



# Unemployment Insurance Tax Exempt Professions

December 2010

Authority	Description of Law	Additional Information
<b>Revised Code of Washington</b>		
50.04.125	Foreign degree-granting institutions	Employees of a foreign degree-granting institution, who are nonimmigrant aliens under the immigration laws of the United States, shall, for the purposes of RCW 50.04.120, be considered to be localized or principally localized, in the country of domicile of the foreign degree-granting institution and are exempt from unemployment insurance.
50.04.140	Independent contractor exception test	Independent contractors are exempt from unemployment insurance. Individuals must meet the criteria of the independent contractor exemption test in this RCW to be considered independent contractors.
50.04.145	Independent contractors	Independent contractors in the construction and electrical industries, as defined in this statute, are exempt.
50.04.148	Musicians or entertainers	Musicians or entertainers are exempt when the person or group performs no other services and does not perform regularly and continuously for the business. This exemption does not apply to a business that provides this service incidental to their primary business activity.
50.04.150	Agricultural labor	For small farms (less than \$20,000 annually), the law exempts students that are regularly attending classes or are between two successive academic terms/years. Provisions for family employment in RCW 50.04.180 apply.
50.04.160	Domestic service	Employment is exempt if remuneration paid is less than \$1,000 in any quarter to an individual for domestic service work. Once the \$1,000 is met, the employer is liable for

		the entire year and the following year even if they do not pay \$1,000 in a quarter that year.
50.04.165	Corporate officers	Some corporations may elect to exempt corporate officers from unemployment insurance coverage. Requests for exemption must be received by January 15 to be in effect for that year.
50.04.170	Maritime service	Individuals are exempt if they are employed on a vessel that is not American or the vessel is American but the vessel does not enter into the U.S. or does not touch any part of the US.
50.04.180	Family employment	Services performed for a spouse or by an unmarried person under the age of 18 working for a parent or step-parent are exempt.
50.04.206	Nonresident aliens	Services performed by a nonresident, nonimmigrant, alien under (F), H(ii), H(iii), or J section of 101(a)(15) of the Immigration and Naturalization Act are exempt.
50.04.210	Foreign governmental service	Employees are exempt who perform services in this state for the U.S. government or any other state are employees of the government entity and not reportable to the State of Washington. This includes members of Indian tribes.
50.04.223	Massage practitioners	Employment is exempt if the practitioner is licensed under chapter 18.108 RCW if the individual must compensate the owner of the massage facility for the use of the facility, and the individual receives no compensation from the owner. Exemption does not include services working for public and federally exempt private nonprofit employers.
50.04.225	Barber and cosmetology services	Work is exempt if performed in the shop licensed under 18.16 RCW if the person is a booth renter defined under RCW 18.16.020.
50.04.230	Insurance agents, brokers, or solicitors, real estate brokers or real estate salespersons, and investment company agents or solicitors	All services performed by a licensed real estate broker or salesperson, a licensed insurance agent or solicitor, or a licensed investment company agent, or solicitor, are exempt from unemployment insurance taxes to the extent they are compensated by commission, if the services they are performing requires them to be licensed.  The words “to the extent” are important in this context since an individual performing

		<p>service in one of these categories might be paid a small guaranteed salary with the remainder in commissions. Under RCW 50.04.230, the commissions would be exempt while the salary would not. Property managers are required to have a real estate license, therefore, when managing property, their services are exempt if they have the appropriate license and to the extent they are paid by commission.</p> <p>Particular remuneration agreements may not be exempt. They include:</p> <ul style="list-style-type: none"> <li>• Guaranteed salary offset by draws against commissions;</li> <li>• Draws not related to commissions;</li> <li>• Commission overrides and bonuses; and</li> <li>• Commissions not separately accounted for in employer’s records.</li> </ul> <p>Draws against future commissions are treated as commissions and are exempt if the commissions are eventually earned. Draws against future commissions that are never earned, even if time is spent attempting to sell, are reportable. Draws not related to commissions; or draws not required to be deducted from commissions, are normally reportable.</p> <p>Services not considered sales of real estate:</p> <ul style="list-style-type: none"> <li>• Sale of time shares;</li> <li>• Sale of burial plots;</li> <li>• Sale of mobile homes not classed as real estate; and</li> <li>• Sale of mortgages.</li> </ul> <p>Non cash payments are taxable under FUTA. A full time life insurance salesperson who sells primarily for one company may be taxable.</p>
50.04.232	Travel services	<p>Services performed by outside agent that sells travel services as defined and registered under RCW 19.138.021 are exempt from unemployment insurance taxes to the extent that the person is compensated by commission. The exceptions to remuneration</p>

		mentioned under RCW 50.04.230 apply.
50.04.235	Outside salesperson paid by commission	The outside sale of merchandise for which the individual is compensated solely by commission is exempt when the services are performed outside of all the places of business. The exceptions to remuneration mentioned under RCW 50.04.230 apply.
50.04.237	Agricultural labor by farm interns	Service in agricultural labor by a farm intern under a farm partnership program established under RCW 49.12.465 is exempt (expires 12/31/2011).
50.04.240	Newspaper delivery persons	Delivery persons selling or distributing newspapers on the street or from house-to-house are exempt from unemployment insurance taxes.
50.04.255	Appraisal practitioner services	Employment is exempt if performed by a certified or licensed person under RCW 18.140 in an appraisal business if contingent on compensation to the owner of the facility and the person receives no remuneration from the owner. Exemption does not include services working for public and federally exempt private nonprofit employers.
50.04.270	Casual labor	Casual labor is exempt for services such as yard work or minor repair work which is performed for a private individual, on their personal property. Taxable for FUTA if employee earns \$50 or more in cash in a quarter and works on more than 24 or more different days in that quarter or the preceding quarter.
50.04.275	Small performing arts	Employment is exempt if the person participates in a performance sponsored by an employer under four specific North American Industry Classification System (NAICS) codes, as long as they received a stipend and the employer has fewer than four individuals during any portion of a day during the calendar year.
50.04.280	"Pay period" determination	If the employment in a pay period is exempt from unemployment insurance taxes and is more than half of the pay period, the entire services for that pay period are considered exempt. It is all taxable for FUTA.
50.04.310	Corporate officers	Under certain conditions, a corporate officer is considered "not unemployed" in any week

		during the person's term of office or ownership in the corporation even if no wages are paid.
50.04.330	Retirement and disability payments	Generally speaking, payments for medical, hospitalization, retirement, disability and death benefits are exempt from unemployment insurance taxes. In addition, payments are exempt if they are made to a person over the age of 65, other than for vacation or sick pay, if that person did not perform any service in the period for which the payment is made. (Cash out of sick leave is considered wages and must be reported.)
50.04.335	Stock transfers	Income is exempt if it is attributable to the transfer of shares of stock pursuant to the exercise of a stock option connected with the employment.
50.04.340	Death benefits	A payment for retirement or death benefits made by the employer under a valid plan or system is exempt from unemployment insurance law.
50.04.350	Excepted payments	Payment of the tax imposed under Section 1400 of the federal Internal Revenue Code is exempt. In addition, any payment made to a person in the military service for which the person performs no service for the employer is also exempt.
50.24.160	Election of coverage	Services performed by bona fide corporate officers for a corporation who has no employees may voluntarily elect to have unemployment insurance coverage.
50.44.040(1)	Churches	The employ of a church or association of churches or an organization that is principally supported, operated, or controlled by a church or an association of churches is exempt for unemployment insurance taxes.
50.44.040(2)	Services performed by a minister	Services performed by an ordained, commissioned, or licensed minister in the exercise of their duties are exempt.
50.44.040(3)	In a rehabilitation facilities	Services are exempt that are performed in a facility for the purpose of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or remunerative work who because of their impaired physical or mental capacity cannot be readily absorbed in

		the competitive labor market.
50.44.040(4)	Work relief or work training	Services performed as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by a federal agency or an agency of a state or political subdivision are exempt from unemployment insurance taxes.
50.44.040(5)	Inmates	Services performed by an inmate who performs services for their custodial or penal institution is exempt.
50.44.040(6)	Hospital patients	Services are exempt if they are performed by a patient in the employ of their hospital facility.
50.44.040(7)	Work study	Services are exempt that are performed by a student or their spouse when the student is regularly attending classes and that employment is part of a financial aid program, the employment.
50.44.040(8)	Work experience	Student under 22 years of age who are enrolled at a school that combines academic instruction with work experience, are exempt if the service is an integral part of such program.
50.44.040(9)	Preschool employees	Services performed for a nongovernmental preschool devoted exclusively to the area of child development training through an established curriculum of formal classroom or laboratory instruction which did not employ four or more individuals on each of some twenty days during the calendar year or the preceding calendar year, each day being in a different calendar week, are exempt
50.44.040(10)(a)	Elected officials	Services performed by an elected official in their official capacity are exempt.
50.44.040(10)(b)	Members of the National Guard	Members of the national guard or air national guard are exempt.
50.44.040(10)(c)	Political advisors	In the employ of the state or political subdivision of the state by an individual in the exercise of their duties, services performed by a person in a policy making position, the performance of which do not normally require more than eight hours a week are exempt.
50.50.010	Indian tribes	Tribal members are exempt per RCW 50.04.210 as nongovernmental service.

**Washington Administrative Code (WAC)**

192-310-070	Meals and lodging	The value of meals and/or lodging provided for the convenience of the employer is exempt if it is less than 25 percent of the employee's total remuneration for the pay period. May be taxable under FUTA.
<b>Internal Revenue Code</b>		
Section 7873(b) of the Internal Revenue Code	Indian tribes	Fishing rights related activities as defined in Section 7873(b) of the Internal Revenue Code. This is defined as an activity related to harvesting, processing, or transporting fish harvested in the exercise of a recognized fishing right of such tribe or to selling such fish but only if substantially all of such harvesting was performed by members of such tribe.
<b>Precedential Decisions</b>		
Precedential Decision	Directors of a corporation	Compensation for directors of a corporation strictly for their attendance and participation in board meetings is exempt.
Precedential Decision	Volunteer firefighters	Stipends which are intended to reimburse for expenses are exempt. If the payment is larger than reasonable for expenses, the payment is treated as wages and must be reported to the agency.
Precedential Decision	Jockeys	The earnings of jockeys are generally not reportable. Jockeys are self employed and work through their own agents. The owners of the horses pay into a jockey club which pays the jockeys the amount paid in, less a valet fee.
Precedential Decision	Strike pay/picket pay	Strike benefits are generally not considered remuneration for personal services even though striking members may be asked, or even required, to participate in certain activities. If the services performed are in support of a strike effort, the strike benefits received are not reportable for unemployment insurance purposes. When strike services are required <u>and</u> the amount of the strike benefits received is directly related to the services performed, the benefits can be regarded as remuneration.
Precedential Decision	Tips	Tips that employees do not report to their employer, are exempt for state unemployment

		insurance tax purposes.
Precedential Decision	Damage awards	Damage awards are payments for injury or loss that impairs an individual's ability to perform services for the employer. These awards are not payment for services performed, thus the payment is exempt.
Precedential Decision	Supplemental unemployment benefits	Regardless of who makes the payments, such payments are exempt, since they are not payment for services rendered.
Precedential Decision	Royalties	Royalties are not required to be reported to the agency if the record company or publisher does not own the rights to the property, but the rights are owned by the performer or writer; thus the performer or writer is classed as being self employed and the earnings are exempt.
Precedential Decision	Travel reimbursement	If the payment for travel is based on the expense incurred, the reimbursement is exempt, regardless of whether there is a per diem rate used or if receipts are required to show the relationship to the payment.
Precedential Decision	Tuition payments	Since the payment is not related to services rendered by the employee and is paid to a third party, these payments are exempt. May be taxable under FUTA.
Precedential Decision	Cafeteria plans	Those benefits paid solely by the employer, if nondiscretionary on the part of the employee are exempt for unemployment insurance purposes. May be taxable under FUTA.

*This table is subject to change and may not be inclusive of all exempt professions.  
The agency recommends interested parties and/or their tax professionals contact the federal Internal Revenue Service for further information regarding FUTA.*