

(I) THE NUMBER OF EMPLOYEES OF THE EMPLOYER IN THE STATE AS OF 1 DAY IN THE YEAR IMMEDIATELY PRECEDING THE PREVIOUS CALENDAR YEAR AS DETERMINED BY THE EMPLOYER ON AN ANNUAL BASIS;

~~(H)~~ (II) THE AMOUNT SPENT BY THE EMPLOYER IN THE YEAR IMMEDIATELY PRECEDING THE PREVIOUS CALENDAR YEAR ON HEALTH INSURANCE COSTS IN THE STATE; AND

~~(H)~~ (III) THE PERCENTAGE OF PAYROLL THAT WAS SPENT BY THE EMPLOYER IN THE YEAR IMMEDIATELY PRECEDING THE PREVIOUS CALENDAR YEAR ON HEALTH INSURANCE COSTS IN THE STATE.

(2) THE SECRETARY SHALL ADOPT REGULATIONS THAT SPECIFY THE INFORMATION THAT AN EMPLOYER SHALL SUBMIT UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(3) THE INFORMATION REQUIRED SHALL:

(I) BE DESIGNATED IN A REPORT SIGNED BY THE PRINCIPAL EXECUTIVE OFFICER OR AN INDIVIDUAL PERFORMING A SIMILAR FUNCTION; AND

(II) INCLUDE AN AFFIDAVIT UNDER PENALTY OF PERJURY THAT THE INFORMATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION:

1. WAS REVIEWED BY THE SIGNING OFFICER; AND

2. ~~WAS BASED ON THE OFFICER'S KNOWLEDGE AND DOES NOT CONTAIN ANY UNTRUE STATEMENT OF A MATERIAL FACT OR OMIT A MATERIAL FACT NECESSARY TO MAKE THE STATEMENT MADE NOT MISLEADING IS TRUE TO THE BEST OF THE SIGNING OFFICER'S KNOWLEDGE, INFORMATION, AND BELIEF.~~

(B) WHEN CALCULATING THE PERCENTAGE OF PAYROLL UNDER SUBSECTION ~~(A)(1)(H)~~ (A)(1)(III) OF THIS SECTION, AN EMPLOYER MAY EXEMPT:

(1) WAGES PAID TO ANY EMPLOYEE ~~BEYOND THE AMOUNT TAXABLE FOR FEDERAL SOCIAL SECURITY (FICA) PURPOSES~~ IN EXCESS OF THE MEDIAN HOUSEHOLD INCOME IN THE STATE AS PUBLISHED BY THE UNITED STATES CENSUS BUREAU; AND

(2) WAGES PAID TO AN EMPLOYEE WHO IS ENROLLED IN OR ELIGIBLE FOR MEDICARE.

8.5-104.

(A) AN EMPLOYER THAT IS ORGANIZED AS A NONPROFIT ORGANIZATION THAT DOES NOT SPEND UP TO 6% OF THE TOTAL WAGES PAID TO EMPLOYEES IN THE STATE ON HEALTH INSURANCE COSTS SHALL PAY TO THE SECRETARY AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN WHAT THE EMPLOYER SPENDS FOR HEALTH INSURANCE COSTS AND AN AMOUNT EQUAL TO 6% OF THE TOTAL WAGES PAID TO EMPLOYEES IN THE STATE.

(B) AN EMPLOYER THAT IS NOT ORGANIZED AS A NONPROFIT ORGANIZATION AND DOES NOT SPEND UP TO 8% OF THE TOTAL WAGES PAID TO EMPLOYEES IN THE