



Multi-State Employment

If an employee performs services in Oregon as well as another state(s), where should the wages be reported for unemployment insurance taxes? This is determined by the application of four tests. The tests are similar to provisions of all other states' law, and are applied in descending order. They are applied to the employee's work situation and not the employer. The employee must perform some services in a state before the tests can be applied.

OBJECTIVE OF THIS PROVISION

This provision is designed to:

- Simplify reporting of wages by the employer.
- Allocate an employee's wage credits to the state where the individual is most likely to become unemployed.
- Avoid dividing the employment of the individual among the states where services are performed. This becomes an issue when an employee performs work in a state different than where the employer is located or works in more than one state.

The tests are as follows:

(1) LOCALIZATION

This refers to where the service is performed. The wages of employees who perform their entire service in Oregon are reportable to Oregon. The wages are also reportable to Oregon if the services performed out of state are incidental or temporary in nature.

In determining whether services for an employer are incidental or temporary in nature, the factors to be considered are:

1. Length of service with the employer within the state as compared to outside the state.
2. Intention of the employer as to whether the service is an isolated situation or a regular part of the employee's work.

3. Intention as to whether the employee will return to this state upon completion of the services performed outside of Oregon.

(2) BASE OF OPERATIONS

If an employee performs services in Oregon and another state(s), but the service is not localized in any state **and** the service is not covered in any other state, we then consider test two, Base of Operations. Under these conditions, if the base of operations is maintained in Oregon, the entire services are covered in Oregon.

Base of Operations is an established location from where the employee starts work and customarily returns to perform services under the terms of the contract with the employer. If an employee does not work out of an office, the base of operations may be the employee's personal residence.

If the services are covered under the unemployment compensation laws of any other state, the Virgin Islands, or Canada, the wages are then reportable to the other location.

(3) PLACE OF DIRECTION AND CONTROL

If the first two tests do not apply, we then consider the place of direction and control. An employee's services are employment in Oregon if some of the services are performed in this state **and** the place from where the employer exercises general direction and control over the employee is in Oregon.

Direction and control is considered as basic authority and overall control rather than immediate supervision such as that exercised by a manager or foreman.

(4) RESIDENCE OF EMPLOYEE

In the event that none of the first three tests apply, then test number four, residence of employee, is applied to determine if an employee's services are covered in Oregon.

If none of the four tests apply, the employer may elect coverage in this state. If an employer fails to elect coverage in any state and an individual files a claim for benefits based on service under the laws of this state, it will be considered Oregon employment.

Questions

If you have questions or need additional information, please contact the Employment Department tax representative in your area or call 503-947-1488. To find your tax representative, view the web page at www.oregon.gov/EMPLOY/TAX/TaxOffices.shtml. TDD/Nonvoice Users 711 or by email at taxinfo@emp.state.or.us. You may also visit our web site at www.oregon.gov/EMPLOY/TAX/.

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