

Guidance Document

Pursuant to Neb. Rev. Stat. §84-901.03

This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operation of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedures Act. If you believe that this guidance document imposes additional requirement or penalties on regulated parties, you may request a review of the document.

Election of Annual Payment of Combined Tax

DISCLAIMER:

This Guidance Document is not intended to take the place of the law, but is intended to provide individuals with a general understanding of some of the requirements related to an employer's election to pay combined tax on an annual basis. For additional information individuals may consult the "Employer's Guide to Unemployment Insurance" or visit dol.nebraska.gov, where information is provided on the Nebraska Employment Security Law, *Neb. Rev. Stat.* §§48-601 through 48-683 ("NESL"), and portions of the Nebraska Administrative Code related to NESL.

Election of Annual Payment of Combined Tax:

In accordance with 220 NAC 1(001)(B) an employer with a positive experience account balance on October 31st of any year that is eligible for experience rating and which has no delinquent tax payments may elect to pay taxes due for the following tax (calendar) year on an annual basis. In order to be eligible for this election, the employer must report hours worked by its employees on each quarterly wage report for the following tax year in addition to the wages paid to each employee.

Election Process:

An employer must complete an application on the form provided by the Commissioner on or before February 15th of the year for which the election is made. Once an employer has elected to pay on annual basis, it must renew that election on or before February 15th each year thereafter on a form provided by the Commissioner.

Failure to complete the election application or renewal by the February 15th may result in denial. Any employer that fails to renew by February 15th will default back to quarterly payments.

An employer may elect to revert back to quarterly payments at any point in time by submitting notice in writing to the Commissioner at NDOL.TaxAP@nebraska.gov or Unemployment Insurance TAX; PO Box 94600; Lincoln, NE 68509-4600.

Revocation:

The Commissioner may revoke the annual payment status if the employer fails to report hours worked by each employee for any quarter or fails to pay the combined tax when due. If at any time an electing employer fails to meet the requirements of 220 NAC 1, the Commissioner may notify the electing employer. The electing employer shall be required to respond to the Commissioner with good cause for why the annual payment election shall not be revoked within seven calendar days of notification from the commissioner.

If an employer fails to pay the annual tax election when due, the annual payment election will be revoked. Payment for all accrued combined tax due will become immediately due and payable. If payment is not received within 15 days of notification from the commissioner, penalty and/or interest may be assessed in accordance with *Neb. Rev. Stat.* §48-655, 48-656 and 220 NAC 8.

Hours Worked:

Hours worked shall include all hours for which the employee is paid for services including sick and vacation leave and overtime. If an employee is salaried, hours worked may be reported as 40 hours per week or a lesser percentage if the salaried employee is employed on a less than full-time basis.

Examples:

- 1.) John Doe works 8 hours on Monday through Thursday. John Doe works 4 hours and takes 4 hours of vacation pay on Friday. The employer should report John Doe worked 40 hours for the week.
- 2.) Jane Doe worked 30 hours in the first week and 53 hours in the second week. Jane Doe is a salary employee. The employer should report Jane Doe worked 40 hours each week.
- 3.) John Doe worked 30 hours in first week and 53 hours in the second week. John Doe is an hourly employee. The employer should report John Doe worked 83 hours: 30 hours in the first week and 53 hours in the second week.

Penalties and Interest:

Even if electing to pay annually, combined wage reports must be filed on a quarterly basis. Failure to timely file any quarterly report may result in a penalty being assessed in accordance with *Neb. Rev. Stat* § 48-656.

If annual payment is not received on time interest may apply. Interest will accrue at the rate of 1.5% per month on combined tax due if payment is made after the due date.