a claim, a reimbursing entity is liable to reimburse benefits in the same percentage ratio that its base period wages bear to the total base period wages. For example, if total base period wages are \$20,000, a reimbursing entity has \$5,000 base period wages, and \$15,000 base period wages are paid by other employers, then the reimbursing entity is liable for 1/4 of the total benefits paid. If maximum benefits of \$17,550 were paid on such a claim, a reimbursing public entity or Indian tribe would be liable for \$4,387.50 (\$2,925 regular benefits plus \$1,462.50 extended benefits).

An entity electing the reimbursable method of financing for Unemployment Insurance benefits must reimburse EDD for all UI benefits paid on their behalf. It is not entitled to any relief of charges due to benefit payment errors. The reimbursing entity is only entitled to a credit against its liability if overpayments of UI benefits are in fact collected from a UI claimant.

Comments: The computations for the illustrations above are based on the weekly benefit amount schedule provided in Section 1280 of the CUIC, using the current maximum weekly benefit amount of \$450. Types of unemployment insurance programs and duration of benefits are as mandated under the CUIC.

DEPARTMENTAL NOTICES MAILED WHEN A BENEFIT CLAIM IS FILED

The filing of claims for unemployment insurance will generate certain forms which will be directed to the appropriate electing entity. The most important forms are these:

- (A) *Notice of Unemployment Insurance Claim Filed* (DE 1101C/Z) is sent to the most recent employer when a new claim is filed and to the most recent employer of the claimant who has filed an additional claim during the same benefit year. The employer should respond to the DE 1101C/Z **if** the claimant is unemployed for a reason that would disqualify him or her for benefits. (A list of disqualifying factors is printed on the form. Layoff due to lack of work or because of staff reduction is not disqualifying.)
- (B) *Notice of Wages Used for Unemployment Insurance (UI) Claim* (DE 1545R) is sent to each reimbursable base period employer. Your notice shows the base period wages of record as paid by you. If there is any error in claimant identification or in wages listed, you should immediately write to: Employment Development Department, Insurance Recomputation Group, MIC 16, P.O. Box 826880, Sacramento, CA 94280-0001. Any information regarding claimant eligibility for UI benefits should be directed to the Department's return address listed on the DE 1545R.

NOTE: Section 1260 of the CUIC provides that an individual who voluntarily left his/her last employment without good cause, or was terminated for good cause, is ineligible to receive unemployment compensation benefits until he or she, subsequent to the disqualifying act and registration for work, has performed service in bona fide employment for which he or she has received remuneration equal to or in excess of five (5) times his or her weekly benefit amount.

After an individual becomes eligible under CUIC Section 1260 to receive unemployment benefits, the electing entity will be charged for its pro rata share of the amounts paid by the Department.

- (C) *Benefit Audit* (DE 1296B) will be directed to the appropriate employing entity in all cases where a claimant has been paid benefits during a quarter when he or she also worked for and was paid wages by the nonprofit organization, public entity, or Indian tribe. The completion of the DE 1296B requires the distribution of pay by calendar weeks. Therefore, it is essential that employing entities maintain records which will permit the allocation of pay to specific calendar weeks.

EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Requests for services, aids, and/or alternate formats need to be made by calling 1-888-745-3886 (voice) or TTY 1-800-547-9565.