

**New Section 815.132 Rate and Collection of Additional Tax for Chapter 815.  
Unemployment Insurance**

**ADOPTED RULE WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*. THIS DOCUMENT WILL NOT HAVE ANY SUBSTANTIVE CHANGES BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE *TEXAS REGISTER*.**

The Texas Workforce Commission (Commission) adopts new §815.132 Rate and Collection of Additional Tax to Chapter 815, Unemployment Insurance, Subchapter C. Tax Provisions, without changes as published in the August 2, 2002 issue of the *Texas Register* (27 TexReg 6826).

Title XII of the Social Security Act codified in part at 42 U.S.C.A. §1321 et seq., creates a process that permits a state to borrow from the Federal Unemployment Trust Fund, if a state's unemployment compensation trust fund becomes insolvent and the state can no longer pay benefits. In accordance with this process Subchapter C, Chapter 203 of the Texas Labor Code, V.T.C.A., entitled Advances from Federal Trust Fund, authorizes the Commission to borrow funds from the Federal Unemployment Trust Fund. The subchapter requires the Commission to assess and collect an additional tax to ensure that the interest is timely paid on advances borrowed from the Federal Unemployment Trust Fund. The additional tax is deposited in the advance interest trust fund.

Texas Labor Code, §203.105, provides that an additional tax is to be imposed on each employer eligible for an experience tax rate, if after January 1 of a year an interest payment on an advance borrowed from the Federal Unemployment Trust Fund will be due and the estimated amount necessary to make the interest payment will not otherwise be available. The section provides that the Commission will set a rate for an additional tax to ensure that there are sufficient funds in the advance interest trust fund to pay the interest in a timely manner for that year. The rate is not to exceed two-tenths of one percent (.2%). The rate is applied to the same wage base to which the employer's unemployment tax is applied for that year. The Commission will set the date the tax is due. The additional tax is subject to the same penalty for late payment as the unemployment tax.

The Commission has determined that when interest payments are due after January 1, the additional tax rate will be calculated by the Agency based on a formula. The Commission has also determined that the amount of tax revenue generated by this formula will be sufficient to ensure that the accrued interest on the advance the state obtain from the Federal Unemployment Trust Fund will be paid in a timely manner. This tax will be due and payable quarterly in the same manner as provided in §815.109 of this subchapter entitled Payment of Contributions and Reimbursements.

No comments were received on the proposed new rule.

For more information about the Commission and available services, see [www.texasworkforce.org](http://www.texasworkforce.org).

The rule is adopted under Texas Labor Code §301.061.

The adopted new rule affects Texas Labor Code, Title 4.

### **§815.132. The Rate and Collection of the Additional Tax.**

Texas Labor Code §203.105, V.T.C.A. provides that the Commission shall impose an additional tax on each employer eligible for an experience tax rate if, after January 1 of a year, an interest payment on an advance obtained by the state from the Federal Unemployment Trust Fund will be due and the estimated amount necessary to make the interest payment is not otherwise available. The Commission has determined that when interest payments are due after January 1, the additional tax rate will be calculated by the Agency based on a formula. The Commission has also determined that the amount of tax revenue generated by this formula will be sufficient to ensure that the accrued interest on the advance the state obtained from the Federal Unemployment Trust Fund will be paid in a timely manner.

- (1) When the Commission determines that an interest payment as referred to in the paragraph above will be due after January 1 of a year, the Commission shall compute the tax rate using the formula in paragraph (2) of this section, before November 20<sup>th</sup> of the year prior to the year in which the interest is due. This rate shall be published in the *Texas Register*.
- (2) The additional tax rate, not to exceed two tenths of one percent, is calculated by dividing two hundred percent (200%) of the estimated interest due, as determined by the Agency, less the balance in the advance interest trust fund, by the estimated total taxable wages for the 1<sup>st</sup> and 2<sup>nd</sup> quarters of the year in which the interest is due, and rounded up to the next hundredth.
- (3) Employers eligible for an experience tax rate shall pay the additional tax which will be due and payable quarterly in the same manner as provided in §815.109 of this chapter (relating to Payment of Contributions and Reimbursements).

\*n