



Questions and Answers about UI Tax Audits

Q. Why does the Employment Department perform audits?

A. All federal and state taxing agencies perform audits to ensure compliance with their laws. Employment Department Law is contained in Oregon Revised Statutes (ORS) Chapter 657. ORS 657.660 gives the Employment Department the authority to audit employer records. Employers must allow the Employment Department to review records if asked.

Q. Why me?

A. It may be any of several reasons. Often it's random choice. To ensure the system works well, the Employment Department samples employer compliance, often by size or type of firm.

A former employee may have filed a claim for unemployment insurance on wages you have not reported or have reported differently. You may not have regarded the person as an employee.

Q. What will the auditor look for?

A. The auditor will explain this in detail at your scheduled pre-audit interview. An auditor confirms all wages have been reported correctly and all taxable wages have been computed correctly. Common types of unreported payroll are: payments for casual and contract labor, commissions, corporate officer's pay, and independent contractors.

Q. How long is this likely to take?

A. It depends on the number of employees, the condition of the records, and any questions that are raised. Some audits take two hours. Others

may take longer. The auditor will best be able to answer the question for you once the audit has commenced.

Q. What if I paid for services I don't consider payroll (such as subcontractors), can I later be taxed for those payments?

A. Yes. Any individual who is paid to perform services for you can be considered an employee unless their services meet exclusions in the Unemployment Insurance (UI) Tax law. The auditor will determine these issues based on clear legal and administrative guidelines and the information gathered in the audit.

Q. How far back will the audit cover?

A. The usual audit covers three calendar years, but can go back up to seven years. The auditor will explain the situation to you once the audit has commenced.

Q. What records will be needed?

A. We review payroll records, W-2s, 1099s, IRS and State Department of Revenue records, and general disbursement records such as your check register, invoices, and canceled checks.

Q. Where will the audit take place?

A. Usually the audit will take place wherever the records are located. Often, this is the employer's office, but may be at an accountant's or attorney's office. If you prefer, you may bring your records to our auditor's office.

Q. Should my accountant be present?

A. That decision is up to you. You may consult with your accountant at any time during the audit process.

Q. *But what if I don't have any employees?*

A. The Department may still want to audit to confirm this.

Q. *When can I expect to hear the audit results?*

A. The auditor will schedule a post-audit interview and explain the results to you as soon as the review is completed.

Q. *What if the Department determines that I owe tax, interest and penalty, but I can't pay it?*

A. The auditor is authorized to arrange a reasonable payment plan if the liability cannot be paid immediately.

Q. *Then will I owe money to the IRS and/or the Oregon Department of Revenue?*

A. You would need to contact the other agencies to determine if you owe additional tax.

Q. *What if I don't agree with the auditor's findings?*

A. You may request a hearing upon receipt of a Notice of Tax Assessment. A hearing must be requested within 20 days from the date of the assessment. Your request must be in writing and state why you believe the notice is incorrect. Generally, hearings are conducted by telephone before a neutral Administrative Law Judge.

Q. *Does my hearing request stop interest from accruing?*

A. No. You can only do that by paying the amount the Employment Department determines you owe. If you prevail at the hearing, we will refund your money.

Q. *Can I reschedule an audit?*

A. Usually, unless the audit is dealing with an urgent matter, such as an unemployment claim. If this is necessary, contact the auditor at your earliest convenience to arrange another date or time.

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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