RULES
OF
GEORGIA DEPARTMENT OF LABOR

CHAPTER 300-2
EMPLOYMENT SECURITY LAW

SUBJECT 300-2-2
REPORTS

TABLE OF CONTENTS

Rule 300-2-2-.01. Employer Liability Reports
Rule 300-2-2-.02. Employer Tax and Wage Reports

Rule 300-2-2-.01. Employer Liability Reports

(1) Instructions on or prescribed for any report form, method or format now or hereafter required by the Commissioner shall have the force and effect of rules issued pursuant to O.C.G.A. Sections 34-8-70, 34-8-121 and 34-8-150.

(2) All employing units having individuals in this state performing services in covered employment are required to establish an unemployment insurance tax account with the department. Tax account registration shall be completed electronically through the department's website or by utilizing forms specified by the department, such as DOL-1N "Employer Status Report" or DOL-1G "Registration of Governmental Organizations", in accordance with the instructions on such forms.

(3) The owner, partner, officer, major stockholder, or other person having charge of the affairs of an employing unit may be required to verify their identity in a manner approved by the Commissioner before registering an unemployment insurance tax account or updating an existing account.

(4) An employer shall notify the department within ten (10) days of any change in ownership, mailing address, physical business location, or contact information.

(5) Any form or request for information sent by the department to any employing unit with respect to liability for unemployment insurance taxes shall be completed and returned to the department within ten (10) days from the date such form was received by such employing unit, unless a written extension has been granted by the Commissioner or his duly authorized representative.

(6) Discontinuance or transfer of business.

(a) Any registered employer who discontinues business or transfers a part or all of the assets of a business shall, within ten (10) days after such discontinuance or transfer, file wage reports covering all operations not theretofore reported and give notice to the department in writing of the following:

1. The date of such discontinuance or transfer;
2. Whether there are any insolvency proceedings involved;
3. Whether there is a successor or acquirer of such business;

4. The name and address of such acquirer, if any; and

5. The date on which the employer ceased to employ workers.

(b) The acquirer of any portion of the business of a registered employer shall notify the department in writing, within ten (10) days from the date of the acquisition, of the following:

1. From whom acquired;

2. Whether the acquirer is an individual, partnership or corporation (if a partnership, the name, address and legal domicile of each partner); and

3. The date on which such acquisition occurred.

(c) The acquirer of any portion of the business of a registered employer shall comply with all of the conditions of O.C.G.A. Section 34-8-175 relating to the filing of reports, the payment of contributions, interest and penalties. Any entity that willfully violates such requirements may be subject to the criminal provisions provided in O.C.G.A. Section 34-8-256(e).

(d) Any receiver, trustee in bankruptcy or other representative of any legal trust shall within ten (10) days after succeeding to the control or management of any business or estate of any registered employer, notify the department giving the following information:

1. The number and style of the case in which an order was entered authorizing it to act; and

2. A copy of the order of appointment.

Authority: O.C.G.A. Secs. 34-2-6(a)(4), 34-8-70(b), 34-8-121(b)(1), 34-8-150(a).

Rule 300-2-2-.02. Employer Tax and Wage Reports

(1) All liable employers are required to file tax and wage reports pursuant to these rules. Such reports shall be completed in accordance with the instructions on the forms or as prescribed for the report method or format used, listing the full first and last name, valid social security number, and amount of quarterly wages paid to each individual employee. An employer shall not report any other government issued identification number, temporary or permanent, on a tax and wage report in lieu of a valid social security number. Reporting of any government issued identification number other than a valid social security number may result in the department considering such report as not filed for purposes of the late filing penalty provided in O.C.G.A. Section 34-8-165(b).

(2) An employer who authorizes a third-party agent to handle on its behalf any aspect of compliance with the reporting and tax requirements of the law and these rules, shall be held fully responsible for any failure of the third-party agent to comply with such requirements. In addition to any penalties and fees provided by the Employment Security Law and these rules:

(a) A third-party agent who, in the discretion of the department, establishes a pattern of non-compliance with the reporting and tax requirements of the law and these rules may, after notice to the affected employer(s), have access to tax and reporting systems revoked and/or any non-compliant filings rejected in their entirety; and

(b) An employer or any third-party agent or officer of an employer who submits a fraudulent tax and wage report to the department, including knowing or intentional errors or omissions, may be subject to the criminal provisions provided in O.C.G.A. Section 34-8-256(b) and (e).

(3) Employers with domestic employment only shall file tax and wage reports with the department annually on or before January 31st of each year for the prior calendar year. All other employers shall file reports with the department quarterly on or before the last day of the month

following the end of each calendar quarter. Except for the annual reporting of wages and taxes, requirements for reporting wages by employers of domestic employment shall be the same as for all other employers.
(4) An employer receiving Form DOL-10, "Notice of Status Determination", or other physical or electronic forms that may hereafter be adopted for notice to employer of liability for taxes, shall immediately complete and file such reports, no more than ten (10) days after receipt by the employer, for all completed calendar quarters from the effective date of liability.
(5) A tax and wage report is filed on the date received by the department or, if an electronic report is not required, when placed in the mail service. When placed in the mail service, the postmark cancellation date shall control over any prior postage meter date shown on the envelope or package.

(a) A delinquent tax and wage report may result in an employer becoming ineligible for an experience-rated tax rate. Such an employer's tax rate shall be calculated in accordance with O.C.G.A. Section 34-8-155(b).

(b) As provided in Rule 300-2-3-.02, an incomplete, inaccurate, or improperly submitted tax and wage report may be considered as not filed by the department for the purposes of calculating the monetary late filing penalty provided in O.C.G.A. Section 34-8-165(b).
(6) Mandatory electronic reporting.

(a) Employers with more than twenty-five (25) employees shall submit tax and wage reports electronically in a format approved by the Commissioner.

(b) Effective January 1, 2025, employers with twenty-five (25) or fewer employees shall submit tax and wage reports electronically in a format approved by the Commissioner.

(c) If an employer or an employer's agent fails to file a report electronically when required by this rule, in the discretion of the Commissioner, either:

1. The report shall be considered as not filed for purposes of the late filing penalty provided in O.C.G.A. Section 34-8-165(3)(b) and Rule 300-2-3-.02; or

2. The department shall convert the report to the required electronic format and charge a service fee to the employer's account at a rate established by the Commissioner. The department shall notify an employer in writing of the amount of any such fee and the date payment is due. Any delinquent fee or other cost of assessment or collection may be included in tax executions along with any other payments due, or may be collected by separate tax executions. In the discretion of the Commissioner, the service fee may be waived.
(7) Correction, addition, and adjustment to reports.

(a) Any corrections, additions, or adjustments to the regular report filed for any quarter should be reported on Form DOL-3C "Add New Wages and/or Correct Reported Wages", including the reason for the adjustment to the original report, or electronically as directed by the department. Taxes on any additional wages shall be calculated at the tax rate in effect during the quarter in which the wages were paid.

(b) Penalties may be assessed to an employer for submission of an inaccurate or incomplete report, as provided in Rule 300-2-3-.02, regardless of whether the report was submitted directly by the employer or by an agent of the employer.

(c) The service fee to convert a report to electronic format provided in subparagraph (4)(c) of this rule may be assessed for each employee whose information is added, adjusted, or corrected by a supplemental or corrected report.

(8) All wages paid an employee in insured employment shall be reported for the quarter in which payment was actually made to the employee. When payment has been made by check, the remuneration shall be reported for the quarter in which the employee's paycheck is dated. In the event the remuneration is paid in cash, or any medium other than cash or check, the remuneration shall be reported for the quarter in which the cash or benefit was received by the employee.

(9) An employer that has no employment in a calendar quarter, shall, within the prescribed time, either electronically file a report showing no wages, as directed by the department, or shall write across the face of the report "No Employment" and shall date, sign, and mail the report to the department.

(10) Required reporting of additional wage data.

(a) Whenever additional wage information is needed by the department to determine regular or alternative base period wages, each employer shall report such additional wage information as may be requested by the department. Employers shall report the additional wage information by the date designated by the department in its request.

(b) A report of additional wage data made in response to a department request under subparagraph (a) is not a substitute for quarterly tax and wage reports required under paragraph (1) above or for annual reports required of employers with domestic employment only. A report of additional wage data made in response to a department request under subparagraph (a) shall not relieve the employer from properly reporting all wage information with the appropriate quarterly or annual report, when such report is due.

(c) Whenever additional wage information requested by the department under subparagraph (a) of this paragraph is not received by the department within the time required, the department may use documentary information supplied by the benefit claimant (cash receipts, wage check stubs, and Internal Revenue Service tax forms 1099 or W-2) to determine base period wages.

(11) Reporting for administrative assessment.

(a) All provisions of these regulations with respect to taxes, contributions, penalty, interest and costs shall apply with equal force and effect to the administrative assessment specified in O.C.G.A. Section 34-8-180, et seq. Tax and wage reports shall include all information with respect to administrative assessments. This information shall be reported on the same form, by the same method, or in the same format, and shall be submitted at the same time, as all other information in an employer’s tax and wage report.

(b) All wages as described above in these rules shall be applied against the employer's rate of contribution as well as the administrative assessment.

(c) Administrative assessments which are not paid when due shall be collected in the same manner as that provided in the Employment Security Law for the collection of contributions, taxes, penalties, interest, costs and reimbursements in lieu of contributions. Any amount due as an assessment may be included in tax executions along with other such payments due, or may be collected by separate tax executions.

(d) Any assessment which becomes delinquent, regardless of whether other funds are due from the respective employer, shall bear interest at the rate provided for delinquent contributions in O.C.G.A. Section 34-8-166.

(e) Any delinquent assessment shall become the personal debt of the person required under the provisions of O.C.G.A. Section 34-8-167 to file returns or to pay assessments provided under O.C.G.A. Section 34-8-180, et seq.

Authority: O.C.G.A. Secs. 34-2-6(a)(4), 34-8-70(b), 34-8-150(a), 34-8-165(a), 34-8-180(b), 34-8-183.

GEORGIA DEPARTMENT OF LABOR

CHAPTER 300-2
EMPLOYMENT SECURITY LAW

SUBJECT 300-2-3
TAX RATES AND COVERED EMPLOYMENT

TABLE OF CONTENTS

Rule 300-2-3-.01. Quarterly Tax Payments
Rule 300-2-3-.02. Penalty and Interest
Rule 300-2-3-.03. Refund and Adjustment Procedure
Rule 300-2-3-.05. Charges to Experience Rating Account
Rule 300-2-3-.17. Successorship
Rule 300-2-3-.18. Partial Transfer of Employment Experience

Rule 300-2-3-.01. Quarterly Tax Payments

(1) Each employer (other than those who have elected the reimbursable option) is required to pay taxes and administrative assessments, if applicable, on the taxable wage base portion of wages paid to each individual employee during the calendar year.

(a) All taxes from employers of domestic workers only shall be due and paid annually on or before January 31st immediately following the calendar year to which such taxes apply. All taxes from all other employers shall be due and paid on or before the last day of the month which follows the end of the quarter to which they apply.

(b) Wages paid during a calendar year with respect to employment performed in another state for the same employer (legal entity), which wages were reported to another state and the taxes thereon paid, shall be considered as wages reported to the State of Georgia for the purposes of computing taxable wages paid to an individual during such calendar year (if the other state has a lower taxable wage base the difference will be taxable wages of Georgia).

(c) When a change in ownership (successorship) occurs, all taxable wage base wages paid and reported by the predecessor employer, excluding wages paid by a reimbursable employer, for the same individual for the same calendar year shall be treated as taxable wages paid by the successor employer.

(2) Wages.

(a) Salaries, commissions, drawing accounts, lodging and board, bonuses, holiday and vacation pay are wages within the meaning of the Employment Security Law. Flat fee expense payments shall be considered wages, whereas reimbursement expenses for which adequate documentation of actual expense reimbursed is maintained shall not be considered wages.

(b) Bonus means the sum paid to or other thing of value received by an employee from an employer as additional payment for services performed in insured employment.

(c) Drawing accounts, or advances against commissions, shall be deemed wages for services in insured employment in the amount actually drawn by the employee at the time so drawn. Any

advance against commission, including that paid to insurance agents, shall not be exempt from the definition of wages.

(d) Board and lodging furnished an employee by an employer shall be construed as wages for services in insured employment.

1. In the case of employees of apartment complexes, the value of an apartment given in lieu of wages shall be the same value accepted as rent for a like apartment in the same complex. Such value placed thereon shall be included as wages for reporting purposes.

2. For the purpose of reporting wages and taxes the minimum value of board and lodging shall be computed as follows, and no agreement between the employer and the employee shall reduce the value of said meals and lodging below these amounts: meals-breakfast $3.00, lunch $4.00, dinner $6.00; lodging-$200.00 per month, $50.00 per week, or $10.00 per day.

(3) All tax payments shall be made directly to the Georgia Department of Labor by check, draft or money order, made payable to the Georgia Department of Labor or by such other method approved by the Commissioner. Payments by cash may be remitted only by registered mail or paid to an authorized representative of the Georgia Department of Labor. The authorized representative who received the cash must issue a receipt to the payer. NOTE: The payment of this tax is covered by the criminal bad check law, O.C.G.A. Section 16-9-20 and civil damages are as specified in O.C.G.A. Section 13-6-15.

(4) The tax payment of any employing unit which becomes liable for payroll taxes, except those employers who have elected to make payments in lieu of contributions and employers of domestic workers under O.C.G.A. Section 34-8-33(a)(2) with domestic employment only, shall become due and payable on the last day of the month next following the end of the calendar quarter within which:

(a) The twentieth (20th) calendar week occurred during the calendar year in which there were employed four or more individuals for some portion of a day in each of any twenty different weeks within a calendar year under O.C.G.A. Sections 34-8-33(a)(4) or 34-8-33(a)(9). The first payment of such employer shall include taxes with respect to all wages paid for employment from the first day of the calendar year, or from the first day of employment within such calendar year; or

(b) Such employing unit became an employer under O.C.G.A. Sections 34-8-33(a)(5), 34-8-33(a)(6) or 34-8-33(a)(8). The first payment of such employer shall include taxes with respect to all wages paid for employment from the first day of the calendar year or from the first day of employment within such calendar year; or

(c) Such employing unit was notified of its liability by this department under O.C.G.A. Sections 34-8-33(a)(7) or 34-8-33(a)(10). The first payment of such employer shall include taxes with respect to all wages paid for employment from the effective date of liability; or

(d) Such employing unit paid for service in employment wages of $1,500.00 or more in any calendar quarter under O.C.G.A. Section 34-8-33(a)(1)(A). The first payment of such employer shall include taxes with respect to all wages paid for employment from the first day of the calendar year or from the first day of employment within such calendar year; or

(e) The twentieth (20th) calendar week matured during the calendar year in which there were employed one or more individuals for some portion of a day in each of any twenty (20) different weeks within a calendar year under O.C.G.A. Section 34-8-33(a)(1)(B). The first payment of

such employer shall include taxes with respect to all wages paid for employment from the first day of the calendar year or from the first day of employment within such calendar year; or

(f) Such employing unit paid for service in domestic employment cash remuneration of $1,000.00 or more in any calendar quarter under O.C.G.A. Section 34-8-33(a)(2). The first payment of such employer shall include taxes with respect to all wages paid for employment from the first day of the calendar year or from the first day of employment within such calendar year; or

(g) Under O.C.G.A. Section 34-8-33(a)(3), the twentieth (20th) calendar week occurred during the calendar year in which there was employed in agricultural labor ten (10) or more individuals for some portion of a day in each of any twenty (20) different weeks within a calendar year, or such employing unit paid for service in agricultural employment cash remuneration of $20,000.00 or more in any calendar quarter. The first payment of such employer shall include taxes with respect to all wages paid for employment from the first day of the calendar year or from the first day of employment within such calendar year. (See Rule 300-2-3-.18.)

(5) Any amount owed the department by an employing unit which has elected to reimburse benefits paid in lieu of contributions shall be due and payable on or before the thirtieth (30th) day after the release date of the "Reimbursable Employer's Quarterly Bill", Form DOL-621.

(6) A tax and wage report must be filed and taxes and administrative assessments paid within ten (10) days from the date any employer discontinues or makes a transfer of the assets of the business.

Authority: O.C.G.A. Secs. 34-2-6(a)(4), 34-8-70(b), 34-8-150(a).

Rule 300-2-3-.02. Penalty and Interest

(1) Should a conflict arise between a due date for the filing of reports or payment of taxes provided in these rules and the due date provided in the Employment Security Law, the due date provided in the Employment Security Law shall override the due date provided in these rules.

(2) Interest.

(a) Interest on delinquent unemployment insurance contributions, reimbursements in lieu of contributions, and administrative assessments shall be computed from the first day following the due date thereof at the rate specified in the Employment Security Law. Interest will be charged from the due date until payment is received.

(b) Waiver.

1. As provided in O.C.G.A. Section 34-8-166, the Commissioner may waive the accrual of interest only when it is reasonably determined that the delay in payment was due to the action or inaction of the department.

2. There shall be no administrative appeal rights to a decision by the Commissioner on an interest waiver request.

(3) Penalty.

(a) Late report filing.

1. Any employer who fails to file a tax and wage report on or before the due date shall be penalized in the amount specified in Section 34-8-165(b) of the Employment Security Law. Such penalty shall continue to be assessed until the report is filed pursuant to this rule.

2. For the purposes of the late filing penalty provided in O.C.G.A. Section 34-8-165(b), a tax and wage report may be considered not filed if an employer or agent of an employer:

(i) Fails to submit any portion of the report electronically when required pursuant to Rule 300-2-2-.02;

(ii) Misreports by ten (10) percent or more the number of employees and/or the amount of tax required by the Employment Security Law to be shown on the tax and wage report; or

(iii) Submits a tax and wage report containing an incorrect or invalid name, Social Security Number, or wages for ten (10) percent or more of the employees listed on the report.

3. Waiver.

(i) Nothing in this rule shall be interpreted to limit or impair the authority of the Commissioner provided in O.C.G.A. Section 34-8-165(c) to waive the monetary penalty for delinquent tax and wage reports; provided, however, that no amount of tax payable due to an increased tax rate by operation of O.C.G.A. Section 34-8-155 shall be waivable under the authority of O.C.G.A. Section 34-8-165(c).

(ii) There shall be no administrative appeal rights to a decision by the Commissioner on a penalty waiver request.

(b) Employee misclassification.

1. Any employing unit that misclassifies an employee for unemployment insurance tax or administrative assessment purposes may be:

(i) Assessed a penalty for each misclassified employee, as provided in O.C.G.A. Section 34-8-257(a): and

(ii) Charged a fee to cover the expense of investigating such misclassification at a rate established by the Commissioner, with interest, as provided in O.C.G.A. Section 34-8-257(b).

2. Waiver.

(i) In the discretion of the Commissioner, any penalty or fee assessed for employee misclassification may be waived.

(ii) There shall be no administrative appeal rights to a decision by the Commissioner on an employee misclassification penalty or fee waiver request.

(4) Liability under O.C.G.A. Section 34-8-33(a)(8)- acquisition of a liable business:

(a) Penalty. In all cases, penalty will be charged from the end of the month following the quarter in which the acquisition occurred or from the end of the month following the month in which the employer was notified of the liability, whichever is the later date.

(b) Interest. In all cases, interest will be charged on delinquent taxes from the end of the month following the quarter in which the acquisition occurred.

(5) Liability under O.C.G.A. Section 34-8-33(a)(9)- combined employment of two or more not liable employing units:

(a) Penalty. In all cases, penalty will be charged from the regular due date for the quarter in which the twentieth (20th) week during the calendar year was reached or from the end of the month following the month in which the employer was notified of its liability, whichever is the later date.

(b) Interest. In all cases, interest will be charged on delinquent taxes from the last day of the month following the quarter in which the employer reached the twentieth (20th) week during the calendar year.

(6) Liability under O.C.G.A. Section 34-8-33(a)(6)- re-registration of an employer after being inactive (unless terminated):

(a) Penalty. In all cases, penalty will be charged from the end of the month following the quarter in which the employer re-entered business.

(b) Interest. In all cases, interest will be charged on delinquent taxes from the end of the month following the quarter in which the employer re-entered business.

(7) Liability under O.C.G.A. Section 34-8-33(a)(7)- election of coverage:

(a) Penalty. In all cases, penalty will be charged from the end of the month following the month in which the employer was notified of liability or from the end of the month following the initial quarter of liability, whichever is the later date.

(b) Interest. In all cases, interest will be charged on delinquent taxes from the last day of the month following the quarter in which the employer was notified of its liability.

(8) Liability under O.C.G.A. Section 34-8-33(a)(10)- liability under federal law:

(a) Penalty. In all cases, penalty will be charged from the end of the month following the month in which the employer was notified of liability or from the end of the month following the initial quarter of liability, whichever is the later date.

(b) Interest. In all cases, interest will be charged on delinquent taxes from the end of the month following the quarter in which the employer employed its first worker in Georgia.

(9) Liability under O.C.G.A. Section 34-8-33(a)(1)(A)- payment of $1,500.00 or more in wages for any one quarter in either the current or preceding calendar year:

(a) Penalty. In all cases, penalty will be charged from the regular due date for the quarter in which the employer had $1,500.00 or more in wages or from the end of the month following the month in which the employer was notified of liability, whichever is the later date.

(b) Interest. In all cases, interest will be charged on delinquent taxes from the last day of the month following the quarter in which the employer had $1,500.00 or more in wages.

(10) Liability under O.C.G.A. Section 34-8-33(a)(1)(B)- employment of one or more employees:

(a) Penalty. In all cases, penalty will be charged from the regular due date for the quarter in which the twentieth (20th) week during the calendar year was reached or from the end of the month following the month in which the employer was notified of liability, whichever is the later date.

(b) Interest. In all cases, interest will be charged on delinquent taxes from the last day of the month following the quarter in which the employer reached the twentieth (20th) week during the calendar year.

(11) Liability under O.C.G.A. Section 34-8-33(a)(5)- operation of a governmental organization:

(a) Penalty. In all cases, penalty will be charged from the end of the month following the quarter in which the employer was notified of liability.

(b) Interest. In all cases where an employer is on a contributory basis, interest will be charged on delinquent taxes from the regular due date of each "Employer's Quarterly Tax and Wage Report" (which the employer must file and pay), regardless of when the employer was notified of liability.

(c) In all cases where an employer is on a reimbursable basis, interest will be charged beginning thirty (30) days after the release date of Form DOL-621, "Reimbursable Employer's Quarterly Bill".

(12) Liability under O.C.G.A. Section 34-8-33(a)(4)- operation of a non-profit organization:
(a) Penalty. In all cases, penalty will be charged from the regular due date for the quarter in which the twentieth (20th) week during the calendar year was reached or from the end of the month following the month in which the employer was notified of liability, whichever is the later date.
(b) Interest. In all cases where an employer is on a contributory basis, interest will be charged on delinquent taxes from the last day of the month following the quarter in which the employer reached the twentieth (20th) week during the calendar year.
(c) In all cases where an employer is on a reimbursable basis, interest will be charged beginning thirty (30) days after the release date of Form DOL-621, "Reimbursable Employer's Quarterly Bill".
(13) Liability under O.C.G.A. Section 34-8-33(a)(8)- acquisition by a non-liable employer of a liable business causing liability:
(a) Penalty. In all cases, penalty will be charged from the end of the month following the quarter in which the acquisition occurred or from the end of the month following the month in which the employer was notified of liability, whichever is the later date.
(b) Interest. In all cases, interest will be charged on delinquent taxes from the end of the month following the quarter in which the acquisition occurred.
(14) Liability under O.C.G.A. Section 34-8-33(a)(2)- employment of employees in domestic service:
(a) Penalty. Except as otherwise provided herein, penalty will be charged from the regular due date for the quarter in which the employer paid $1,000.00 or more in cash remuneration or from the end of the month following the month in which the employer was notified of liability, whichever is the later date. Employers with domestic employment only shall be charged penalty from the regular due date for the calendar year in which the employer paid $1,000.00 or more in cash remuneration or from the end of the month following the month in which the employer was notified of liability, whichever is the later date.
(b) Interest. Except as otherwise provided herein, interest will be charged on delinquent taxes from the last day of the month following the quarter in which the employer paid $1,000.00 or more in cash remuneration. Employers with domestic employment only shall be charged interest from the last day of the month following the calendar year in which the employer paid $1,000.00 or more in cash remuneration.
Authority: O.C.G.A. Secs. 34-2-6(a)(4), 34-8-70(b), 34-8-150(a), 34-8-158(e)(2), 34-8-159(4), 34-8-165(a).

Rule 300-2-3-.03. Refund and Adjustment Procedure
(1) Initiation by department. In the absence of a written request by an employer, the Commissioner may make a refund or adjustment to an account upon discovery of errors with respect to overpayment of amounts due, provided such amounts were assessed within the last seven (7) years.
(2) Request by employer.

(a) Any request for refund or adjustment of unemployment tax, interest, cost, administrative assessments or any combination of the foregoing must be made in writing and directed to the Commissioner.

(b) Such written request must be received by the Commissioner within three (3) years of the date the amount was assessed by the department.

(c) The specific basis for the refund or adjustment must be stated in the request.

(3) Review of the request.

(a) The Commissioner or his authorized representative shall have a reasonable time, normally not to exceed one hundred twenty (120) days, to review the request and, if the request is denied, to produce a written decision thereon.

(b) In the discretion of the Commissioner, a request for redetermination may be reviewed or reconsidered if it is received by the Commissioner within fifteen (15) days of the release date of the original decision and contains new relevant information that was not reviewed with the initial request.

(c) There shall be no right to an administrative appeal hearing of a decision by the Commissioner regarding a refund or adjustment request.

(4) If the request for refund or adjustment is granted by the Commissioner for an inactive employer account, a refund without interest shall be made:

(a) If the employer has no current employees;

(b) The account is current with the department; and

(c) The employer does not owe the department money for any purpose.

(5) If a refund or adjustment request is granted and the account of the employer with the Department is still active, the employer may, at its option, receive a refund without interest, or make the appropriate credit adjustment in a future tax and wage report, provided the account is current in every respect. If the account is not current no refund shall be made and adjustments will be made to future quarters as directed by the department.

(6) The experience rate history account created pursuant to O.C.G.A. Section 34-8-154 is strictly an account used to track the history of a particular employer's unemployment tax history. Nothing in this rule establishes an employer or any individuals in its employ the right to claim funds paid by the employer into the fund, regardless of whether the employer ceases business, or the experience rate history account of that employer is inactivated, terminated or otherwise ceases to exist.

Authority: O.C.G.A. Secs. 34-2-6(a)(4), 34-8-70(a).

Rule 300-2-3-.05. Charges to Experience Rating Account

(1) An employer shall be charged for all benefits paid as a consequence of the employer's failure to provide a timely written response to a claim for unemployment insurance benefits, regardless of whether the previous determination to pay benefits is later reversed on appeal or if an overpayment is established.

(2) An employer's account shall be charged and may not be relieved of charges, regardless of whether the associated determination to pay benefits is later reversed on appeal or if an overpayment is established, whenever an employer or an agent for that employer was at fault, without substantial good cause, for failing to respond timely or adequately to the request of the

department for information relating to the associated claim for benefits that was subsequently improperly paid and

(a) The employer or an agent for the employer has failed to timely or adequately respond, during the current calendar year, to any requested reports of the department with respect to three (3) individual claims established; or

(b) The employer or an agent for the employer has failed to timely or adequately respond, during the same calendar year, to any requested reports of the Department with respect to three (3) individual claims established which also resulted in benefit overpayments.

(3) The restriction on relief from charges for the claim shall be imposed for each week of state or federal unemployment benefits that is determined to be an overpayment until the claimant is no longer eligible for unemployment benefits and no additional benefit payments are issued to the claimant.

(4) The restriction on relief from charges in this Rule shall be applicable to both contributory and reimbursable account employers.

(5) The limitations on charges to employers under O.C.G.A.§ 34-8-157(b)(2) regarding wages paid at subsection (b)(2)(A), waiver of overpayments at subsection (b)(2)(C), and benefits paid for unemployment that is directly caused by a presidentially declared natural disaster at subsection (b)(2)(D), shall not apply to provide relief from charges restricted under this Rule.

(6) "Substantial good cause" for failure to respond timely or adequately to the request of the department for information relating to a claim for benefits shall require a showing of extenuating circumstances which prevented the timely or adequate filing by the employer, or the employer's agent, as appropriate, and that such extenuating circumstances were beyond the employer's or the employer's agent's control.

(7) The statutory "cap" on benefit charges provided in O.C.G.A.§ 34-8-157 shall not apply to Extended Benefits paid under O.C.G.A. § 34-8-197.

Authority: O.C.G.A. Secs. 34-2-6(a)(4), 34-8-70(a), 34-8-157(d), 34-8-157.

Rule 300-2-3-.17. Successorship

(1) Any legal entity who acquires by purchase, merger, consolidation or other means substantially all of the trade, business or assets of any employer and continues such business shall be deemed a successor to the employer from whom the business was acquired, subject to the mandatory and prohibited successorship provisions in subsections (g) and (h) of O.C.G.A. Section 34-8-153.

(2) When successorship is not otherwise required or prohibited, a rebuttable presumption of successorship shall arise if 90% or more of the predecessor's trade, business or assets were transferred.

(3) Factors to be considered by the Commissioner in deciding whether a successorship has occurred and whether successorship treatment is required or prohibited include, but are not limited to, the following:

(a) Continuity of workforce;

(b) Continuity of the predecessor's business enterprise;

1. Whether the same facility is used;
2. Whether the same customers are used;

3. Whether the business services the same geographic area;

4. Whether the same trade or business enterprise is continued;

5. Whether there are any significant changes in management and supervision of employees;

(c) Continuity of bargaining unit, if any. If there is a bargaining unit, did the acquirer:

1. Expressly assume the bargaining unit?

2. Expressly reject the bargaining unit?

3. Make any change in the craft designations?

4. Continue to use the same hiring hall?

5. Hire new employees such that the bargaining unit no longer represents a majority of the workers?

(d) Whether a hiatus in the business activities occurred. The length of the hiatus shall be considered by the Commissioner as follows:

1. When successorship is not otherwise required or prohibited, there shall be a rebuttable presumption in favor of successorship if the hiatus is less than two (2) weeks.

2. When successorship is not otherwise required or prohibited, there shall be a rebuttable presumption against successorship if the hiatus is two (2) weeks or more.

(e) Whether the employees of the predecessor had reason to believe that employment would continue.

(f) Substantially common ownership, management, or control over the trade or business acquired:

1. Whether, at the time of the transfer, there were any significant changes in ownership of the predecessor and the successor;

2. Whether, at the time of the transfer, the predecessor and the successor were owned by any of the same individual(s), any of the same legal entities, or any of the same legal entities which were owned by any of the same individual(s);

3. Whether, at the time of the transfer, any of the owners of the predecessor and the successor had familial or financial relationships without regard to the acquisition;

4. Whether, at the time of the transfer, the predecessor and successor concurrently employed substantially the same management or supervisory staff;

5. Whether, at the time of the transfer, any officer, major stockholder, or other person having charge of the affairs of the predecessor, or of the successor, had meaningful authority, directly or indirectly, by contract or in fact, regarding the affairs of the other;

6. Whether, at the time of the transfer, capital investments in the predecessor and the successor were supplied by any of the same individuals or legal entities;

7. Whether, at the time of the transfer, the operational financing of the predecessor and the successor were controlled or directed by any of the same individuals or legal entities.

(g) Whether or not the successor acquired the trade, business or assets of the predecessor solely or primarily for the purpose of obtaining a lower rate of unemployment tax contributions;

1. Whether the predecessor's business enterprise was active at the time of the acquisition;

2. The cost of acquiring the predecessor's trade or business;

3. Whether the cost of acquiring the predecessor was reasonably related to the market value of the predecessor's trade or business;

4. Whether the successor actually continued the business enterprise of the predecessor;

5. How long the successor continued the business enterprise activity of the predecessor;

6. Whether a substantial number of new employees were hired by the successor for performance of duties unrelated to the business enterprise activity conducted by the predecessor before the acquisition;

7. The potential unemployment insurance tax savings in contributions costs which favorable successorship treatment might achieve compared to the cost of the acquiring the predecessor's trade or business.

Authority: O.C.G.A. Secs. 34-2-6(a)(4), 34-8-70(b), 34-8-153, 34-8-157.

Rule 300-2-3-.18. Partial Transfer of Employment Experience

(1) Partial transfers of experience shall be subject to the mandatory and prohibited successorship provisions in subsections (g) and (h) of O.C.G.A. Section 34-8-153. The department shall consider, without limitation, the factors listed in Section 300-2-3-.17 to determine the applicability of subsections (g) and (h) of O.C.G.A. Section 34-8-153 to partial transfers of employment experience.

(2) When successorship is not otherwise required or prohibited, upon mutual agreement by both predecessor and successor, partial transfer of employment experience and payroll records of an employer may be approved if:

(a) A clearly identifiable or separable portion of the organization, trade or business was transferred as provided in O.C.G.A. Section 34-8-153.

(b) The acquiring unit continues to operate the acquired portion of such organization, trade or business and is a liable employer or becomes liable as provided by O.C.G.A. Section 34-8-153.

1. Where the successor is an employer or becomes an employer, application and agreement signed by both predecessor and successor are made by the successor employer within the two (2) calendar quarters following the quarter in which the acquisition occurred;

2. For good cause shown, time for filing such application may be extended not exceeding thirty (30) days;

3. Application and agreement shall be made on Georgia Department of Labor forms and shall include payroll and other information as required by such form; and

(c) Notice of said transfer was made as provided by Rule 300-2-2-.01.

(3) The predecessor and successor employers, after the formal application shall, upon request, file with the Georgia Department of Labor such other reports and forms as are deemed necessary.

(4) Upon receipt of the application and agreement, a transfer percentage will be determined by relating the total taxable payroll of the acquired portion for the eighteen (18) month period immediately preceding the date of acquisition to the total taxable payroll of the predecessor for the same period. In cases where taxable payroll information for the eighteen (18) month period is not available, taxable payroll for a lesser period may be used.

(5) When not otherwise required or prohibited, where the successor is a liable employer and acquires a liable employer and, at the time of acquisition, the predecessor's tax rate is higher than that of the successor, the successor's current rate shall continue until the end of the calendar year. The experience history of the predecessor shall not be transferred to the successor. If the predecessor's tax rate at the time of acquisition is lower than or equal to the rate of the successor, the experience history shall be transferred to the successor and used in future rate calculations.

(6) When not otherwise required or prohibited, where a successor who is not a liable employer acquires an existing business and, at the time of acquisition, the tax rate is greater than the new employer rate, the successor shall be assigned the new employer tax rate. The experience history of the predecessor shall not be transferred to the successor. The successor shall retain the new tax rate until eligible for a rate computation based on the successor's own experience history.
(7) When not otherwise required or prohibited, where a successor who is not a liable employer acquires an existing business and, at the time of acquisition, the predecessor's tax rate is lower than the new employer tax rate, the experience history shall be transferred to the successor, and the successor shall retain the predecessor's tax rate for the remainder of the calendar year. The successor's tax rate for future years will be computed based on the combined experience history of the predecessor and successor.
(8) When not otherwise required or prohibited, where a successor employer acquires multiple predecessors, the experience history of any predecessor with a tax rate lower than the new employer tax rate shall be transferred, but the experience history of any predecessor with a tax rate higher than the new employer tax rate shall not be transferred.
(9) Termination of an employing unit's unemployment experience history account means the employer either has ceased doing business in Georgia with no reasonable expectation or intention to resume doing business in Georgia in the future or the employer has fallen below the threshold of minimum coverage for a particular category of employer as more fully described in O.C.G.A. Section 34-8-33. For example, an agricultural employer which no longer has ten or more individuals in the employ, or a non-profit employer which no longer has four or more individuals in its employ may request termination of coverage. In either event, an employer must specifically request, in writing, termination of its account, and specify the reason for the termination. A statement to the effect that the employer no longer has employees or has ceased doing business shall not suffice as a request for termination, but shall constitute grounds for inactivation of an account.

(a) Inactivation of an account means the account may be re-activated in the future. In such event, the unemployment insurance experience tax rate history of the account remains, and will be merged with future experience for purposes of tax rate calculation.

(b) The unemployment insurance experience tax rate history of a terminated account ceases to exist. In the remote event such an employer were to reactivate its account in the future, it would be assigned a new employer rate, without regard for its prior tax rate history or experience.
Authority: O.C.G.A. Secs. 34-2-6(a)(4), 34-8-70(b), 34-8-153, 34-8-157.

RULES
OF
GEORGIA DEPARTMENT OF LABOR

CHAPTER 300-2
EMPLOYMENT SECURITY LAW

SUBJECT 300-2-4
UNEMPLOYMENT INSURANCE BENEFIT PAYMENTS

TABLE OF CONTENTS

Rule 300-2-4-.05. Employer Supplemental Unemployment Benefit Payments

Rule 300-2-4-.05. Employer Supplemental Unemployment Benefit Payments

(1) Definitions. For the purposes of this Rule,

(a) The term "Supplemental Unemployment Benefits" shall have the same meaning as provided in O.C.G.A. Section 34-8-45;

(b) The terms "Supplemental Unemployment Benefit Plan" and "SUB Plan" shall mean the written agreement(s), contract(s), trust arrangement(s), and/or other instrument(s) providing for the payment of supplemental unemployment benefits; and

(c) The term "Trust" shall mean an organization described in 26 U.S.C. Section 501(c)(17).

(2) Supplemental unemployment benefits paid to an individual by a trust pursuant to a SUB plan approved by the department shall not be construed to be:

(a) Wages or compensation for personal services under Code Section 34-8-49; or

(b) Disqualifying income under Code Section 34-8-194(5)(A).

(3) Requirements for approval of plan. The following conditions must be met for approval of a SUB plan by the department:

(a) The employer must submit a written request for approval of the SUB Plan to the department;

(b) The request must be accompanied by a copy of the SUB plan;

(c) The SUB plan must:

1. Establish a trust from which supplemental unemployment benefits may be paid to qualifying unemployed workers;

2. Provide for the payment of unemployment benefits from the trust only for an employee's involuntary separation from the employer resulting from a:

(i) Reduction in work force,

(ii) Discontinuance of a plant or operation, or

(iii) Other similar conditions;

3. Not discriminate in favor of certain employees by either the classification of employees eligible for benefits or payment of the benefits themselves;

4. Establish objective eligibility standards for the payment of benefits;

5. Not permit benefit eligibility to be determined solely in the discretion of the employer or trustees;

6. Bind the trustees to act consistent with the SUB plan provisions; and

7. Require the trust's corpus and income to satisfy all liabilities to covered employees before any other purpose.

(4) Decision and appeal rights. The department shall notify the employer in writing whether the SUB plan has been approved or disapproved. There shall be no administrative right to appeal the decision of the department.

(5) Notice requirement. An employer shall notify the department of any alteration or amendment to an approved SUB plan by submitting a written copy of any such alteration or amendment to the department for approval. Approval of a SUB Plan may be revoked for any payment from the trust to an individual issued after the effective date of any SUB plan alteration or amendment not submitted to the department for approval.

(6) This rule shall apply to any SUB plan submitted for approval to the Department, or altered or amended, on or after January 1, 2025.

Authority: O.C.G.A. Secs. 34-2-6(a)(4), 34-8-70(b), 34-8-190(a).

RULES
OF
GEORGIA DEPARTMENT OF LABOR

CHAPTER 300-2
EMPLOYMENT SECURITY LAW

SUBJECT 300-2-5
APPEALS

TABLE OF CONTENTS

Rule 300-2-5-.01. Employer Tax Liability Appeals

Rule 300-2-5-.01. Employer Tax Liability Appeals

(1) For the purposes of this rule, "tax liability" shall mean the status of an employing unit as a liable or not liable employer. It shall not mean any specific sum that has been assessed or specific tax rate that has been assigned to an employing unit.

(2) Determination of liability.

(a) Liability for unemployment insurance taxes shall be based upon the definitions found in the Employment Security Law, primarily to include "employing unit", "employer", "employment", and "wages". Definitions of these same terms from the common law or other state or federal laws shall not be controlling. Likewise, neither the language of a contract, such as an independent contractor agreement, nor a party's belief about the status of a worker shall be controlling. A determination of unemployment insurance tax liability shall be based on the true underlying nature of the relationship between a worker and an entity.

(b) Any entity ("employing unit") that remunerates any individual for the performance of personal services in this state shall cooperate with the department for the purposes of determining unemployment insurance tax liability.

1. It shall be the duty of any such employing unit to ensure it is either compliant with the unemployment insurance reporting and tax requirements of the law and these rules, or that it is entitled to a specific statutory exemption from such requirements.

2. In any administrative proceeding before the department or Office of State Administrative Hearings, an employing unit shall bear the burden of proof to show it is entitled to an exemption from the reporting and tax requirements of the law and these rules.

3. If an individual is remunerated by a different entity than the one for whom such personal services are actually performed, the entity remunerating the individual shall have the duty of ensuring compliance with the reporting and tax requirements of the law and these rules. Such entity shall:

(i) Cooperate in disclosing to the department:

(I) The identity of any entity for whom the individual performed the personal services at issue; and

(II) The frequency and nature of the relationship, including any written agreements governing the payment of the wages at issue and any commonality of ownership with any such entity; and

(ii) Have the burden of proof to show the services are exempt from unemployment insurance taxes, or, if such services are not exempt, to show liability for the services should be assigned to another entity, whether through the agency provisions of O.C.G.A. Section 34-8-34 or otherwise.

4. Failure to cooperate with the department or to meet the burden of proof may result in liability being assigned to the entity remunerating the individual.

(c) The determination as to the unemployment insurance tax liability of any employing unit shall be based upon the information contained in a properly executed Form DOL-1 or Form DOL-1A, "Employer Status Report", or Form DOL-1G, "Registration of Governmental Organizations", together with other available information and reports of investigations.

1. For the purpose of determining liability of any employing unit as defined in O.C.G.A. Section 34-8-33,"week" means a period of seven (7) consecutive calendar days beginning with the first day of the calendar week and ending at midnight on the last day of such calendar week during a calendar year. If any such week includes December 31 and January 1, the days up to January 1 shall be deemed one calendar week and the days beginning January 1 another such week.

2. The employing unit shall be promptly notified of the determination and the reasons thereof.

(3) Appeals from a determination of tax liability.

(a) Any interested party who claims to be aggrieved by a determination of unemployment insurance tax liability may protest the findings contained in the determination and such protest, in writing, shall be deemed as an appeal from such determination.

1. In addition to appeals from a determination of tax liability, the law or these rules may provide the right to an administrative appeal hearing to protest a specific unemployment insurance tax related determination made by the department. When such a right has been specifically provided in the law or these rules, the protest shall be handled in accordance with the procedures set forth in this rule, unless the law or rules provide that the Commissioner shall preside at the hearing and be the ultimate decision maker.

2. There shall be no right to an administrative appeal hearing to protest any unemployment insurance tax determination unless such a right is specifically provided in the law or these rules.

3. Neither the Unemployment Insurance Appeals Tribunal nor Board of Review shall have jurisdiction over an appeal of an unemployment insurance tax liability determination.

4. The filing of an appeal shall not stop the accrual of penalty or interest on delinquent reports and taxes.

(b) The protest shall set forth the specific grounds for the protest and shall be filed with the unit in the department which released the determination within fifteen (15) days of the date of mailing of the tax liability determination. An appeal shall be considered timely filed with the department if it is postmarked or hand delivered within fifteen days of the mailing date of the determination of liability. For purpose of these rules, a postal meter mark will not be considered to be a postmark. Determinations which are appealed via alternative means of delivery such as

electronically, private courier, facsimile transmittal, or otherwise in parcels lacking physical evidence of delivery by the U.S. Postal Service shall be deemed filed the date the appeal is received by the department pursuant to Official Code of Georgia Annotated Section 50-13-23.

(c) The department shall promptly compile sufficient copies of the record and forward them with the appeal to the Office of State Administrative Hearings (OSAH) where it will be processed in accordance with the Georgia Administrative Procedures Act (O.C.G.A. Section 50-13-1, et seq.).

(d) In preparation for a hearing before the Office of State Administrative Hearings, any interested party shall be allowed to examine or review relevant confidential department records in addition to those filed with the record and appeal to the Office of State Administrative Hearings. A written request for such examination or review must be received by the department reasonably in advance of the scheduled hearing. The request must be consistent with the disclosure provisions of the Employment Security Law at O.C.G.A. Section 34-8-120, et seq.

(4) Appeals from the employer tax liability determination rendered by the Administrative Law Judge shall be made directly to Superior Court and not to the board of review. The decision of the Administrative Law Judge shall become final and binding thirty (30) days from the date the Administrative Law Judge's final order is dated and filed with the Office of State Administrative Hearings unless, prior to the expiration of the thirty (30) day period, a petition for judicial review is filed with the Superior Court as provided by Official Code of Georgia Annotated Section 50-13-19. No stay shall operate after the expiration of the thirty (30) day appeal rights to Superior Court. The Commissioner shall be a party at interest to such decision.

(a) A party at interest who has filed an appeal for judicial review to the Superior Court, may, upon request, be supplied information from the records of the department to the extent necessary for the proper presentation of an appeal to the Superior Court. The request must be consistent with the confidentiality provisions of O.C.G.A. Section 34-8-120, et seq.

(b) Service. A petition for judicial review to Superior Court must join the Commissioner as a party at interest in the action. Timely service may be perfected upon the Commissioner either personally or by mail at the Georgia Department of Labor, 148 International Boulevard, N.E., Atlanta, Georgia 30303-1751. Service by any other means shall not be sufficient.

Authority: O.C.G.A. Secs. 34-2-6(a)(4), 34-8-70(b).

RULES
OF
GEORGIA DEPARTMENT OF LABOR

CHAPTER 300-2
EMPLOYMENT SECURITY LAW

SUBJECT 300-2-7
REQUIREMENTS FOR EMPLOYEES AND EMPLOYERS

TABLE OF CONTENTS

Rule 300-2-7-.12. Limited Liability Companies
Rule 300-2-7-.13. Independent Contractors

Rule 300-2-7-.12. Limited Liability Companies

(1) Tax treatment of entity.

(a) Limited liability companies ("LLC") and other similar pass-through entities shall be treated the same as partnerships for the purposes of unemployment contributions.

1. If such entity can demonstrate to the satisfaction of the Commissioner that it is receiving some other type treatment for purposes of federal income taxation, then the Commissioner shall consider that fact in determining whether remuneration paid constitutes taxable wages for purposes of the Employment Security Law.

2. If an LLC is treated as a corporation for federal income tax purposes, the LLC shall likewise be treated as a corporation for purposes of taxation under the Employment Security Law.

(b) This rule does not modify the application of OCGA Section 34-8-34 with respect to the definition of an employing unit or of OCGA Section 34-8-33 with respect to the definition of an employer.

(c) An LLC, like any other covered employer, shall provide the department with its Federal Employer Identification Number when requested or required on any form, determination or letter instruction from the department.

(2) Liability of members.

(a) If management of the LLC is vested in its members, those members who are actively involved in management shall be deemed jointly and severally liable for payment of unemployment contributions.

(b) If management of the LLC is vested in one or more appointed managers who are not members of the LLC, then, in addition to such managers, all members of the LLC may nonetheless be deemed jointly and severally liable for payment of unemployment contributions, provided, however, any member who can demonstrate to the satisfaction of the Commissioner of Labor that the member has no legal authority or control over whether unemployment contributions are paid or employers' quarterly wage and tax reports are filed can be relieved of liability.

Authority: O.C.G.A. Secs. 34-2-6(a)(4), 34-8-70(b).

Rule 300-2-7-.13. Independent Contractors

(1) The term “independent contractor” is not defined or used in the Employment Security Law. Liability for unemployment insurance taxes shall be based on the relevant statutory definitions in the Employment Security Law, as further set forth in Rule 300-2-5-.01.

(2) In applying the first prong of the test specified in O.C.G.A. Section 34-8-35(f), it shall not be sufficient that the entity who remunerated the individual did not exert significant direction and control over the performance of the services. It must be proved that the individual was free from significant direction and control from the entity who remunerated the individual and any other entity for whom the individual actually performed the services for which remuneration was paid. Personal services shall not be excluded from unemployment insurance coverage solely because an entity that exercised significant direction and control over the performance of the services was not the same entity that remunerated the individual for such services.

(3) In applying the second prong of the test specified in O.C.G.A. Section 34-8-35(f), it shall not be sufficient that the individual simply holds a professional or occupational license. It must be proved the individual performs the licensed services in question for clients, patients or customers other than the employing unit. Such services must be in the same occupation or line or work as being performed for the employing unit.

Authority: O.C.G.A. Secs. 34-2-6(a)(4), 34-8-70(b).

RULES
OF
GEORGIA DEPARTMENT OF LABOR

CHAPTER 300-2
EMPLOYMENT SECURITY LAW

SUBJECT 300-2-8
GOVERNMENTAL AND NON-PROFIT ACCOUNTS

TABLE OF CONTENTS

Rule 300-2-8-.03 Employers Electing to Reimburse in Lieu of Paying Contributions
Rule 300-2-8-.05. Reimbursable Employer Appeal to the Department of Amount Due

Rule 300-2-8-.03. Employers Electing to Reimburse in Lieu of Paying Contributions

(1) No eligible employer may change its method of payment from a reimbursable basis to a contributory basis or from a contributory basis to a reimbursable basis unless:

(a) There are no unpaid debts, taxes, contributions, reimbursement amounts, penalty, interest or recording fees outstanding against such employer; and

(b) The employer has completed two (2) calendar years under the prior method (reimbursable basis or contributory basis).

(2) Election to change from reimbursable to contributory.

(a) In any case in which an employer was first a contributor, then a reimburser, and now terminates such election; according to OCGA Section 34-8-158(d)(2), such employer shall have an employment experience rating computation as provided in OCGA Section 34-8-155. This computation shall be computed on the basis of all the employer's experience (contribution period and reimbursement period). The period of reimbursement will be considered a zero-balance period; provided, that all reimbursements billed to the employer are paid.

(b) In any case in which any employer having no prior coverage elects to be on a reimbursable basis and who, at a later date, terminates such election; according to OCGA Section 34-8-158(d)(2), such employer shall have an employment experience rating computation as provided in OCGA Section 34-8-155. The computation shall be computed on the basis of all the employer's experience (the reimbursement period only). The period of reimbursement will be considered a zero-balance period, provided that all reimbursements billed to the employer are paid.

(3) Election to change from contributory to reimbursable.

(a) In any case in which an employer was first a reimburser, then a contributor, and now elects reimbursement, such employer shall have its reserve balance (positive or negative) remain fixed as of the completion of processing of the last quarter of the year preceding the change in method of payment. Such reserve shall be frozen in the event the employer subsequently elects to return to the contributory method.

(b) In any case in which an employer on contributory basis now elects reimbursement, such employer shall have its reserve balance (positive or negative) remain fixed as of the completion

of processing of the last quarter of the year preceding the change in method of payment. Such reserve will be frozen in the event the employer subsequently elects to return to the contributory method of payment.

(4) The standard of acceptance of securities for deposit, as required by law, shall be the same as that required of trustees under Georgia law for investment in bonds and other securities as set forth in OCGA Sections 53-8-6 or 53-13-54. Such securities shall include, but are not limited to, the following:

(a) Bonds or other securities authorized by or issued by this state;

(b) Direct and general obligations of the United States Government;

(c) Obligations unconditionally guaranteed by the United States Government;

(d) Obligations of agencies of the United States Government issued by the:

1. Federal Land Bank;
2. Federal Home Loan Bank;
3. Federal Intermediate Credit Bank; or
4. Central Bank for Cooperatives.

(e) Deposits of funds at interest in any chartered state or national bank or trust company located in this state and which is insured by the Federal Deposit Insurance Corporation to the extent of the insurance;

(f) Accounts and certificates of state-chartered associations and federal savings and loan associations, which are insured by the Federal Savings and Loan Insurance Corporation to the extent of the insurance.

(g) Irrevocable letters of credit which name the Commissioner of Labor as obligee.

(5) Acceptance of cash deposit, surety bond and/or acceptable securities may be subject to the approval of a committee of no less than three (3) employees of the department (one of whom is an attorney) appointed by the Commissioner.

(a) Amount. The amount of the securities required by this subsection shall be equal to two and seven-tenths percent (2.7%) of the organization's taxable wages paid for employment as defined in OCGA Section 34-8-49for the four (4) calendar quarters immediately preceding the effective date of election or anniversary of the effective date of election, whichever date shall be most recent and applicable, or twenty-six (26) times the maximum potential weekly benefit amount as provided in OCGA Section 34-8-193, whichever amount is higher. If the organization did not pay wages in each of such four (4) calendar quarters the amount of the securities shall be as determined by the Commissioner.

(b) The effective date of a bond, irrevocable letter of credit or other type security instrument shall cover the period of time which equals the benefit year of any claim for benefits which could have been filed by an employee of the employing unit as of the date of notification by the Department to the employing unit of the option to be a reimbursable employer.

(6) Any amount owed to the department by an employing unit which has elected to reimburse benefits paid in lieu of contributions shall be due and payable on or before the thirtieth (30th) day after the release date of the Reimbursable Employers Quarterly Bill, Form DOL-621.

(7) Reimbursable employer benefit costs. In electing reimbursable status, a reimbursable employer agrees to reimburse the benefit trust fund all chargeable benefit costs without the risk sharing and cost sharing benefits of the contributory employer method. All the risk for a

reimbursable employer's benefit costs shall be born by the reimbursable employer. Except as provided in subparagraph (b) or otherwise specifically provided by the law or these rules, liability for reimbursable employer benefit costs shall not be shifted to the benefit trust fund, contributory employers, or the department.

(a) A reimbursable employer shall reimburse the unemployment trust fund the full cost of all chargeable benefits paid even if the decision to pay such benefits is later reversed on appeal, thus resulting in a benefit overpayment. If and when the overpaid benefits are collected, the employer's account shall be credited the amount collected.

(b) Pursuant to OCGA Section 34-8-157(b)(2)(C), benefits shall not be charged to the account of a reimbursable employer when an overpayment is waived.

Authority: O.C.G.A. §§ 34-2-6(a)(4), 34-8-70(b).

Rule 300-2-8-.05. Reimbursable Employer Appeal to the Department of Amount Due

(1) Pursuant to OCGA Section 34-8-159(4), the amount due specified in any bill to a reimbursable employer shall be conclusive on the organization unless the organization files an application with the Commissioner for a redetermination not later than fifteen (15) days after the bill was mailed to its last known address or otherwise delivered to it, setting forth the grounds to support a redetermination, including, for each disputed charge: the specific employee(s), the specific amount disputed for each employee, and the specific reason the charge for each employee is disputed. The Commissioner may reject an application for redetermination that fails to comply with the requirements of this paragraph. An application rejected by the Commissioner shall not toll the fifteen (15) day deadline to apply for reconsideration.

(2) No employer shall have standing to contest reimbursable benefit charges made in accordance with a benefit eligibility determination, redetermination, or decision of an administrative hearing officer or Board of Review, except upon the ground that such benefit reimbursements were charged for an individual that was not in liable employment for the employer and only in the event that the employer was not a party to a determination, redetermination, or decision, or to any other proceedings in which liability for the individual was determined.

(3) The Commissioner shall be afforded a reasonable amount of time to review the application (ordinarily ninety (90) days) and issue a redetermination. The reimbursable employer shall have an additional fifteen (15) days after the redetermination is mailed or delivered in which to appeal in writing for a hearing. If no such request is made within that time the redetermination becomes final and no further appeal is allowed.

(4) Hearings on such appeals shall be conducted by the Office of State Administrative Hearings. The amount due as found by the decision of said office shall be conclusive on the organization and the Department of Labor unless the organization or the Department of Labor files an appeal to the Superior Court not later than fifteen (15) days after the written decision was mailed or otherwise delivered by the Office of State Administrative Hearings to the last known address of the organization and the Department of Labor.

Authority: O.C.G.A. Secs. 34-2-6(a)(4), 34-8-70(b).