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**2000 MONETARY CONSIDERATIONS****2001 GENERAL**

Monetary Determinations include employer status and exempt employment determinations made pursuant to §6 and §6A of the Law. In some cases, §2 of the Law is applicable when a determination is required on the employer/employee relationship.

All monetary determinations dealing with §2 of Chapter 151A are the sole responsibility of the Status Department and require the submission of a Request for Status Determination, Form 586. Monetary determinations regarding subjectivity pursuant to §6 or §6A should be forwarded to the Status Department if there is a dispute between the parties.

**2002 DELETION OF BASE PERIOD WAGES**

When it is established that any base period employment is not covered pursuant to Massachusetts' Unemployment Insurance Law, the wages from that employment should be deleted from the claim. If there is any dispute by the parties, the issue must be forwarded to the Status Unit of the Contributions Department for determination.

**2003 STATUS OF BASE PERIOD EMPLOYER****2004 STATUTE****§8**

"Any employing unit, other than the one for which services described pursuant to subsections (a), (b) and (c) of §4A are performed, shall be subject to the provisions of this chapter who or which, or whose agent:

(a) Has employed in employment subject to this chapter on some day in each of the thirteen weeks in the year nineteen hundred and fifty or in any subsequent year at least one individual. Such employment shall constitute the employing unit thereof an employer here under as of January the first of the year in which such employment occurs.

The employment of one individual in employment subject to this chapter on some day in each of the thirteen weeks in the year nineteen hundred and seventy-one or in any subsequent year, or the payment of wages in the amount of fifteen hundred dollars or more in any calendar quarter in the year nineteen hundred and seventy-one or in any subsequent year, shall constitute the employing unit thereof an employer as of January the first of the year in which the employment or payment of wages occurs; or"

## 2005 PRINCIPLES

The coverage provisions of Chapter 151A determine the employers who are liable for contributions and workers who accrue benefit rights pursuant to the Law. State coverage provisions, in general, are influenced by the taxing provisions of FUTA because of employers who pay contributions pursuant to an approved State law may credit their State contributions against the Federal tax. State coverage provisions are also influenced by §3304(a)(6)(A), FUTA, which requires that certain services, although excluded from FUTA definition of employment, must be covered pursuant to State law, i.e., service for governmental entities and for certain nonprofit organizations. To understand coverage you need to understand who is an employee, who is an employer, what is employment and what are wages.

## 2006 STATUTES

### §4A

"The term "employment" shall include any service performed prior to January first, nineteen hundred and seventy-eight which was employment as provided by this chapter prior to such date, and, subject to the other provisions of this chapter, service performed after December thirty-first, nineteen hundred and seventy-seven, by an individual:

(a) In the employ of the Commonwealth or any of its instrumentalities or any political subdivision thereof or any of its instrumentalities, or any instrumentality of more than one of the foregoing or any instrumentality of any of the foregoing and one or more other states or political subdivisions; provided that such service is excluded from "employment" as defined in the Federal Unemployment Tax Act solely by reason of §3306(c)(7) of that act and is not excluded from "employment" pursuant to §6 of this chapter. Benefits paid to unemployed individuals who had performed service during the base period in employment as defined in this subsection shall be financed in accordance with the provisions of §14A or §14C. A governmental employer as described in this subsection which does not otherwise elect to become a reimbursable employer pursuant to §14A shall become a rated governmental employer pursuant to §14C.

(d) In the employ of a religious, charitable, educational or other organization if the service is excluded from "employment" as defined in the Federal Unemployment Tax Act solely by reason of §3306(c)(8) of that act and is not excluded from "employment" pursuant to §6 of this chapter."

### §8A

"An employing unit for which services described pursuant to subsection (a) of §4A are performed shall be subject to the provisions of this chapter notwithstanding the provisions of subsection (a) of §8." §8A(b-d) of the Law describe non-profit and governmental employers who are subject to the Law.

## 2007 COVERAGE OF CITY, TOWN, COUNTY, STATE, AND NON-PROFIT EMPLOYEES FOR UI BENEFITS

On January 1, 1972 employees in non-profit charitable organizations became covered for benefits pursuant to the Unemployment Insurance Law. On January 1, 1978 governmental employees in the employ of the Commonwealth or any of its instrumentalities became covered for unemployment benefits.

Section 4A(c), §4A(d) and §8A(a) cover non-profit employers, including governmental, religious, charitable, scientific, educational and similar organizations. Any of the employer groups mentioned above may elect to make payments in lieu of contributions.

## 2008 STATUS DETERMINATIONS

The following information is intended to provide guidance for the fact finding interview. The status department will issue determinations according to local office procedures.

When a dispute arises as to whether or not the services performed constitute employment, or whether the employer is subject to the law; certain local office procedures must be followed to make a determination on this issue. A "Request for Status Determinations", enables the DUA local offices to gather the information needed by the Status unit to make a proper determination on employer status, employer-employee relationship, and exempted services.

### (A) Employer-Employee Relationship

A "Request for a Status Determination" form is required with the status of the base period employer block checked whenever a Form 1062 -- Request for Separation and Wage Information -- is returned by the employer under either of the following circumstances:

- There is no employer number or no number has been applied for.
- Services have been performed by a claimant after the suspension of an employer number.

A "Request for Status Determination" form is required with the employer/employee block checked whenever a Form 1062 -- Request for Separation and Wage Information -- is returned by the employer with either of the following comments:

- "Not an employee."
- "Independent contractor."

**(B) Exempt Services**

A "Request for Status Determination" is required with the excepted service block checked whenever an employer returns a Form 1062 -- Request for Separation and Wage Information -- and the claimant disagrees with the deletion of wages pursuant to §6 or §6A of the Law. (Religious exemption, student wages, etc.)

**(C) Procedures**

Refer to the "Unemployment Procedures Manual for Local Offices" §IV-B, 1 through IV-B for instructions regarding the "Request for Status Determination" form.

**2009 EMPLOYER-EMPLOYEE RELATIONSHIPS**

There is a presumption that services performed by an individual is employment subject to the Law. However §2 provides criteria for determining when an individual may not be an employee of an employing unit. Whenever there is a question as to whether a claimant was in fact an employee of an employing unit, the claim adjudicator should document the contract of hire and forward this information to the Status Unit of the Contributions Department. With very narrow exceptions, an employer can be exempt from the unemployment statute on the grounds that an individual in its employ is an independent contractor. It is the employer's burden of proof to demonstrate that it meets each provision of the three part test, that:

- a) The claimant was free from the employer's direction and control; and
- b) The service performed by the claimant employee was either outside the usual course of business for which the service is performed or outside all of the places of business of the enterprise for which the services were performed; and
- c) The individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service performed.

**2010 STATUTE****§2**

"Service performed by an individual, except in such cases as the context of this chapter otherwise requires, shall be deemed to be employment subject to this chapter irrespective of whether the common-law relationship of master and servant exists, unless and until it is shown to the satisfaction of the Commissioner that --

(a) Such individual has been and will continue to be free from control and direction in connection with the performance of such services, both under his contract for the performance of service and in fact;

(b) Such service is performed either outside the usual course of the business for which the service is performed or is performed outside of all the places of business of the enterprise for which the service is performed; and

(c) Such individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service performed."

A Form 586 must be prepared on all claims which require a determination pursuant to §2. This information is provided as a guide to ensure proper fact finding on a Form 113 by local office personnel.

## 2011 DIRECTION AND CONTROL FACTORS

### (A) 03 Account

An employer's right to direct and control the employee's work, is all that is required to establish an employer-employee relationship, whether it is exercised or not. If the employer has the right to direct and control not only what shall be done but how it shall be done, then an employer-employee relationship exists.

### (B) Compliance with Instructions

To determine whether an employer-employee relationship actually exists for the purpose of this law, you should take into consideration the following factors. Do not limit your analysis to these factors if there is other indication that the employer did not really "direct and control" the work of its employee.

An individual who is required to comply with instructions regarding when, where, and how he is to work is usually considered an employee. The control factor is present if the employer has the right to instruct the employee even though he may not exercise this right.

### (C) Training

Training of a person, whether by an experienced employee, direct employer instruction, correspondence, required attendance at meetings, or other methods, is a factor of control because it indicates that the employer wants the services performed in a certain manner.

### (D) Independent Contractors

These individuals are customarily engaged in an independently established trade, occupation, profession or business of the same nature as that which is involved in the service performed. These individuals are free to offer their services to as many business or individuals as they desire. The individual is also free from the direction and control of the employer. The relevant question is whether or not an employer-employee relationship exists "in fact" and boilerplate language to the contrary in an employment contract is not binding, e.g. when an employer asserts that a claimant is a franchisee and therefore not an employee.

## 2012 SERVICE WITHIN AND WITHOUT THE STATE

### (A) §3

A Form 586 must be prepared and submitted to Status on all claims requiring a determination pursuant to §3.

"The term "employment", except in such cases as the context of this chapter otherwise requires, shall include an individual's entire service, performed within, or both within and without the commonwealth, if--

(a) The service is localized in the Commonwealth. Service shall be deemed to be localized within the commonwealth if the service is performed entirely within the Commonwealth, or the service is performed both within and without the Commonwealth, but the service performed without the Commonwealth is incidental to the individual's service within the Commonwealth; for example, [the service] is temporary or transitory in nature, or consists of isolated transactions.

(b) The service is not localized in any state, but some part of the service is performed in the Commonwealth and:

(1) The individual's base of operations is in the Commonwealth or, if there is no base of operations, then the place from which such service is directed or controlled, is within the Commonwealth, or

(2) The individual's base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in the Commonwealth."

Whether or not an employee who performs service for the same employer in more than one state is covered in Massachusetts can be determined by one of the four tests in §3 of the Law.

If there is doubt or disagreement as to whether a claimant should be covered in Massachusetts, a Form 586 Request for Status Determination shall be submitted to the Status Unit.

**(B) Localization**

The four tests in §3 of the Law should be applied to the services of a particular employee in the following order:

1. An employee's services are "localized" in Massachusetts if his services are performed entirely within the state or if they are performed both within and without this state and the service performed outside this state is incidental to the individual's service performed within the state.

**Example:** A Massachusetts general contractor obtains a contract for a temporary job in Rhode Island. He engages some employees in Massachusetts and some employees in Rhode Island to work on the Rhode Island job. When the Rhode Island job is completed, the employees are laid off. The services for these employees are localized in Rhode Island and their wages are reportable in Rhode Island. The contractor also brings some of his regular Massachusetts employees into Rhode Island to work on the same job and returns them to Massachusetts for continued work for the same employer after the Rhode Island job is completed. These regular Massachusetts employees are reportable to Massachusetts for Unemployment Compensation purposes.

**(C) Base of Operations**

2. If the employee's service is not localized in Massachusetts test #1 does not apply, but if part of his service is performed in Massachusetts and his base of operations is in this state, his services are covered in Massachusetts (Base of operations is the place from which the employee starts his work and to which he customarily returns to perform the terms of his contract with his employer).

**(D) Place of Direction and Control**

3. If the employee's service is not localized in Massachusetts, and his base of operations is not in Massachusetts, tests #1 and #2 do not apply, but if some of his services are performed in Massachusetts and he is directed and controlled from Massachusetts, his services are covered in Massachusetts.

**(E) Residence of Employee**

4. If tests 1, 2 and 3 do not apply, an employee's services are covered in Massachusetts if some of his services are performed in Massachusetts and his residence is in Massachusetts.

**2013 RECIPROCAL AGREEMENTS****2014 STATUTES****§5**

"The term "employment" shall include services covered by an arrangement pursuant to provisions of §66, under which arrangements all services performed by an individual for an employing unit are deemed to be performed within the Commonwealth, if the Commissioner has approved the request of the employing unit that the entire service of such individual during the period covered by such request be deemed employment subject to this chapter" (Prepare Form 586).

**§66**

"The Commissioner is hereby authorized to enter into reciprocal agreements with appropriate and duly authorized agencies of other states or of the federal government or both, whereby:

(a) Services performed by an individual for a single employing unit for which services are customarily performed by such individual in more than one state shall be deemed to services performed entirely within any one of the states in which any part of such individual's services is performed or in which such individual has his residence or in which the employing unit maintains a place of business, provided there is in effect, as to such services, a request by the employing unit, approved by the agency charged with the administration of such state's unemployment compensation law, under which all the services performed by such individual for such employing unit are deemed to be performed entirely within such state."

The term "employment" is broadened by §5 to include services covered by reciprocal arrangements, and §66 authorizes the Commissioner to enter into such arrangements.

The primary reason for a reciprocal arrangement is to ensure that a multi-state worker will be eligible under the unemployment compensation of some state, especially if there is doubt as to the proper state of coverage, or there is a conflict between state laws. Reciprocal arrangements are intended to avoid duplication of contributions by employers, and they simplify reporting for employers, many of whom have large numbers of multi-state workers.

A request for coverage of a multi-state worker pursuant to the "Interstate Reciprocal Arrangement Agreement" must be initiated by the employing unit. A reciprocal coverage arrangement may be requested for any employee who customarily performs his services in more than one state. The employer may request coverage pursuant to the laws of any participating state in which:

1. Any part of the employee's services is performed; or
2. The employee resides; or
3. The employer maintains a place of business related to the individual's services.

The Interstate Reciprocal Coverage Arrangement states that each interested jurisdiction must approve or disapprove the election. The Massachusetts agency interprets this requirement to mean the consent of those interested jurisdictions which could have any claim to coverage. In other words, we need contact only those states which would have a reasonable claim to cover the services.

In order that no individual shall be deprived of his rights, Massachusetts requires the consent of the employee for whom coverage is sought before the agreement is executed.

## **2015 GOVERNMENT EMPLOYEES**

A Form 586 must be prepared and submitted to the Status Unit on any claim on which there is a dispute pursuant to §4A.

As noted earlier §4A(a), 4A(f), define work that is considered "employment" by a governmental employee.

Services performed for the Commonwealth of Massachusetts, or any instrumentality of the Commonwealth, such as the MBTA, or for any city, town, or county in Massachusetts are covered pursuant to §4A(a), effective January 1, 1978 with the following exceptions as outlined in §6A of the Law:

1. Elected officials;
2. Members of legislative bodies;
3. Members of the judiciary;
4. Members of the National Guard or Air National Guard;
5. Employees serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency;
6. An employee serving in a position which, under or pursuant to the laws of the Commonwealth, is appointed to either a nontenured policymaker or advisor, or in a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight hours per week.

§6(e) and 6A exempt from coverage pursuant to the Massachusetts Unemployment Insurance Law any service performed for the United States government itself, or for wholly owned instrumentalities of the United States. In general, however, these services are usually covered pursuant to the UCFE Program.

Employment involving Officers' messes, canteens and concessions located on military installations, arsenals, and the like, present some problems because of the variety of arrangements under which such activities are conducted. For example, some of the more common methods of operation include the U.S. government, concessionaires, or by a committee representing a group of employees of the facility.

## **2016 AGRICULTURAL EMPLOYEES**

A Form 586 must be prepared and submitted to the Status unit on any claim on which there is a dispute pursuant to §4A and 6.

§4A(b) and 6(a) define "employment" for those engaged in agricultural labor. In general, the term "agricultural labor" includes:

1. Services performed on a farm in the production of vegetables, fruits, tobacco and flowers, and in raising, feeding and caring for animals, bees and poultry.
2. Services performed on a farm in the employ of the owner or operator or tenant of the farm, in connection with the operation, management, conservation, improvement or maintenance of such farm and its tools and equipment.

3. Services performed in the employ of the owner, operator or tenant of a farm, in the processing, retail sale, or delivery to a point for further distribution of the products of a farm.

The term "farm" includes stock, dairy, poultry, fruit, tobacco and truck farms, plantations, nurseries, greenhouses and orchards. Mink farms and chinchilla farms are also included.

Processing of the farm products includes handling, planting, packing, grading, storing or delivering to storage, provided such operations are incidental to ordinary farming operations.

In general, the term "agricultural labor" does not include services performed in connection with landscaping, forestry and lumbering.

An agricultural employing unit will be a subject employer if:

1. The employer paid \$20,000 or more in wages in any calendar quarter; or
2. Employed ten or more individuals on some day in each of twenty weeks.

Individuals who are furnished by crew leaders and are employees of such crew leaders are covered.

## **2017 DOMESTIC EMPLOYEES**

A Form 586 must be prepared and submitted to the Status Unit on any claim on which there is a dispute pursuant to §4, 6 and 8.

Section 4A(c), 6(b) and 8A(c) define "employment" by those engaged in domestic services.

Individuals employed as domestics in a private home, local college club, or local chapter of a college fraternity or sorority are subject to the Law, if the maid, butler, cook, valet, cleaning lady, gardener, or chauffeur of an automobile for family use who performs these house-hold duties in a private home is considered to be in domestic service.

A maid, butler, cook, laundress, waiter or housemother who performs these duties of a household nature in a local college club or local fraternity or sorority is considered to be in domestic services.

An individual provided by a private service firm to perform domestic service is an employee of the service firm and not of the household, if the firm is responsible for paying the worker. Individuals who are employed as domestics as cited-above, are paid more than \$1,000.00 in any calendar quarter during the current or preceding calendar year. Individuals paid less than \$1,000.00 would have their employment exempt from coverage pursuant to §6(b) of the Law.



Services performed as a private secretary, even though performed in the employer's home, are not domestic services.

Services performed at a guest house or rooming house offering food and lodging to the public and operated as a business enterprise, are not domestic services.

## **2018 RELIGIOUS AND CHARITABLE ORGANIZATIONS**

A Form 586 must be prepared and submitted to the Status Unit on any claim on which there is a dispute pursuant to §6(r) or §6(s).

Section 4A(d), 6(r) and 6(s) define exempt employment for a religious, charitable, educational or other organization.

Services performed in the employ of a church, or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches are exempt from coverage pursuant to §6(r) of the Law.

Services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of duties required by such order is also exempt from coverage pursuant to the provisions of §6(s) of the Law.

Note: Service performed for a church-operated elementary or secondary school is exempt from coverage pursuant to §6(r) of the Law according to a 1981 decision of the state Supreme Judicial Court. The exemption applies depending upon who the employer is, and not on the nature of the services to be rendered.

Service performed for a training center which was subject to church control is also exempt from coverage even if the training center services a secular purpose and is primarily government funded, according to a 1985 SJC decision.

## **2019 EMPLOYMENT OUTSIDE THE UNITED STATES**

### **§4**

A Form 586 must be prepared and submitted to the Status Unit on any claim on which there is a dispute pursuant to §4A.

"The term "employment" shall include any service performed...by an individual:

(e) Who is a citizen of the United States, outside the United States after December thirty-first, nineteen hundred and seventy-one, except in Canada and except the Virgin Islands, prior to January first to the year following the year in which the United States Secretary of Labor approves the unemployment compensation law of the Virgin Islands pursuant to §3304(a) of the Internal Revenue Code, in the employ of an American employer other than service which is deemed "employment" pursuant to the provisions of §3 or the parallel provisions of another state's law if:

1. The employer's principal place of business in the United States is located in the Commonwealth; or

2. The employer has no place of business in the United States, but

(i) the employer is an individual who is a resident of the Commonwealth; or  
(ii) the employer is a corporation which is organized pursuant to the laws of the Commonwealth; or

(iii) the employer is a partnership or a trust and the number of the partnership trustees who are resident of the Commonwealth is greater than the number who are residents of any other state.

An "American employer", for the purposes of this subsection, means a person who is an individual who is a resident of the United States, or a partnership if two-thirds or more of the partners are residents of the United States; or a trust if all of the trustees are residents of the United States, or a corporation organized pursuant to the laws of the United States or of any state.

For the purposes of this chapter, the term "state" includes the District of Columbia, Commonwealth of Puerto Rico, and the Virgin Islands. The term "United States," when used in a geographical sense, includes the states, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands. An individual who is a citizen of the Commonwealth of Puerto Rico, or the Virgin Islands but not otherwise a citizen of the United States, shall be considered as a citizen of the United States."

## **2020 AMERICAN VESSELS AND AIRCRAFT**

### **§4A**

A Form 586 must be prepared and submitted to the Status Unit on any claim on which there is a dispute pursuant to §4A.

"The term "employment" shall include any service performed by...an individual:

(f) On or in connection with American vessels and American aircraft under a contract of service which is entered into within the United States or during the performance of which the vessel or aircraft touches at a port in the United States including service performed on or in connection with such vessel or aircraft outside the United States, and including service performed on or in connection with the operation of an American vessel operating on the navigable waters within or within and without the United States, or an American aircraft operating within or within and without the United States, and such operations are ordinarily and regularly supervised, managed, directed, and controlled from an operating office managed by an employing unit in this commonwealth; provided, however, that the term "employment" shall include service performed on a vessel of ten net tons or less engaged in catching, taking or harvesting of fish. The term "employment" shall not include services performed within the commonwealth or in connection with a vessel or aircraft not an American vessel or American aircraft, unless the individual is employed on and in connection with such vessel or aircraft when outside the United States."

The above-cited section of the Law defines coverage of individuals employed in American vessels and aircraft. Fishing boats under 10 net tonnes are not subject to the Law.

## 2021 RELATIONSHIPS

### (A) §6(d)

A Form 586 must be prepared and submitted to the Status Unit on any claim on which there is a dispute pursuant to §6(d).

"The term "employment" shall not include:

Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age 18 in the employ of his father or mother."

The claimstaker or claim adjudicator should be alert to the possibility that some or all of the base period employment listed by the claimant may involve one of the family relationships spelled out in this section. If such a family relationship existed, the wages from the employment cannot be used to compute benefits. If a claim adjudicator deletes such employment from the claim he or she should make certain the claimant is given a satisfactory explanation as to why the employment cannot be used to compute benefits.

### (B) Corporations

This section does not apply if the employing unit is a corporation. If in doubt as to whether an employing unit is a corporation, check with a status analyst listed on Form 586, Request for Status Determination (Rev. 1/93) or contact the Department of Corporations and Taxes.

**(C) Partnerships**

Services performed for a partnership may, under certain circumstances, be exempt pursuant to this section. The individual performing the exempt services must be related to each of the partners either as a parent, or as a child under the age of 18.

An example would be a man employed by his two sons who are in partnership. This man would be an "individual in the employ of his sons. His services performed for the partnership would be excluded from coverage pursuant to this section because he is related to each partner. The mother of this same partnership would also be excluded from coverage, as would a woman performing a service for a partnership consisting of her husband and her son.

**(D) Proprietorships**

Services performed by the father, mother or spouse of the proprietor is excluded from coverage. Service performed by the proprietor's child under the age of 18 is excluded from coverage.

Services performed by an individual in the employ of a parent are not excluded from coverage if the individual has reached his 18th birthday. If the 18th birthday occurs during the base period, services performed after such birthday would be covered employment while services performed before the birthdate would be excluded from coverage.

Under this section the Department interprets the term "child" as including a legally adopted child.

Note: If the answer to question 6 on Form #511/1073 -- Are any of the businesses you have listed as having worked for owned or partly owned by yourself or any of your relatives -- is "yes", you should investigate the base period employment for a possible exemption.

Identical surnames of claimant and employing unit may also indicate exempt services.

**2022 CASUAL LABOR****§6(h)**

A Form 586 must be prepared and submitted to the Status Unit on any claim on which there is a dispute pursuant to §6(h).

"The term "employment" shall not include:

Service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is 50 dollars or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For the purpose of this subsection, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if (A) on each of some 24 days during such quarter such individual performs for such employer for some portion of the day services not in the course of the employer's trade or business; or (B) such individual was regularly employed, as determined pursuant to clause (A), by such employer in the performance of such service during the preceding calendar quarter."

The above-cited section defines coverage for employees of organizations named above if remuneration for the service performed is less than \$50.

**2023 RAILROAD EMPLOYMENT****§6(i)**

A Form 586 must be prepared and submitted to the Status Unit on any claim on which there is a dispute pursuant to §6(i).

"The term "employment" shall not include:

Service performed by an individual as an employee or employee representative as defined in §1 of the Federal Railroad Unemployment Insurance Act; and service with respect to which unemployment benefits are payable pursuant to an unemployment compensation system for maritime employees established by an act of Congress."

**2024 FRATERNAL, CIVIC, NON-PROFIT, AND BENEVOLENT ASSOCIATIONS****§6(j)**

A Form 586 must be prepared and submitted to the Status Unit on any claim on which there is a dispute pursuant to §6(j).

"Service performed in any calendar quarter in the employ of any organization exempt from income tax pursuant to §501(a) of the Federal Internal Revenue Code, other than an organization described in §401(a) of said Code, or exempt from income tax pursuant to §521 of said Code, if the remuneration for such service is less than \$50 dollars."

The above-cited section defines coverage for employees of organizations named above if remuneration for the service performed is less than \$50.

## **2025 STUDENT WAGES**

### **(A) §6(k)**

A Form 586 must be prepared and submitted to the Status Unit on any claim on which there is a dispute pursuant to §6(k).

"The term "employment" shall not include:

Service performed in the employ of a school, college, or university, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university, or by the spouse of such a student, if such service, that the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and such employment will not be covered by any program of unemployed insurance; or

Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subsection shall not apply to service performed in a program established for or on behalf of an employer or group of employers."

If a student is registered for a cooperative plan of educational and industrial training, the work performed is part of the curriculum. The student receives academic credit for "hours of work" and this work is exempted pursuant to this section.

There are many different plans of cooperative education and industrial training in use by educational institutions in Massachusetts. Application of this section requires knowledge of the specific plan under which an individual student receives scholastic training and work experience. The claims-taker or claim adjudicator should question the student to determine whether the work involves cooperative education and is exempt pursuant to this section.

Examples of some of the more common cooperative plans follow.



**(B) Plan 1 - High Schools - Industrial Course**

Under this plan an individual attends secondary school (academic only) for the first three years, and works during the fourth year for academic credit. If for any reason, he or she is laid off during the fourth year, he or she must return to school for the period of layoff. These individuals do not receive a diploma until the completion of the fourth or "working" year is considered to be under a cooperative plan and is exempt pursuant to this section.

**(C) Plan 2 - High Schools - Merchandising Course**

Under this plan, a senior-year student attends school for three hours in the morning and works outside school in the afternoon. He or she may work one evening a week, but work hours plus school hours must not exceed eight in any one day. This work is exempt pursuant to this section.

Saturday work is also exempt, as work performed by a student while "registered for a prescribed course on a cooperative plan of educational and industrial training."

**(D) Plan 3 - Northeastern University**

Under this plan, a Northeastern University student is not registered for a cooperative plan during his freshman year, but the cooperative program begins in September of the second year. Students are divided into two groups. While one group is working at job assignments approved by the university, the other group is attending school. These students have only one week of vacation each year during a four-year program of school and work.

Work performed by these students is exempt pursuant to this section of the Law. Employers who work with Northeastern University will generally furnish information about cooperative employment on the Form 1062.

Note: Cooperative plans of educational and industrial training are sometimes called "Distributive Education."

**(E) Plan 4 - Work Study**

In some cases, in order to encourage students to complete their education, schools may provide jobs within the school itself. Any services performed within a school, college, or university by a student enrolled at that institution is exempt. If a student's spouse is employed by the school, and if the spouse has been informed at the commencement of the employment that the purpose of the job is to financially assist the student and that the services will not be covered by unemployment insurance, this work will also be exempt.

**2026 NURSES AND INTERNS****§6(l)**

A Form 586 must be prepared and submitted to the Status Unit on any claim on which there is a dispute pursuant to §61(l).

"The term "employment" shall not include:

Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to the law; and service performed as an intern in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to state law."

Note: Services performed by a student nurse in the employ of a hospital or nurses' training school are exempt, provided the student-nurse is enrolled and regularly attending classes in a nurses' training school which is approved pursuant to Massachusetts law.

Services performed by an intern (as distinguished from a resident doctor), in the employ of a hospital are exempt, provided the intern has completed a four year course in a medical school approved pursuant to Massachusetts law.

**2027 FOREIGN INSTRUMENTALITIES****§6(m)**

A Form 586 must be prepared and submitted to the Status Unit on any claim on which there is a dispute pursuant to §6(m).

"The term "employment" shall not include:

Service performed in the employ of a foreign government, including service as a consular or other officer or employee or a non-diplomatic representative; or, service performed in the employ of an instrumentality wholly owned by a foreign government and exempt pursuant to the provisions of Chapter 21-25 of the Federal Internal Revenue Code or any acts in addition thereto and amendments thereof.

Note: Services exempt pursuant to this subsection include those performed by ambassadors, ministers, consuls and other diplomatic or nondiplomatic representatives in the employ of foreign governments.

**2028 INSURANCE AGENTS****§6(n)**

A Form 586 must be prepared and submitted to the Status Unit on any claim on which there is a dispute pursuant to §6(n).

"The term "employment" shall not include:

Service performed by an individual as an insurance agent or as an insurance solicitor, if all such service is performed for remuneration solely by way of commission and such service is excluded from the term "employment" pursuant to the provisions of §3306 of the Federal Internal Revenue Code or any acts in addition thereto and amendments thereof; provided, that service performed by any agent selling or servicing policies of industrial life insurance, as defined by §1 of chapter one hundred and seventy-five, and employed by any life insurance company authorized to do business in this commonwealth, whether this remuneration for such service is by way of commission or otherwise, shall be deemed employment within the provisions of this chapter."

Note: It is important that the claim adjudicator obtain the following information:

1. The exact name of the employer. This may be an insurance company or a general agent of an insurance company.
2. The nature of the claimant's duties.
3. The method of compensation; salary, commission, or a combination of salary and commission.
4. Whether or not the claimant handled industrial life insurance, otherwise known as "weekly debit".

**2029 NEWSPAPER CARRIERS****§6(o)**

A Form 586 must be prepared and submitted to the Status Unit on any claim on which there is a dispute pursuant to §6(o).

The term "employment" shall not include:

Service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution.

Note: This subsection exempts from coverage the services of individuals selling or delivering newspapers or shopping news, if the individual performing such services is under the age of 18. Incidental services - such as assembling the papers for sale or distribution to the customer - are integral parts of the distribution process and are exempt.

The exemption applies to the distribution of handbills and similar types of advertising material if performed by individuals under the age of 18.

If services involve the transporting of papers to a central point for subsequent sale or distribution, they are not exempt.

### **2030 LICENSED REAL ESTATE BROKERS**

#### **§6(p)**

A Form 586 must be prepared and submitted to the Status Unit on any claim on which there is a dispute pursuant to §6(p).

"The term "employment" shall not include: Services performed by an individual as a real estate broker or salesperson if he or she is licensed by the state as a real estate broker or salesperson, and if he or she is remunerated solely by way of commission; provided, however, that the term "employment" shall include service performed by a real estate broker or a salesperson, if such service is performed for a governmental employer as defined in subsection (i) of §1."

This subsection exempts the services of individuals employed as real estate brokers or salesperson if they are licensed by the state and are remunerated solely by commission.

Note: This exemption does not apply to individuals employed as real estate brokers or salesperson by a real estate firm if they are paid a salary or are compensated on an hourly basis.

The exemption does not apply to an individual employed as a licensed real estate broker or salesperson employed by a governmental employer as defined in subsection (i) of §1.

**2031 POLL TAKER OR OPINION TAKER****§6(q)**

A Form 586 must be prepared and submitted to the Status Unit on any claim on which there is a dispute pursuant to §6(q).

"The term "employment" shall not include: Services performed by an individual as a poll taker or opinion taker, if the rate of such individual's remuneration is determined by a person other than the person supervising him or her and if said individual is free to accept or decline any given assignment; provided, however, that term "employment" shall include service performed as a poll taker or opinion taker, if such service is performed for a governmental employer as defined in subsection (i) of §1."

Note: This subsection exempts opinion and poll takers if their remuneration is determined by an individual other than the person supervising them if they are free to accept or decline any assignment.

Opinion and poll takers employed by governmental agencies are not exempt from coverage.

**2032 RELIGIOUS, REHABILITATIVE, TRAINING, CUSTODIAL, MEDICAL AND SIMILAR FACILITIES****§6(t)(u)(v)(w)**

A Form 586 must be prepared and submitted to the Status Unit on any claim on which there is a dispute pursuant to §6(t),(u),(v), and (w).

Refer to §2026 "Religious and Charitable Organizations" for exemptions referring to religious, charitable, or educational organizations.

The term "employment" shall not include:

(t) Service performed in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work.

(u) Service performed as a part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training.

(v) Service performed in a custodial or penal institution by an inmate of said custodial or penal institution.

(w) Service performed by a patient in the employ of a hospital, whether public, nonprofit, or proprietary.

Note: §6(t), 6(u), 6(v), 6(w) exempt from employment services performed by individuals in a rehabilitative facility, services performed as part of an unemployment relief program financed by federal or state agencies, services performed in a custodial or penal institution by an inmate, and services performed by a patient in the employ of a hospital. However, services performed by employees of the above entities are considered "covered" employment and may be used to establish unemployment insurance claims.

### **2033 EMPLOYMENT BY A FULL-TIME STUDENT IN AN ORGANIZED CAMP**

#### **§6(x)**

A Form 586 must be prepared and submitted to the Status Unit on any claim on which there is a dispute pursuant to §6(x).

"The term "employment" shall not include: Service performed by a full-time student, as defined in §3306(q) of said Internal Revenue Code of 1954, in the employ of an organized camp if such camp: (i) did not operate for more than seven months in the calendar year and did not operate for more than seven months in the preceding calendar year, or (ii), had average gross receipts for any six months in the preceding calendar year which were not more than thirty-three and one third percent of its average receipts for the other six months in the preceding year and if such full-time student performed services in the employ of such camp for less than 13 calendar weeks in such calendar year."

Note: This subsection exempts service performed by a full-time student in the employ of an organized camp if such camp:

(a) Did not operate for more than seven months in the calendar year and did not operate for more than seven months in the preceding calendar year; or

(b) Had average gross receipts for any six months in the preceding calendar year which were not more than 33 1/3 percent of its average gross receipts for the other six months in the preceding calendar year; and

(c) This exclusion applies only to "full-time students" in the employ of an "organized camp" who work "less than 13 calendar weeks." All three conditions must be met for such services to be excluded.

According to federal standards an individual shall be treated as a "full-time student" for any period:

1. During which the individual is enrolled as a full-time student at an educational institution, or
2. Which is between academic years or terms if:
  - (a) The individual was enrolled as a full-time student at an educational institution for the immediately preceding academic year or term, and
  - (b) There is a reasonable assurance that the individual will be enrolled during the immediately succeeding academic year or term after the period described in subparagraph (a).

An individual is considered to be a "full-time student" for any period during which the individual is enrolled as a full-time student at an educational institution. Also, an individual is considered to be a "full-time student" between academic years or terms (e.g., summer recess) if the individual was enrolled as a full-time student at an educational institution for the immediately preceding academic year or term, and there is a reasonable assurance that the individual will return to an educational institution at the beginning of the next academic year or term as a full-time student.

Less than 13 calendar weeks means employment in 12 calendar weeks or less. Therefore, a full-time student who worked in the employ of an organized camp in 12 calendar weeks and any additional day(s) beyond that 12 calendar week into a 13th calendar week would not be excluded.

## **2035 SUBSEQUENT BENEFIT YEAR CLAIM (§31)**

### **2036 STATUTE**

#### **§31**

"No individual may receive benefits in a subsequent benefit year unless, since the beginning of the previous benefit year during which he received benefits, he performed service for an employer subject to this chapter and has been paid wages for such service of not less than three times his weekly benefit rate for said previous benefit year."

**2037 PRINCIPLES****(A) Qualifying Earnings Requirement – New Benefit Year Claim**

The intent of §31 is to prevent an individual from receiving benefits in two benefit years based on only one period of employment. In order to be determined monetarily eligible in a second/subsequent benefit year, the claimant must satisfy two separate earnings "tests":

**(B) Regular Monetary Eligibility**

All claimants must meet the regular UI monetary eligibility requirements. That is, they must have earned at least 30 X WBR and the current minimum wage requirement in the base period of the new claim. Required by MGL Chapter 151A, §24(a).

**(C) New Employment**

The claimant must have had new employment since the beginning of the previous benefit year and must have earned and been paid new wages of at least 3 times the weekly benefit rate of that previous claim (not including dependency allowance). Required by MGL Chapter 151A, §31.

Specifically, the claimant must meet the following conditions to satisfy the new employment requirement of §31 in a subsequent benefit year:

- The claimant must have performed services for wages after the effective date (BYB) of the previous valid claim; and
- The wages from the new employment must equal or exceed three times the weekly benefit rate (3 X WBR) on the previous claim (not the WBR on the current claim). These wages must have been paid to the claimant prior to the BYB date of the new claim.
- While the earnings used to meet the §31 requirement need not be earned in covered employment, it must be established that an employer/employee relationship existed. Consequently, wages earned in employment with an exempt employer (e.g., Salvation Army) can be used to meet the §31 requirements while earnings derived from self-employment may not.

The new employment requirement applies only if the claimant was paid UI benefits in the previous benefit year.

The following examples use termination, severance, or dismissal pay to illustrate the principals of §31. However, any of the aforementioned items of remuneration received during the benefit year may not be used to establish a subsequent benefit year claim unless the claimant has performed service and has been paid \$3,300 and 30 times the benefit rate.

Section 31 is not applicable if there is no prior benefit year claim. For example, the claimant does not file a claim until after he/she exhausts his/her termination, severance or dismissal payments.

Example 1

**(D) Severance, Termination or Dismissal Pay**

An individual is separated from employment and receives 52 weeks of termination, severance or dismissal pay. He does not file a claim until the end of the 52 week period of payment. Since this is an *initial* and not a subsequent claim, the pay (wages) may be used to establish monetary eligibility and the claimant, if otherwise eligible, may receive benefits.

*Filing of a Subsequent Benefit Year Claim:*

Example 2

**(E) No Unemployment Benefits Paid in Benefit Year of Claim**

An individual is separated from employment and receives 52 weeks of termination, severance or dismissal pay. She files a claim immediately after the last day of work and is disqualified for the full 52 weeks of the benefit year. Upon the expiration of the benefit year, the claimant files a subsequent claim. Since during the base period of the subsequent claim, the claimant received 52 weeks of termination, severance or dismissal pay, and received *no* benefits on the *initial claim* the claimant is entitled to a subsequent benefit year claim, and if otherwise eligible, may receive benefits during the subsequent year claim.

Since §31 is applicable on a subsequent benefit year claim only if the claimant received benefits in the benefit year of her prior claim, the claimant must also have been paid wages of \$3,300 and 30 times her benefit rate, during the benefit year of the prior claim.

Example 3

**(F) Insufficient Earnings**

An individual is separated from work and receives 18 weeks of separation pay. She files a claim immediately after the last day of work and is disqualified for the 18 week period. After 18 weeks the claimant reopens the claim, serves a waiting period, and receives 30 weeks of benefits. The claimant then obtains another job, works for three months and is again laid off. The claimant files a subsequent claim but has not had earnings from the three month employment sufficient to establish monetary eligibility for a subsequent claim. The separation pay received by the claimant during the base period of the subsequent claim cannot be used to calculate a new monetary eligibility because pursuant to §31, the claimant must have been paid \$3,300 and 30 times the benefit rate in employment subsequent to the beginning of the preceding claim.

Claimant has performed service but has not earned 30 times the benefit rate and \$2,200. The earnings performed in service subsequent to filing the first claim must qualify a claimant for a subsequent benefit year. Remuneration for which she has not performed service in the benefit year may not be used in the computation.

Example 4

**(G) Subsequent Earnings**

An individual is released from employment and receives 24 weeks of termination, severance or dismissal pay. He files a claim immediately after the last day of work and is disqualified for the 24 week period. After 24 weeks, the claimant reopens his claim, serves a waiting period and receives 27 weeks of benefits. The claimant then obtains another job, works for three months and is again laid off. The claimant files a subsequent claim for benefits. The claimant has received sufficient earnings from the new employer to establish eligibility for a claim. In this case, any pay which the claimant received in the base period of the subsequent claim may also be used to calculate his monetary determination. If otherwise eligible, the claimant is eligible for benefits based on all wages received during the base period.

Claimant has performed service in the benefit year and has earned 30 times his benefit rate but not less than \$2,200 for such service. In this situation, the claimant may be credited with the wages he performed for services and also any remuneration he received in the benefit year from his employer on the first claim.

**2038 PROCEDURES**

**Fact finding**

If the claimant received no remuneration during the base period of the claim, then he/she is generally monetarily ineligible unless the base period can be extended pursuant to §1(a) (extended base period -- see paragraph 2040).

1. Have you filed an earlier unemployment claim after being separated from your last employer?
2. Did you receive benefits on the prior claim?
3. Have you worked and performed service since you filed your first claim?

The claim adjudicator will delete all wages from the claim if the claimant has not worked since filing the first claim. In addition, the claim adjudicator will delete the wages of the employer of the first claim on the subsequent benefit year claim if the claimant has performed service and has not been paid thirty (30) times the benefit rate for such service.

*Explanation on Form 3720, §31:*

Since you have performed no service in the benefit year of a prior claim after being separated from your last employer, you are ineligible to receive benefits.

*or*

Although you have performed service in the benefit year of a prior claim, you were paid wages of less than thirty times your benefit rate. Therefore, you are ineligible to receive benefits.

## 2039 MONETARY DETERMINATIONS APPEALS ON EXTENDED BENEFIT CLAIMS

### (A) Qualifying Wage Requirements

Statute: §30A(3)(a) as amended by chapter 428, section 1 of the acts of 2002 is applicable and reads as follows:

(3)(a) An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his eligibility period only if the commissioner finds that with respect to such week: (1) he is an exhaustee (2) he has satisfied the requirements of this chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits, except as provided in paragraph (b) and (3) said individual has had twenty weeks of full time insured employment, or the equivalent in insured wages. For the purposes of this subsection, insured wages are wages paid during the base period of the current benefit year in an amount which exceeds forty times the most recent weekly benefit amount or one and one-half times the wages of the individual's highest quarterly earnings. The commissioner shall prescribe by regulation which of the foregoing methods of measuring employment and earnings shall be used to effectuate the purposes of this chapter and to provide the greatest coverage to individuals in need of extended benefits.

### (B) Monetary Determination

A monetary determination will be mailed to the claimant after an Extended Benefit (EB) claim is filed. It is important to remember that the extended benefit amount includes dependency allowances. In order to be eligible for benefits a claimant must have earned one and one-half times his high quarter wages in the base period of his or her regular claim or 40 times the most recent weekly benefit amount.

Effective with new or additional UI claims filed on or after 3/9/02:

The amount a claimant must have earned has been changed to allow either 40 times WBA (plus DA) or one and one-half time highest quarter.

**(C) Revision of Monetary on Regular Claim**

If after filing an EB claim, the claimant states that he omitted employers on his regular claim, a Request for Separation and Wages Information [Form 1062], should be sent to the employers and the regular claim must be revised. If a subsequent EB claim is ineligible, then follow the steps outlined above.

**(D) Appeal to Monetary Determinations**

Whenever a claimant appeals an ineligible claim, the appeal must be in writing. A Form 113, [Claimant's Statement of Facts] on why the claimant wants to appeal must be used for a monetary appeal. (A tear-off Form on the 3720 may be used to indicate the claimant's appeal.) Printouts of the UEX screen, Extended Claim Data, the QEBEN screen, Extended Benefits determination, and the QMON screen, Benefit Determination Detail Screen must accompany the appeal. Manually create issue code 27 (monetary issue on EB) on the issue screen. Resolve this issue by entering "D" for denied on the UNMD screen. The appeal should be data entered on the UAPP Screen, (Appeal Data) and forwarded to the Regional Hearing office.

**(E) Benefit Year Expired Prior to Extended Benefit Period**

A claimant's benefit year has expired prior to an extended benefit claim. He or she is subject to disqualification pursuant to §30A(1)(j) of the Law. Use Form 1245 (Revised 4-91) to issue the disqualification.

**(F) The Total Extended Benefit Amount Payable**

Statute: 30A subsection (5)(b), and (5)(c).

The total extended benefit amount payable to any eligible individual with respect to his applicable benefit year rounded to the next lower full dollar amount shall be the least of the following amounts:

- a. 50% of the total amount of regular benefits, including dependency benefits, which were payable to him pursuant to this chapter in his applicable benefit year;
- b. Thirteen (13) times his average weekly benefit amount, including dependency benefits, which were payable to him pursuant to this chapter in his applicable benefit year;
- c. Thirty-nine (39) times his average weekly benefit amount, including dependency benefits, which was payable to him pursuant to this chapter for a week of total unemployment in the applicable benefit year, reduced by the total amount of regular benefits which were paid, or deemed paid, to him pursuant to this chapter with respect to the benefit year.

Notwithstanding any other provisions of this subsection, if the benefit year of any individual ends with an extended benefit period, the remaining balance of extended benefits that such individual would, but for this paragraph, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced, but not below zero, by the product of the number of weeks for which the individual received any amounts as readjustment allowances pursuant to the Trade Act of 1974 within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

Note: 1. §30A subsection (5) sets forth the formula for computing the claimant's extended benefit credit.



2. Follow steps set forth in C and D in the event the claimant wishes to appeal his or her weekly benefit amount or the number of weeks of entitlement.
3. Refer to §1529B for reduction of EB benefit credit after expiration of the benefit year claim because of receipt of TRA benefits in the benefit year.

### **(G) Reduction in Maximum Number of Weeks on Regular Claim**

Whenever there is an (EB) extended benefit period or extended benefit federal program (EUC), the maximum amount of weeks on a regular claim will be reduced from thirty (30) to twenty-six (26) weeks. A revised monetary determination of the regular claim will be mailed to the claimant.

## **2040 EXTENSION OF BASE PERIOD DUE TO THE RECEIPT OF WORKER'S COMPENSATION**

### **2041 STATUTE**

#### **§1(a)**

"If a claimant received weekly compensation for temporary total disability pursuant to the provisions of any state worker's compensation law, not including payments for certain specified injuries, for more than 7 weeks, within the base period, his base period shall be lengthened by the number of such weeks but not to exceed 52 weeks for which he received such payments.

Principles: Monetary eligibility is determined from wages in the base period of a claim. However, since worker's compensation is not considered wages, the claimant may have an artificially low monetary rate. Section 1(a) of Chapter 151A, which provides the definition of the base period provides for an extension of the base period. The purpose of this extension is to reflect potentially 52 weeks of wages.

The base period can be extended if:

1. The monetary determination indicates that the claimant is entitled to less than the maximum benefit rate and/or less than the maximum benefit credit and
2. The claimant was on worker's compensation for more than seven weeks in the base period and §1(t) of the Chapter 151A defines a week as "seven consecutive days beginning on Sunday".
3. The wages in the extended base period were not used to establish and pay benefits on a prior claim.

The base period is extended by counting the number of weeks the claimant was on worker's compensation in the base period and calculating the corresponding extension for the weeks prior to the beginning of the base period. Determine the employers from the extension and send Form 1062 to such employers, along with Form 5433, which explains the purpose of the Form 1062. To facilitate this process, use the worksheet, "Extending the Base Period".

Upon receipt of all wage information, update the automated system to obtain a revised monetary. Note that extended base period wages used to establish and pay on a prior claim can not be re-used under any circumstances.

The methodology for extending the base period is the same regardless of usage of primary base period or alternate base period.

Review the claimant's monetary by considering the benefit rate and benefit credit for the primary base period, then the primary plus extended primary base period. If the claimant still does not meet the maximum threshold but can use the alternate base period, consider the wages from the alternate base period, then the alternate base period plus extended alternate base period. The maximum extended base period is 52 weeks.

**2042 EXTENDING THE BASE PERIOD**

Extend the base period if: the claimant is not monetarily at maximum rate for maximum weeks and claimant has been on worker's compensation for more than seven weeks in the base period and the wages in the extended base period have not been used to establish and pay on a prior claim. To extend the base period:

- 1. Indicate the BYB of the claim: 11/3/96
- 2. Determine the base period: 10/1/95 - 9/30/96
- 3. Determine the period of time the claimant was on worker's compensation: 3/4/96 - 5/15/96
- 4. Determine the weeks (Sunday - Saturday) the claimant was on worker's compensation in the base period: 3/10/96 - 5/11/96
- 5. Count the number of weeks of worker's compensation in the base period. Is it more than seven weeks? 9  
Yes

6. Determine the weeks by quarter that the claimant was on worker's compensation in the base period (answer to #4). The four quarters are: Jan. 1 - Mar. 31, Apr. 1 - June 30, July 1 - Sept. 30, Oct. 1 - Dec. 31. Then, count the number of weeks in each quarter that the claimant was on worker's compensation. Remember that a full quarter has 13 weeks. The number of weeks must equal the answer to #5.

<u>Worker's Compensation by Quarter</u>	<u># of Weeks</u>
<u>3/10/96 - 3/31/96</u>	<u>3</u>
<u>4/1/96 - 5/11/96</u>	<u>6</u>
TOTAL	<u>9</u>

When an individual is on Worker's Compensation for total temporary disability, no wages are earned. This step is needed to determine the appropriate data entry of wages from the extended base period.

7. Determine the Saturday of the first full week before the base period: 9/24/95 - 9/30/95  
 The Saturday date is the end of the extended base period.

Determine the beginning of the base period by counting backwards from the Sunday of the first full week before the base period. The Sunday date is the beginning of the extended base period.

The extended base period is from: 7/30/95 to 9/30/95

8. Use the information from step #6 and step #7 to prepare a manual 1062, requesting wages from the extended base period. From step #6, note the number of weeks that an individual was on worker's compensation by quarter. From the extended base period timeframe, determine the period of time which will equal the number of weeks on worker's compensation. Prepare the manual time 1062 using these timeframes to request wages. Issue Form 5433 along with the manual 1062.

<u>Number of Weeks on WC</u>	<u>Timeframes for Manual 1062</u>
<u>3</u>	<u>7/30/95 - 8/19/95</u> Data enter wages from this quarter in quarter ending 3/31/96
<u>6</u>	<u>8/20/96 - 9/30/95</u> Data enter wages from this quarter in quarter ending 6/30/96. This data entry makes quarter reflect 13 weeks of wages, potentially.
Total <u>9</u>	