



New York State Department of Labor
Unemployment Insurance Division
State Office Campus
Albany NY 12240

Agricultural Employment Agricultural Labor as Defined in Section 511, Subdivision 6 of the New York State Unemployment Insurance Law

Agricultural Labor

(a) The term "agricultural labor" includes all service performed:

- (1) on a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals, and wildlife;
- (2) in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;
- (3) in handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed in the employ of an operator of a farm (i) as an incident to farming operations or, (ii) in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market. The provisions of this paragraph shall not apply to service performed in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

(b) As used in this subdivision, the term "farm" includes stock, dairy, poultry, fur-bearing animal, fruit, and truck farms, plantations, nurseries, greenhouses or other similar structures, used primarily for the raising of agricultural or horticultural commodities, and orchards.

Coverage Requirements

Liability

Employers of agricultural workers become liable for unemployment insurance contributions:

- (1) at the beginning of any calendar year in which they employ ten or more farm workers on each of 20 days, each day being in a different week, during a calendar year or the preceding year, **or**
- (2) at the beginning of any calendar quarter in which they pay **cash** remuneration of \$20,000 or more to farm workers, **or**
- (3) on the first day on which they pay any remuneration to farm workers in this State if the employer is subject to FUTA.

A **farm labor crew leader** would also become liable if any of the conditions above are met and:

- (1) The leader is not the employee of the farm operator, and
- (2) The leader holds a valid certificate of registration under the Farm Labor Contract or Registration Act of 1963, or substantially all of the crew operate or maintain mechanized equipment which the crew leader provides.

Voluntary Coverage

The Unemployment Insurance Law permits an employer who is not liable for contributions to cover his/her employees on a voluntary basis. Liability begins the first day of the calendar quarter in which an approved application is filed and continues at least until the end of the following year.

Partial coverage is not permitted. The election must include all employees except persons in certain types of employment excluded by law whose services cannot be covered by voluntary election such as:

- (a) Independent contractors.
- (b) The spouse or children (under 21 years of age) of an individual proprietor.

Termination of Coverage

An employer shall cease to be liable as of the first day of a calendar quarter next following the filing of a written application with the Department provided the employer:

- (1) Has not paid to persons employed in agricultural labor cash remuneration of \$20,000 or more in any of **eight** calendar quarters preceding such date, and
- (2) Has not employed 10 or more persons on each of 20 days during the current or preceding calendar year, each day being in a different week, and
- (3) Is not liable for the FUTA as an employer of agricultural labor.