WEST VIRGINIA CODE: §21A-5-7

§21A-5-7. Joint and separate accounts.

(1) The commissioner shall maintain a separate account for each employer, and shall credit the employer's account with all contributions of the employer in excess of four tenths of one percent of taxable wages: Provided, That any adjustment made in any employer's account after the computation date may not be used in the computation of the balance of an employer until the next following computation date: Provided, however, That nothing in this chapter grants an employer or individual in his, her or its service prior claims or rights to the amounts paid by him, her or its into the fund, either on his, her or its behalf or on behalf of the individuals. The account of any employer which has been inactive for a period of four consecutive calendar years shall be terminated for all purposes.

(2) Benefits paid to an eligible individual for regular and extended total or partial unemployment beginning after the effective date of this article shall be charged to the account of the last employer with whom he or she has been employed as much as thirty working days, whether or not the days are consecutive: Provided, That no employer's account may be charged with benefits paid to any individual who has been separated from a noncovered employing unit in which he or she was employed as much as thirty days, whether or not the days are consecutive: Provided, however, That no employer's account may be charged with more than fifty percent of the benefits paid to an eligible individual as extended benefits under the provisions of article six-a of this chapter: Provided further, That state and local government employers shall be charged with one hundred percent of the benefits paid to an eligible individual as extended benefits. Benefits paid to an individual are to be charged to the accounts of his or her employers in the base period, the amount of the charges, chargeable to the account of each employer, to be that portion of the total benefits paid the individual as the wages paid him or her by the employer in the base period are to the total wages paid him or her during his or her base period for insured work by all his or her employers in the base period. For the purposes of this section, no base period employer's account may be charged for benefits paid under this chapter to a former employee, if the base period employer furnishes separation information within fourteen days from the date the notice was mailed or delivered, which results in a disqualification under the provision set forth in subsection one, section three, article six, or subsection two, section three, article six of this chapter or would have resulted in a disqualification under that subsection except for a subsequent period of covered employment by another employing unit. Further, no contributory base period employer's experience rating account may be charged for benefits paid under this chapter to an individual who has been continuously employed by that employer on a part-time basis, if the part-time employment continues while the individual is separated from other employment and is otherwise eligible for benefits. One half of extended benefits paid to an individual are to be charged to the accounts of his or her employers, except state and local government employers, in the base period in the same manner provided for the charging of regular benefits. The entire state share of extended benefits

WV Legislature

paid to an individual shall be charged to the accounts of his or her base period employers. The provisions of this section permitting the noncharging of contributory employers' accounts have no application to benefit charges imposed upon reimbursable employers.

(3) The commissioner shall classify employers in accordance with their actual experience in the payment of contributions on their own behalf and with respect to benefits charged against their accounts, with a view of fixing the contribution rates as will reflect such experiences. For the purpose of fixing the contribution rates for each calendar year, the books of the department shall be closed on July 31 of the preceding calendar year, and any contributions paid after that, as well as benefits paid after that with respect to compensable weeks ending on or before June 30 of the preceding calendar year, may not be taken into account until the next annual date for fixing contribution rates: Provided, That if an employer has failed to furnish to the commissioner on or before July 31 of the preceding calendar year the wage information for all past periods necessary for the computation of the contribution rate, the employer's rate shall be, if it is immediately prior to that July 31, less than three and three-tenths percent, increased to three and three-tenths percent: Provided, however, That any payment made or any information necessary for the computation of a reduced rate furnished on or before the termination of an extension of time for the payment or reporting of information granted pursuant to a rule of the commissioner authorizing an extension, shall be taken into account for the purposes of fixing contribution rates: Provided further, That when the time for filing any report or making any payment required hereunder falls on Saturday, Sunday, or a legal holiday, the due date is the next succeeding business day: And provided further, That whenever, through mistake or inadvertence, erroneous credits or charges are found to have been made to or against the reserved account of any employer, the rate shall be adjusted as of January 1 of the calendar year in which the mistake or inadvertence is discovered, but payments, made under any rate assigned prior to January 1 of that year, are not erroneously collected.

(4) The commissioner may prescribe rules for the establishment, maintenance and dissolution of joint accounts by two or more employers, and shall, in accordance with the rules and upon application by two or more employers to establish a joint account, or to merge their several individual accounts in a joint account, maintain a joint account as if it is a single employer's account.

(5) State and local government employers may enter into joint accounts and to maintain the joint account or accounts as if it or they are a single employer's account or accounts.

(6) Effective on and after July 1, 2012 if an employer has failed to furnish to the commissioner on or before August 31 of each year the wage information for all past periods necessary for the computation of the contribution rate, the employer's rate shall be, if it is immediately prior to July 1, less than seven and five-tenths percent, increased to seven and five-tenths percent.

(7) Effective July 1, 2012, a contributory employer's account shall not be relieved of charges relating to a payment from the Fund if the department determines that:

WV Legislature

(A) The erroneous payment was made because the employer, or an agent of the employer, was at fault for failing to respond timely or adequately to the request of the agency for information relating to the claim for compensation; and

(B) The employer or agent has established a pattern of failing to respond timely or adequately to such requests.

(8) For purposes of this section:

(A) "Erroneous payment" means a payment that but for the failure by the employer or the employer's agent with respect to the claim for unemployment compensation would not have been made.

(B) "Pattern of failing" means repeated documented failure on the part of the employer or the agent of the employer to respond as requested in this section, taking into consideration the number of instances of failure in relation to the total volume of requests by the agency to the employer or the employer's agent as described in this section.

WV Legislature