

REQUIRED RECORDS AND REPORTS

16 VAC 5-32-10. Employing unit records.

A. Each employing unit as defined under §_60.2-211 of the Code of Virginia, having services performed for it by one or more individuals in its employ, shall maintain records reasonably protected against damage or loss as hereinafter indicated and shall preserve such records. These records shall include for each worker:

1. A full legal name;
2. A social security account number;
3. The state or states in which his services are performed; and if any of such services are performed outside the Commonwealth of Virginia not incidental to the services within the Commonwealth of Virginia, his base of operations with respect to such services (or if there is no base of operations then the place from which such services are directed or controlled) and his residence (by state). Where the services are performed outside the United States, the country in which performed;
4. The date of hire, rehire, or return to work after temporary lay off;
5. The date when work ceased and the reason for such cessation;

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6. Scheduled hours (except for workers without a fixed schedule of hours, such as those working outside their employer's establishment in such a manner that the employer has no record or definite knowledge of their working hours);

7.a. Wages earned in any week ~~of partial unemployment~~ by a partially employed individual as such ~~week~~ individual is defined in 16 VAC_5-10-10;

b. Whether any week was in fact a week of less than full-time work;

c. Time lost, if any, by each such worker, and the reason therefor;

8. Total wages in each pay period, and the total wages payable for all pay periods ending in each quarter, showing separately (i) money wages, including tips and dismissal or severance pay, and (ii) the cash value of other remuneration;

9. Any special payments for service other than those rendered exclusively in a given quarter, such as annual bonuses, gifts, prizes, etc., showing separately (i) money payments, (ii) other remuneration, and (iii) nature of said payments;

10. Amounts paid each worker as advancement, allowance or reimbursement for traveling or other business expenses, dates of payment, and the amounts of expenditures actually incurred and accounted for by such worker;

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11. Location in which the worker's services are performed within or outside of the United States and dates such services are performed outside of the United States. For the purposes of this subdivision, "United States" means the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

B. Employers shall provide the commission upon request all payroll records, federal W2 and 1099 forms, federal and state employment and income tax returns, and any other records that would be relevant to ensuring that wages had been accurately reported and taxes or refunds correctly computed and paid. Records required by this chapter to be maintained by employing units under the Act shall be preserved for four years from the date of payment of the tax based thereon and shall be subject to examination and audit by the commission.

C. If such records are not maintained, there shall be a presumption in favor of the party making an allegation, and the burden of overcoming such presumption shall rest upon the party failing to maintain the required records.

16 VAC 5-32-20. Required reports.

A. Each employer, as defined in §_60.2-210 of the Code of Virginia, shall report to the commission for each calendar quarter all the information concerning the number of workers subject to the Act and the total wages payable with respect to employment in all

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pay periods ending within each such quarter. Upon request, each such employer shall furnish the commission additional information revealing the wages earned by an individual in his employment during the time between the last pay period for which wages were paid in any quarter and the end of such quarter.

B. Each employer shall report quarterly, not later than the last day of the month following the end of the calendar quarter, ~~on forms~~ the following information in the format prescribed by the commission, ~~the following~~:

1. Employer's name, address, and any registration number assigned to him by the commission;
2. The quarterly period covered by the report;
3. The social security account numbers of the workers;
4. The full legal names of workers, with surnames last;
5. Each worker's total wages paid for the quarter.

Such reports shall be submitted for each calendar quarter of each year.

C. An employer shall immediately notify the commission of the filing of any voluntary or involuntary petition in bankruptcy or other proceeding under the Federal Bankruptcy Code, the commencement of any receivership or similar proceeding, or of any assignment

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for benefit of creditors, and any order of court under the laws of Virginia with respect to the foregoing.

D. Each employing unit shall make such reports as the commission may require and shall comply with instructions printed upon any report form issued by the commission pertaining to the preparation and return of such report.

1. Any employing unit which becomes an employer shall give notice to the commission of that fact within 30 days. The notice shall contain the employer's name, home address, business address, and name of business, if any.

2. Any employer who terminates his business for any reason or transfers or sells the whole or any part of his business or changes the name or address, or both, of his business, shall within 30 days of such action give notice of such fact in writing to the commission. The notice shall contain the employer's name, address, and account number, along with the name, address, and account number of any new owner or part owner.

E. Every corporation shall file with the commission a verified list of its officers and registered agent. Where it is claimed that any of the officers are not in the corporation's employment, a complete statement of the reasons shall be presented with said list.

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An officer of a corporation, to be considered as being in the employment of a corporation, shall perform services, and these services shall be performed either (i) for remuneration or (ii) under a contract of hire.

FORMS

Quarterly Charge Statement, VEC-B-46 (eff. 1/92).

Reimbursable Statement, VEC-B-47 (eff. 6/90).

~~Notice of Overpayment, VEC-AC-7 (rev. 11/87).~~

Delinquent Notice, VEC-DA-33 (rev. 8/87).

Notification of Pending Civil Action, VEC-DA-34 (rev. 4/90).

Employers Quaterly Payroll Report, VEC-FC-10A (rev. 9/85).

Information for Use in Determining Whether an Employee-Employer Relationship Exists for Purposes of State Unemployment Taxes, VEC-FC-16 (rev. 1/87).

Employer's Quarterly Tax Report and Employer's Quarterly Payroll Report, VEC-FC 20 and VEC-FC-21 (rev. 1/92). (Now self-mailer, containing both forms.)

Report to Determine Liability, VEC-FC-27 (rev. 1/92).

Tax Rate Notice, VEC-FC-29 (rev. 7/92).

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Statement to Correct Wage Information, VEC-FC-34 (rev. 2/87).

Taxable Payroll Division for Partial Acquisitions, VEC-FC-45 (rev. 7/92).

Letter to Employer Establishing Tax Liability, VEC-FC-48.

Notice to Appear in Lieu of Summons, VEC-FC-53.

Notice of Account Closing, VEC-FC-56 (rev. 2/92).

Reply Form for Information Missing on FC-20, VEC-FC-60.

Voluntary Election to Become an Employer Under the Virginia Unemployment
Compensation Act, VEC-FC-24 (rev. 1/87).

Election (of method of payment) by Nonprofit Organizations, Governmental Agencies, or
Political Subdivisions, VEC-FC-47 (rev. 1/92).

I certify that this regulation is full, true, and correctly dated.

Lynette H. Coughlin, Regulatory Coordinator
Virginia Employment Commission

Date: _____