



## NOTICE OF PUBLIC HEARING

Pursuant to *Neb. Rev. Stat.* §84-907, notice is given of a public hearing to be held before the Nebraska Department of Labor (NDOL) on February 15, 2019 at 10:30 a.m. at the Nebraska Department of Labor, Room 311, 550 South 16<sup>th</sup> Street, Lincoln, NE 68508. NDOL will receive oral and written comments concerning the adoption of a proposed amendment to 220 NAC 1 regarding the filing of quarterly tax and wage reports and payment of combined tax. This proposed amendment enables employers to elect to pay unemployment insurance taxes on an annual basis rather than quarterly if data on hours worked is provided to the Department and certain other minimum eligibility requirements are met.

A draft of the regulation and its Fiscal Impact Statement may be obtained at the office of the Secretary of State, Regulations Division, 1201 N Street, Ste. 120, Lincoln, Nebraska 68508, telephone number (402) 471-2385, or by contacting the NDOL at (402) 471-9912. Copies will also be available at the public hearing.

Interested persons may attend and testify at the hearing. Written comments may be submitted to the NDOL, Office of General Counsel, and P.O. Box 94600, Lincoln, NE 68509-4600 up to three days prior to the date of this hearing.

If auxiliary aids or reasonable accommodations are needed for attendance at this hearing, please call (402) 471-9912.

JOHN H. ALBIN  
Nebraska Commissioner of Labor

## FISCAL IMPACT STATEMENT

<b>Agency:</b> Nebraska Department of Labor	<b>Prepared by:</b> Katie S. Thurber
<b>Title:</b> 220	<b>Date prepared:</b> December 4, 2018
<b>Chapter:</b> 1	<b>Telephone:</b> 402-471-9912
<b>Subject:</b> Filing of Quarterly Tax and Wage Reports and Payment of Combined Tax	

**Type of Fiscal Impact:**

	State Agency	Political Sub.	Regulated Public
<b>No Fiscal Impact</b>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Increased Costs</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Decreased Costs</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Increased Revenue</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Decreased Revenue</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Indeterminable</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Provide an Estimated Cost & Description of Impact:**

**State Agency:** There will be reduced interest earned in the unemployment trust fund if payments come in on an annual basis instead of quarterly. The unemployment trust fund earned approximately \$1,765,480 in interest last year. For the fiscal impact statement, NDOL assumed 50% of employers will voluntarily elect to pay on annual basis. If 50% pay annually, interest would be reduced by approximately \$441,370.

**Political Subdivision:** No fiscal Impact

**Regulated Public:** No fiscal Impact

**If indeterminable, explain why:** n/a

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NEBRASKA ADMINISTRATIVE CODE

LAST UPDATED: January 16, 2012

TITLE 220 - DEPARTMENT OF LABOR

CHAPTER 1 - FILING OF QUARTERLY TAX AND WAGE REPORTS AND PAYMENT OF COMBINED TAX

001. This chapter is adopted pursuant to *Neb. Rev. Stat.* §§48-607, 48-661, 48-648 and 48-648.01.

A. Quarterly requirements:

- 002 (i) Quarterly combined tax reports and wage reports shall become due on the last day of the first month following the end of a calendar quarter. Quarterly combined tax reports and wage reports shall report wages for the quarter in which wages are paid or made available to the employee. A quarterly combined tax report is required of every liable employer each quarter even if no wages were paid during the quarter.
- 003 (ii) Combined Except as provided in 220 NAC 1, paragraph 001(B), combined tax shall become due and be payable quarterly on the last day of the next month following the calendar quarter for which combined tax has accrued, except as otherwise provided herein.
- 004 (iii) Quarterly combined tax and wage reports and combined tax payments of employers who become newly liable for combined tax in any year shall become due on, and be paid on or before, the last day of the first month following the quarter wherein such individual or organization became an employer subject to the law. The first payment of such an employer shall include combined tax with respect to all wages paid for employment for such individual or organization for all completed calendar quarters since the first day of the calendar year.
- 005 (iv) Any employer may, upon application, be authorized to pay overdue combined tax in monthly installments. The entire balance shall become due upon either the demand of the Commissioner of Labor, or upon failure to make timely payment.
- 006 (v) The first combined tax payment of any employer that voluntarily elects to become liable for the payment of combined tax under the Employment Security Law shall include combined tax with respect to all wages paid for employment occurring on and after the dates stated in such approval.
- 007 (vi) When the regular filing date for any combined tax falls on Saturday, Sunday, or a state holiday, such combined tax will be due and payable on the next business day.
- 008 (vii) The Commissioner may advance the due date of an employer's combined tax to be earlier than the regular due date if the collection of the combined tax by the Department may be jeopardized by the later due date.
- 009 (viii) The Commissioner may, at his/her discretion, charge to a suspense or uncollectible debt account any unpaid combined tax due or any unpaid payments in lieu of contribution due when collection is unlikely. Any receivable charged to this account may be subsequently removed from the account and reactivated if it appears that collection of at least a portion of the receivable becomes possible. Charging a receivable debt to the suspense account shall not constitute a compromise or forgiveness of the debt.

B. Exceptions:

- (i) Subject to the requirements of this chapter, an employer with a positive experience account balance on October 31 of any year that is eligible for experience rating and which has no delinquent tax payments may elect to pay taxes due for the following tax (calendar) year on an annual basis if the employer agrees to report hours worked by its employees on each quarterly wage report for the following tax year in addition to the wages paid to that employee. Hours worked by salaried employees may be reported as 40 hours per week or a lesser percentage if the salaried employee is employed on a less than full-time basis.
- (ii) Combined tax owed by employers eligible for and electing annual payment status pursuant to this chapter shall become due and payable for the year to which the election applies on the last day of the January following the calendar year for which combined tax has accrued, except as otherwise provided in this chapter.
- (iii) An employer electing to report hours worked by its employees on its quarterly wage reports and pay combined tax on an annual basis shall notify the commissioner of its election on or before February 15<sup>th</sup> of the year for which the election is made. No election is valid unless approved by the commissioner.
- (iv) If an employer elects to pay combined tax annually pursuant to this chapter, but fails to provide the information on hours worked by each employee on its quarterly wage reports, the commissioner may revoke the employer's election and require the employer to pay combined tax owed on a quarterly basis.
- (v) The commissioner may revoke the annual payment status of any electing employer if the employer fails to report hours worked for any quarter or fails to pay the combined tax when due.