

IC 22-4-7

Chapter 7. Employers Defined

IC 22-4-7-1

Definition

Sec. 1. Prior to January 1, 1978, "employer" means any employing unit which for some portion of a day, but not necessarily simultaneously, in each of twenty (20) different weeks, whether or not such weeks are or were consecutive within either the current or preceding calendar year, has or had in employment, and/or has incurred liability for wages payable to one (1) or more individuals (irrespective of whether the same individuals are or were employed in each such day), or any employing unit which in any calendar quarter in either the current or preceding calendar year paid for service in employment wages of one thousand five hundred dollars (\$1,500) or more, except as provided in IC 22-4-7-2(h). Subsequent to December 31, 1977, "employer" means any employing unit which for some portion of a day, but not necessarily simultaneously, in each of twenty (20) different weeks, whether or not such weeks are or were consecutive within either the current or the preceding year, has or had in employment, and/or has incurred liability for wages payable to, one (1) or more individuals (irrespective of whether the same individual or individuals are or were employed in each such day) or any employing unit which in any calendar quarter in either the current or preceding calendar year paid for service in employment wages of one thousand five hundred dollars (\$1,500) or more, except as provided in IC 22-4-7-2(h), (e), and (i). For the purpose of this definition, if any week includes both December 31, and January 1, the days up to January 1 shall be deemed one (1) calendar week and the days beginning January 1 another such week. For purposes of this section, "employment" shall include services which would constitute employment but for the fact that such services are deemed to be performed entirely within another state pursuant to an election under an arrangement entered into by the board (pursuant to IC 22-4-22) and an agency charged with the administration of any other state or federal unemployment compensation law.

(Formerly: Acts 1947, c.208, s.701; Acts 1955, c.317, s.2; Acts 1967, c.310, s.9; Acts 1971, P.L.355, SEC.11.) As amended by Acts 1977, P.L.262, SEC.11.

IC 22-4-7-2

"Employer" further defined

Sec. 2. "Employer" also means the following:

(a) Any employing unit whether or not an employing unit at the time of the acquisition which acquires the organization, trade, or business within this state of another which at the time of such acquisition is an employer subject to this article, and any employing unit whether or not an employing unit at the time of the acquisition which acquires substantially all the assets within this state of such an

employer used in or in connection with the operation of such trade or business, if the acquisition of substantially all such assets of such trade or business results in or is used in the operation or continuance of an organization, trade, or business.

(b) Any employing unit (whether or not an employing unit at the time of acquisition) which acquires a distinct and segregable portion of the organization, trade, or business within this state of another employing unit which at the time of such acquisition is an employer subject to this article only if the employment experience of the disposing employing unit combined with the employment of its predecessor or predecessors would have qualified such employing unit under section 1 of this chapter if the portion acquired had constituted its entire organization, trade, or business and the acquisition results in the operation or continuance of an organization, trade, or business.

(c) Any employing unit which, having become an employer under section 1, 2(a), 2(b), 2(d), 2(f), or 2(h) of this chapter, has not ceased to be an employer by compliance with the provisions of IC 22-4-9-2 and IC 22-4-9-3.

(d) For the effective period of its election pursuant to IC 22-4-9-4 or IC 22-4-9-5, any other employing unit which has elected to become fully subject to this article.

(e) Any employing unit for which service in employment as defined in IC 22-4-8-2(1) is performed. In determining whether an employing unit for which service other than agricultural labor is also performed is an employer under sections 1 or 2 of this chapter, the wages earned or the employment of an employee performing service in agricultural labor may not be taken into account. If an employing unit is determined an employer of agricultural labor, the employing unit shall be determined an employer for the purposes of section 1 of this chapter.

(f) Any employing unit not an employer by reason of any other paragraph of section 2(a) through 2(e) of this chapter inclusive, for which within either the current or preceding calendar year services in employment are or were performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment insurance fund; or which, as a condition for approval of this article for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to such Act, to be an "employer" under this article; however, an employing unit subject to contribution solely because of the terms of this subsection may file a written application to cover and insure the employing unit's employees under the unemployment insurance law of another jurisdiction. Upon approval of such application by the department, the employing unit shall not be deemed to be an employer and such service shall not be deemed employment under this article.

(g) Any employing unit for which service in employment, as defined in IC 22-4-8-2(i) or IC 22-4-8-2(i)(1), is performed.

(h) Any employing unit for which service in employment, as

defined in IC 22-4-8-2(j), is performed.

(i) Any employing unit for which service in employment as defined in IC 22-4-8-2(m) is performed. In determining whether an employing unit for which service other than domestic service is also performed is an employer under sections 1 or 2 of this chapter, the wages earned or the employment of an employee performing domestic service may not be taken into account.

(Formerly: Acts 1947, c.208, s.702; Acts 1951, c.295, s.3; Acts 1967, c.310, s.10; Acts 1971, P.L.355, SEC.12.) As amended by Acts 1977, P.L.262, SEC.12; P.L.108-2006, SEC.5.

IC 22-4-7-3

"Seasonal employer"; "seasonal determination"

Sec. 3. (a) As used in this article, "seasonal employer" means an employer that, because of climatic conditions or the seasonal nature of a product or service, customarily operates all or a portion of its business only during a regularly recurring period or periods of less than twenty-six (26) weeks for all seasonal periods during a calendar year. An employer may be a seasonal employer with respect to a portion of its business only if that portion, under the usual and customary practice in the industry, is identifiable as a functionally distinct operation.

(b) As used in this article, "seasonal determination" means a decision made by the department after application on prescribed forms as to the seasonal nature of the employer, the normal seasonal period or periods of the employer, and the seasonal operation of the employer covered by such determination.

As added by P.L.228-1983, SEC.1. Amended by P.L.18-1987, SEC.26.