

871—22.17(96) Procedures of field auditors.

22.17(1) Field auditors are to provide a cost-effective method of promoting employers' understanding of employer rights and responsibilities under Iowa unemployment insurance laws.

22.17(2) The department, through duly appointed field auditors, may examine an employer's records at any reasonable time to determine compliance with the Act.

22.17(3) The department has enforcement authority. An employer, when requested to produce records by an auditor, must make the records available. If an employer does not comply with the auditor's request to produce records, a subpoena duces tecum may be served on the employer.

22.17(4) The department, through duly appointed field auditors, may perform a systematic audit of an employer's records as authorized by Iowa Code section 96.11(7) and as mandated by the United States Department of Labor. In addition to the provisions of subrules 22.17(1) through 22.17(3), the following provisions apply to systematic audits:

a. The employer is to be given reasonable notice of the intent to audit, and a preaudit interview, typically in the form of a preaudit questionnaire, is to be conducted with the employer or a designated representative.

b. The records required, if maintained, may include individual pay records, Internal Revenue Service Forms W-2 and 1099, cash disbursement journals, check registers, general ledgers, balance sheets, profit and loss statements, federal and state tax returns, and other records to the extent they relate to possible hidden or misclassified wages.

c. To verify the existence of the business, the auditor may require a visit to the business premises or request other evidence of legitimate business activity.

d. To verify the correct business entity is listed on department files, the auditor may examine various employer business licenses, legal documents or other tax returns.

e. To verify the reporting of all workers reportable to the department under the Act, questionable entries will be investigated and documented. If the employer disagrees with the audit decision on coverage of a worker, the auditor may require the employer to complete Form 68-0192, Questionnaire for Determining Status of Workers. In any disputed case, the auditor is to be granted access to records as necessary to determine the remuneration paid for any given calendar quarter.

f. To verify proper employer posting to department reports, a detailed audit of check stubs or other maintained source documents will be made and documented for at least one worker for at least one quarter. The detailed audit may be more comprehensive at the discretion of the auditor or if discrepancies are found.

g. Employer records will be compared and reconciled to amounts reported to the department on contribution and payroll reports and audit findings documented.

h. Discrepancies will be resolved or explained, and report adjustments prepared, as necessary.

i. The audit will cover four calendar quarters; however, if material errors are found, the audit may be expanded to cover prior or subsequent years subject to limitations of subrule 22.1(1).

j. Additional amounts due will be calculated and collected, including applicable interest and penalties, or an explanation will be given.

k. Upon completion of the audit, the department will communicate the results to the employer or designated representative. An audit report with all worksheets, adjustments, and reports will be retained by the department.

22.17(5) There are several other reasons department representatives may make employer contacts and demands under authority of this rule. Any of these activities may be expanded into a systematic compliance audit as described in subrule 22.17(4) upon approval of the duly authorized representative of the department.

a. An auditor may request to examine business records to determine the date employment began and the date the employing unit became subject to the Act.

(1) To determine whether an employing unit is to be a covered employer and whether an individual, or class of individuals, is an employee whose remuneration would be subject to contributions, the auditor will examine employment contracts and related documents.

(2) If it is determined that the employing unit is to be a covered employer, the auditor will examine legal documents such as leases, purchase contracts, partnership agreements, articles of incorporation,

limited liability operating agreements, and stock records to determine ownership of the business; to establish responsibility for filing reports and paying contributions; and to assist in the determination of the unemployment insurance tax rate.

(3) If liability is determined, the payroll/remuneration records may be examined to establish the correct amount of covered wages and the period to which they belong. Reports will be completed; the correct amount of contribution, penalty, and interest due will be computed; and collection action will be initiated.

b. When an unemployment insurance claim is filed, an auditor may request to examine the records of an employer to establish the claimant's rights to benefits under the Act. Form 68-0192, Questionnaire for Determining Status of Workers, and supporting documents may be required in contested cases. If the department determines that the claimant is an employee, the records will be examined to determine the correct amount of wages paid to the claimant and the period to which the wages apply.

c. When an employer fails or refuses to file contribution and payroll, the auditor may examine the records to determine the correct amount of wages that should be reported and may compute and collect contributions, penalty, and interest due. Should records not be made available, the auditor may estimate the wages paid and amounts due pursuant to 871—subrule 23.59(2).

d. When an employer is delinquent in paying contributions due, the auditor may examine records including cash accounts, accounts receivable, real and personal property accounts, accounts payable, notes payable, installment contracts, and mortgages payable to determine the employer's equity in the assets on which a lien may be filed and judgment obtained.

22.17(6) When a temporary writ of injunction has been filed by the department against an employer because of the employer's failure or refusal to file a required report or to pay assessed contributions, penalty, and interest, a field auditor may inspect the enjoined business premises during reasonable hours and interview any interested parties having knowledge of or being involved with the enjoined employer to ensure that such enjoined employer and all of the employer's agents, servants, employees, and assigns are observing the conditions of the temporary writ of injunction.

This rule is intended to implement Iowa Code sections 96.7(1), 96.7(3), 96.8(1), 96.11(1), 96.11(6) "a," 96.11(7), 96.14, 96.16 and 96.20(3).

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