

## CHAPTER 16

### CONTRIBUTIONS, RECORDS AND REPORTS

#### Authority

N.J.S.A. 43:21-1 et seq.

#### Source and Effective Date

R.2005 d.108, effective March 10, 2005.  
See: 36 N.J.R. 5651(a), 37 N.J.R. 1030(a).

#### Chapter Expiration Date

Pursuant to Executive Order No. 1(2010), the chapter expiration date is extended from March 10, 2010 until the completion of the review of administrative regulations and rules by the Red Tape Review Group, and until such time as the extended regulation or rule is readopted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. See: 42 N.J.R. 2371(a).

#### Chapter Historical Note

Chapter 16, Contributions, Records and Reports, was filed and became effective prior to September 1, 1969.

Subchapter 20, Work Relief and Work Training Programs, was adopted as R.1987 d.102, effective February 17, 1987. See: 18 N.J.R. 1683(a), 19 N.J.R. 363(b).

Subchapter 21, Zip Code Reporting, was adopted as R.1989 d.39, effective January 17, 1989. See: 20 N.J.R. 2625(b), 21 N.J.R. 167(a).

Subchapter 10, Hearings, was repealed and Subchapter 22, Hearings, was adopted by R.1989 d.208, effective April 17, 1989. See: 21 N.J.R. 281(a), 21 N.J.R. 1015(a).

Pursuant to Executive Order No. 66(1978), Chapter 16, Contributions, Records and Reports, was readopted as R.1990 d.217, effective March 23, 1990. See: 22 N.J.R. 603(b), 22 N.J.R. 1269(a).

Subchapter 23, Services Excluded from Coverage by the Unemployment Compensation Law, was adopted as R.1995 d.84, effective February 6, 1995. See: 26 N.J.R. 4730(a), 27 N.J.R. 501(a).

Pursuant to Executive Order No. 66(1978), Chapter 16, Contributions, Records and Reports, was readopted as R.1995 d.138, effective February 9, 1995, and Subchapter 11, Excess Worker Deductions, was recodified as Subchapter 10, Subchapter 11, Special Employment Situations, was adopted as new rules, and Subchapter 17, Witness Fees and Mileage Allowances, was repealed by R.1995 d.138, effective March 6, 1995. See: 27 N.J.R. 61(a), 27 N.J.R. 919(a).

Pursuant to Executive Order No. 66(1978), Chapter 16, Contributions, Records and Reports, was readopted as R.2000 d.68, effective January 27, 2000. See: 31 N.J.R. 4218(a), 32 N.J.R. 709(a).

Subchapter 24, Employee Leasing Companies, was adopted as R.2002 d.294, effective September 3, 2002. See: 34 N.J.R. 1892(a), 34 N.J.R. 3089(a).

Chapter 16, Contributions, Records and Reports, was readopted as R.2005 d.108, effective March 10, 2005. See: Source and Effective Date. See, also, section annotations.

Subchapter 1A, Definitions, was adopted as new rules by R.2009 d.20, effective January 5, 2009. See: 40 N.J.R. 5167(a), 41 N.J.R. 258(a).

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**SUBCHAPTER 1. IDENTIFICATION OF COVERED WORKERS**

**12:16-1.1 Ascertainment of worker's Social Security account number**

Each employer shall ascertain the Social Security account number of each worker in employment subject to the Unemployment Compensation Law and list such number on the employer's records.

Amended by R.1995 d.138, effective March 6, 1995.  
See: 27 N.J.R. 61(a), 27 N.J.R. 919(a).

(d) In establishing the group account, the Controller or his or her designee may modify or waive the security required of any of the group members and in lieu thereof the Controller or his or her designee may establish a security requirement of the group as a whole.

Amended by R.1995 d.138, effective March 6, 1995.  
See: 27 N.J.R. 61(a), 27 N.J.R. 919(a).

#### 12:16-8.2 Participation

(a) New members may be added to an established group at the request of the group. The request for the addition of a new member will require the filing of a consent document executed by the new applicant for membership authorizing the group agent to act in its behalf for the group account.

(b) No employer may become a member of a group if it has any reporting or payment delinquency.

(c) No employer may be a member of more than one group at a time.

#### 12:16-8.3 Termination

(a) Group membership will be terminated for any employer upon the cancellation of its reimbursement payment option as of the effective date of the cancellation.

(b) With the approval of the Controller or his or her designee, membership in the group will be terminated for any member at the request of that member or at the request of the group agent. The membership will be terminated at the end of the calendar quarter in which the request for termination is received.

Amended by R.1995 d.138, effective March 6, 1995.  
See: 27 N.J.R. 61(a), 27 N.J.R. 919(a).

#### 12:16-8.4 Liability

(a) The group account will provide risk sharing for its members only with respect to unemployment benefits liability and interest attributable thereto.

(b) Membership in the group will not relieve any member of any liability charged to its account.

(c) The group will be liable for payment of reimbursable unemployment benefits charged to its members' accounts during their period of membership in the group; plus the reimbursable unemployment benefits charged to any terminated member through the next two complete calendar quarters following the date of its membership termination.

(d) Amounts received in payment of liability payable through the group account will be applied against the outstanding liability of the group as a whole in each quarterly period, beginning with the outstanding liability in the earliest quarterly period.

#### 12:16-8.5 Dissolution

(a) Request for dissolution of a group account will require the consent of two-thirds of its active members. The effective date of dissolution will be determined by the Controller or his or her designee.

(b) The group agent must advise the Controller or his or her designee of the ratio of each member's liability to the total liability of the group, if there is any group liability outstanding at the time of dissolution. Such liability will be due immediately from each employer in accordance with the balance of group liability remaining in its individual account as determined by the group agent.

(c) A group account may be dissolved by the Controller or his or her designee for reporting or payment delinquency, failure to post required bond or other security, or similar good cause.

(d) Except as required herein, the Controller or his or her designee is not a party to any agreement between the group, the group agent or any of its members.

Amended by R.1995 d.138, effective March 6, 1995.  
See: 27 N.J.R. 61(a), 27 N.J.R. 919(a).

### SUBCHAPTER 9. CONTRIBUTIONS BY WORKERS

#### 12:16-9.1 Workers' contribution-trust fund

(a) Every employer shall withhold workers' contributions from their wages at each time of payment of such wages.

(b) In withholding workers' contributions from their wages and in paying any contributions to the Unemployment Compensation Fund, the State Disability Benefits Fund, the Workforce Development Partnership Fund, and the Health Care Subsidy Fund, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(c) The moneys so withheld, while in the possession of the employer, shall constitute a trust fund and shall be accounted for apart from employer's contributions.

(d) Such account shall be kept posted up to date by the employer so as to show at all times the amount withheld from workers, the amount of each remittance to the Controller or his or her designee, and the amount of workers' contributions withheld but not remitted to the Controller or his or her designee.

Amended by R.1995 d.138, effective March 6, 1995.  
See: 27 N.J.R. 61(a), 27 N.J.R. 919(a).

**12:16-9.2 Evidence of amounts withheld furnished workers**

(a) Every employer, at the time of making each payment of wages, shall furnish to each of its workers a statement showing clearly the total amount deducted for contributions for the Unemployment Compensation Fund, the State Disability Benefits Fund, the Workforce Development Partnership Fund, and the Health Care Subsidy Fund.

(b) The statements shall be such as can be delivered to workers to enable them to determine whether the total amount of their contributions is correctly computed.

(c) A notation on a paycheck or a pay envelope showing the total wages and, as a separate item, the amount deducted for contribution to the Controller or his or her designee for the said funds will constitute compliance with the provisions of this section.

Amended by R.1995 d.138, effective March 6, 1995.  
See: 27 N.J.R. 61(a), 27 N.J.R. 919(a).

**12:16-9.3 Reporting and paying workers' contributions**

(a) Every employer shall include on its contribution report the amount of contributions due and payable on behalf of its workers.

(b) Every contribution report shall be accompanied by a remittance for the amount of both the employer contributions and the contributions payable by the employer on behalf of its workers.

Amended by R.1995 d.138, effective March 6, 1995.  
See: 27 N.J.R. 61(a), 27 N.J.R. 919(a).

## SUBCHAPTER 10. EXCESS WORKER DEDUCTIONS

### Case Notes

Claimant is provided with notice and a hearing before imposition of a fine. *Malady v. Bd. of Review, Div. of Employment Security*, 76 N.J. 527, 388 A.2d 947 (1978), on remand 166 N.J.Super. 523, 400 A.2d 119.

**12:16-10.1 Excess disability deductions**

If a worker receives wages from more than one employer, and the sum of the contributions required and deducted from his or her wages and deposited in the State Disability Benefits Fund, plus the contributions, if any, required and deducted from his or her wages, toward the costs of benefits under one or more plans approved under N.J.S.A. 43:21-33, or the sum of all contributions required and deducted from his or her wages toward the costs of benefits under two or more such private plans, if covered only by said plans, exceeds an amount equal to one-half of one percent of the taxable wage base in any calendar year, the worker shall be entitled to a credit in the amount of the excess thereof against his or her New Jersey State Gross Income Tax, if he or she makes a valid claim therefor with the Division of Taxation.

Recodified from 12:16-11.1 and amended by R.1995 d.138, effective March 6, 1995.  
See: 27 N.J.R. 61(a), 27 N.J.R. 919(a).

**12:16-10.2 Excess unemployment, health care, workforce development and supplemental workforce fund for basic skills deductions**

If a worker receives wages from more than one employer and the sum of the contributions required and deducted from his or her wages and deposited in the State Unemployment Compensation Fund or in a trust fund for the purpose of repaying benefits, the Health Care Subsidy Fund, the Workforce Development Partnership Fund, and the Supplemental Workforce Fund for Basic Skills exceeds seventeen-fortieths of one percent of the taxable wage base for the period beginning January 1, 2002, the worker shall be entitled to a credit in the amount of the excess thereof against his or her New Jersey State Gross Income Tax, if he or she makes a valid claim therefor with the Division of Taxation within two calendar years after the end of the calendar year in which the wages were received.

Amended by R.1995 d.138, effective March 6, 1995.  
See: 27 N.J.R. 61(a), 27 N.J.R. 919(a).  
Amended by R.2000 d.68, effective February 22, 2000.  
See: 31 N.J.R. 4218(a), 32 N.J.R. 709(a).  
Rewrote (a) and (b); and in (c), substituted "January 1, 1998" for "January 1, 1993 and ending December 31, 1997" following "beginning".  
Amended by R.2005 d.108, effective April 4, 2005.  
See: 36 N.J.R. 5651(a), 37 N.J.R. 1030(a).  
Rewrote the section.

**12:16-10.3 Wage deduction statements**

(a) Employers shall furnish to workers the following information on Form W-2:

1. The taxpayer identification number assigned by the Division of Revenue;
2. The private plan number, if any, assigned by the Bureau of Private Plans; and
3. Any amount deducted in accordance with State law.

(b) The refund of any deductions in excess of the legal maximum made from a worker's wages by an individual employer is the responsibility of the employer who made such excess deductions.

Amended by R.1995 d.138, effective March 6, 1995.  
See: 27 N.J.R. 61(a), 27 N.J.R. 919(a).  
Amended by R.2000 d.68, effective February 22, 2000.  
See: 31 N.J.R. 4218(a), 32 N.J.R. 709(a).  
Rewrote (a)1.

### Case Notes

Claimant is provided with notice and a hearing before imposition of a fine (citing former N.J.A.C. 12:16-10.4). *Malady v. Bd. of Review, Div. of Employment Security*, 76 N.J. 527, 388 A.2d 947 (1978) on remand 166 N.J.Super. 523, 400 A.2d 119.