

**RULES
OF
GEORGIA DEPARTMENT OF LABOR
EMPLOYMENT SECURITY LAW**

**CHAPTER 300-2-3
TAX RATES AND COVERED EMPLOYMENT**

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

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(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) Effective October 22, 2013, pursuant to requirements of Section 252 of the Trade Adjustment Assistance Extension Act of 2011 (TAAEA), amending Section 3303 of the Federal Unemployment Tax Act (FUTA) at subsection (f) and interpreting Section 3309(a) (2) consistently therewith for employers electing reimbursable status under O.C.G.A. §34-8-158, and the authority of the Commissioner of Labor under O.C.G.A. §34-8-93, 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) effective April 24, 2014, 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) As of the effective date of this subsection, 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) As of the effective date of this subsection, the restriction on relief from charges in this subparagraph shall be applicable to both contributory and reimbursable account employers.

(5) As of the effective date of this subsection, 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 subsection.

(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. 34-8-70, 34-8-93, 34-8-157, 26 U.S.C. 3303, as amended.

**RULES
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**CHAPTER 300-2-7
REQUIREMENTS FOR EMPLOYEES AND EMPLOYERS**

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

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

(1) Limited liability companies (“LLC”) and other similar pass-through entities shall be treated the same as partnerships for the purposes of unemployment contributions. 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. 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. 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. 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. See Rule 300-2-2-.02(3).

(2) 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. 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. Sec. 34-8-70.