




Commonwealth of Massachusetts
Executive Office of Labor and Workforce Development

MUNICIPALITY
SEASONAL EMPLOYMENT CERTIFICATION

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Topics to be Covered

- Purpose/Objective
- Importance of Certified Seasonal Status
- Seasonal Employment Categories
- How to Apply for Seasonal Certification
- How to Maintain Seasonal Certification
- Circumstances During the Seasonal Certification Period
- Employer Obligations

Objective



To develop a more comprehensive understanding of the seasonal certification process, including its requirements and implications, in order to effectively manage seasonal employment in accordance with G.L. c. 151A § 24A and 430 CMR § 12.00.

Why Request Certified Seasonal Status?



Certified seasonal status exempts employers from being liable for UI benefits directly associated with seasonal work, provided certain steps are taken.



Categories of Seasonal Employment



To be deemed “**seasonal employment**”, as explained in 430 Code of Mass. Regs. § 12.04(1), one of the following two circumstances must exist:



- 1.) The entire business will be in operation for **less than 16 weeks** in a calendar year, or
- 2.) The employer has a **functionally distinct occupation** within the business that is seasonal. This duty will be performed during a period of less than 16 weeks in a calendar year due to the climate or nature of the products or services.

What is a Functionally Distinct Occupation?



A **functionally distinct occupation** is one in which the assigned duties or tasks are identifiably distinct from the duties or tasks that are assigned to employees outside the seasonal period.

Mere addition of staff to perform the same or similar duties as those performed outside the season would not be considered *seasonal*.



Applying For Seasonal Certification



- An employer seeking seasonal status must submit a written application on forms prescribed by the Department of Unemployment Assistance (DUA) **at least 60 days** prior to the beginning of the season.
- The employment can only be considered certified seasonal after the determination is made.
- DUA makes separate determinations for each distinct seasonal occupation and period.
- If you are denied seasonal certification status, you have the right to appeal the determination **within 10 days** of the mailing date of the determination.

Maintaining Certified Seasonal Status



Have You Been Approved for Certified Seasonal Status? If so, please remember to:

- **DISPLAY** in multiple places for inspection by your employees, the Seasonal Determination **and** the Certification as a Seasonal Employer (Form 1875), which will be provided by the DUA.
- **NOTIFY** all seasonal employees prior to their hire, or immediately following the seasonal determination, using the Notice to Employee - Certification as a Seasonal Employer (Form 1876), provided by the DUA. The exempt employment is limited to the beginning and ending dates of the employer's approved certified seasonal period and for each **distinctly different occupation**.



When A Claim Is Filed



- If you receive a Request for Wage and Separation Information (Form 1062) for a certified seasonal period, you must indicate that the wages you paid were based on seasonal certified employment. Additionally, enclose the seasonal determination, as well as the completed Notice to Employee (Form 1876), stating the distinctly different occupation and the dates of certification.
- If you transfer an employee from seasonal to non-seasonal or non-seasonal to seasonal without a break or intermission, the claimant's benefits will be based on all wages paid by you.

During the Certified Seasonal Period



- If at any time during the "certified season" work is not available to an employee, the seasonal wages may be used to establish eligibility for unemployment insurance benefits.
- The DUA will allow for *modifications* of seasonal certification applications if a municipality is able to extend its season beyond the time frame originally requested, but still less than 16 weeks.

Seasonal Wages and Quarterly Contributions



- Seasonal certification does **not** relieve any employer from filing quarterly wage and employment detail. Contributory employers must still pay quarterly contributions on seasonal wages.
- You are required to keep an account of and report wages paid to each seasonal worker within the seasonal period, so as to readily distinguish seasonal from non-seasonal wages.



Additional Points to Consider



- Claimants **may** file a benefit claim outside the operation period of the seasonal employment. This claim may be based upon non-seasonal wages that were paid during the base period.
- If the seasonal employment equals or exceeds 16 weeks in a calendar year, you must notify the DUA within five days after completion of the 16th week of employment, as seasonal status would not apply. A redetermination would be performed and seasonal status would be revoked.
- The certification process is annual. Failure to reapply for seasonal certification each year will result in the use of these wages in establishment of claims.

Certification as a Seasonal Employer Notice



NOTICE TO EMPLOYER Certification as a Seasonal Employer

Employer:

EAN:

The above-named employer has been approved by the Massachusetts Department of Unemployment Assistance for certification as a seasonal employer. This applies only to the categories of employees listed on the Notice of Seasonal Determination dated _____.

If you are a seasonal employee, seasonal wages cannot be used to establish an unemployment insurance benefit claim, except under certain conditions. All seasonal employees who are hired to work for a specific time period lasting less than 13 weeks must be certified.

If you were hired as a seasonal employee, you must be notified in writing by your employer before beginning your seasonal employment.

EMPLOYEE SIGNATURE

I have read and understand the copy of the Seasonal Determination from the Department of Unemployment Assistance dated _____, and I understand that I am a seasonal employee and that wages from this occupation cannot be used to establish an unemployment insurance benefit claim, except under certain conditions.

Employee's Name: _____ (PRINT)

Employer's Signature: _____ Date: _____

Occupation: _____ Employment begin and end dates: _____

EMPLOYER SIGNATURE

I have provided the above-referenced employee with a copy of the Seasonal Determination from the Department of Unemployment Assistance dated _____. The employee understands that she is a seasonal employee and that wages from this occupation cannot be used to establish an unemployment insurance benefit claim, except under certain conditions.

Name of Employer's Representative: _____ (PRINT)

Employer Representative's Signature: _____ Date: _____

Commonwealth of Massachusetts
Form 1872 Rev 01/12

DUA Seasonal Employment Contact Info.



If you have future questions about seasonal employment certification, please contact the DUA Seasonal Employment Unit:

(617) 626-5451

To download the Application for Certification as a Seasonal Employer, please go to:

<http://www.mass.gov/lwd/docs/dua/business/1872.pdf>