

TITLE 72

WORKER'S COMPENSATION AND RELATED LAWS -- INDUSTRIAL COMMISSION

CHAPTER 13

EMPLOYMENT SECURITY LAW

72-1316.COVERED EMPLOYMENT. (1) "Covered employment" means an individual's entire service performed by him for wages or under any contract of hire, written or oral, express or implied, for a covered employer or covered employers. Unless expressly exempted, services performed by corporate officers are considered services in employment and are covered for purposes of this chapter.

(2) Notwithstanding any other provision of state law, services shall be deemed to be in covered employment if a tax is required to be paid or was required to be paid the previous year on such services under the federal unemployment tax act or if the director determines that as a condition for full tax credit against the tax imposed by the federal unemployment tax act such services are required to be covered under this chapter.

(3) Services covered by an election pursuant to section 72-1352, Idaho Code, and services covered by an election approved by the director pursuant to section 72-1344, Idaho Code, shall be deemed to be covered employment during the effective period of such election.

(4) Services performed by an individual for remuneration shall, for the purposes of the employment security law, be covered employment unless it is shown:

- (a) That the worker has been and will continue to be free from control or direction in the performance of his work, both under his contract of service and in fact; and
- (b) That the worker is engaged in an independently established trade, occupation, profession, or business.

(5) "Covered employment" shall include an individual's entire service, performed within or both within and without this state:

- (a) If the service is localized in this state; or
- (b) If the service is not localized in any state but some of the service is performed in this state, and:
 - (i) The individual's base of operations or the place from which such service is directed or controlled is in this state; or
 - (ii) 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 this state.
- (c) Service shall be deemed to be localized within a state if:
 - (i) The service is performed entirely within such state; or
 - (ii) The service is performed both within and without such state, but the service performed without such state is incidental, temporary or transitory in nature or consists of isolated transactions, as compared to the individual's service within the state.
- (d) "Covered employment" shall include an individual's service, wherever performed within the United States, or Canada, if:
 - (i) Such service is not covered under the unemployment compensation law of any

other state, the Virgin Islands, or Canada; and

(ii) The place from which the service is directed or controlled is in this state.

(6) "Covered employment" shall include the services of an individual who is a citizen of the United States, performed outside the United States, except in Canada, in the employ of an American employer, other than service which is deemed "covered employment" under the provisions of subsection (5) of this section or the parallel provisions of another state's law, if:

(a) The employer's principal place of business in the United States is located in this state; or

(b) The employer has no place of business in the United States; but

(i) Is an individual who is a resident of this state; or

(ii) Is a corporation which is organized under the laws of this state; or

(iii) Is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any other state; or

(c) None of the criteria of provision (a) or (b) of this subsection is met but the employer has elected coverage in this state, or the employer having failed to elect coverage in any state, the individual has filed a claim for benefits based on such service, under the law of this state;

(d) An "American employer" for purposes of this subparagraph means a person who is:

(i) An individual who is a resident of the United States; or

(ii) A partnership if two-thirds (2/3) or more of the partners are residents of the United States; or

(iii) A trust if all of the trustees are residents of the United States; or

(iv) A corporation organized under the laws of the United States or of any state.

(e) For purposes of this subsection, "United States" means the states, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(7) Any employer claiming that services performed for the employer, or remuneration paid by the employer, do not constitute covered employment or covered wages under this chapter, shall make a report to the Department of all pertinent facts upon which said claim is based, which report shall be signed by the employer or an authorized representative.

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106.CLAIMS OF EXEMPTION.

Any employer claiming that services performed for the employer or remuneration paid by the employer does not constitute covered employment or covered wages, as defined in Section 72-1316 and 72-1328, Idaho Code, shall make a report to the Department of Labor of all pertinent facts upon which said claim is based, which report needs to be signed by the person making the claim, if he is the employer, or on behalf of the employer by an authorized representative. Ref. Section 72- 1337, Idaho Code.

108.ELECTION TO EXEMPT CORPORATE OFFICERS.

07.Services in Employment. Unless specifically exempted, services performed by corporate officers are considered services in employment and are covered for purposes of unemployment insurance.