UI Field Audit Mission Statement

- Achieve a balanced tax program that will **safeguard the integrity** of the UI trust fund, ensure the tax provisions of the law are **equitably enforced**, and **educate employers** as to their rights and responsibilities under the law.

- Accomplished by administering a comprehensive auditing program that conducts routine periodic field audits and other special investigations of employers' records to ensure proper reporting and compliance with UI law.

Three supervisors (Section Chief, Eastern Unit, and Western Unit)

One scheduler/clerical

Twenty-four auditors

- Seven in Madison
- One in Wausau
- One in Wisconsin Rapids
- Three in Eau Claire
- Two in Mt. Pleasant/Racine
- Six in Menomonee Falls
- Four in Appleton

Misclassification Auditors

All auditors perform misclassification tests on each audit.

Three auditors recently designated to work on the referrals from the Bureau of Legal Affairs (BOLA) Worker Classification Section, along with other audit assignments.

Types of Audits

Verification Audits (random, increase/decrease in payroll/other factors)

Request Audits
- Benefit Fraud
- Collection Investigation
- Replace estimates with actuals
- Independent Contractor (IC) Investigation
- Subjectivity
- Business Transfers
- Proper payroll reporting and exclusions

Effective Audit Measure (EAM)

- The Department of Labor (DOL) monitors states' field audit programs.

- In January 2011, the DOL updated UI field audit performance measures to focus on misclassification.

Four Measures - EAM

1. Percent of Contributory Employers Audited Annually (1% minimum).

2. Percent of Total Wage Change from Audit (2% minimum).

3. Percent of Total Wages Audited (1% minimum).

4. Average Number of Misclassified Workers Detected per Audit (1 minimum).

- Must pass all four AND have an extra two points in any of the categories for a minimum of 7 to pass.

Wisconsin's 2018 Performance

1. Percent of Contributory Employers Audited – 1.8%

2. Percent of Total Wage Change from Audit – 5.1%

3. Percent of Total Wages Audited – 1.4%

4. Average Misclassified Workers per Audit – 3.5

- Wisconsin's score in 2018:   11.8

Employment

Workers are presumed to be employees unless the IC criteria is met.

- Free from direction and control
- Meet at least 6 of 9 criteria to show independently established business

All workers should be reported:

- Casual labor
- Part-time employees
- Employees in training
- Employees receiving cash or in-kind wages

Employment

Some employment is excluded by statute:

- Sole proprietor and their spouse

- Minor children

- Parents of sole proprietor

- LLC members

- Certain classifications excluded by the Federal Unemployment Tax Act (FUTA)

Audit Process - Misclassification

- Employer records are examined to search for misclassified workers and hidden wages.

  - Records related to contract labor (1099s and master vendor files)

  - Cash disbursements

  - Detailed general ledger

  - Examination of miscellaneous reports and accounts such as the federal tax returns, financial statements, profit and loss statements, etc.

Audit Process - Misclassification

Any payments for services performed by an individual are investigated.

The employer has the burden of proof to show workers meet the IC criteria.

Auditors do the following in conjunction with the audit:

- Send out Worker Status Questionnaires (WSQs) to individuals who provided services to determine if the IC criteria are met
- Review bid documents
- Review invoices
- Review business cards
- Do internet searches for business information

2018 Statistics

- Number of audits performed – 2,459

  - Request audits   283
  - Verification audits   2,176

  - Audits with changes   1,031
  - Large employer audits (LEA)   83

  ➢ An LEA is over 100 employees or over $1M in taxable payroll for the calendar year preceding the first quarter being audited

  - Calls – not included in federal stats   287

2018 Statistics

Calendar year statistics reported to DOL are from audits only, calls are not included.

Misclassified workers found (TPS)
  8,677

Gross payroll audited
  $1,857,245,776

Total taxable payroll audited $ 679,594,418

Contributions underreported $ 1,380,928

Misclassified workers from calls   509

Misclassified Worker Statistics

2013 to October 2019

- Audit assignments – 18,754

- Workers misclassified – 50,150 (includes BOLA referrals)

- Gross payroll audited – $13.7 billion

- Taxable payroll audited – $5.1 billion

- Contributions underreported – $13.3 million

Misclassification by Industry (2013 to 0ct. 2019)

Construction – 8,322 workers found; 3,379 audit assignments

Categories with the greatest number of misclassified workers found during audits:

- Residential remodelers – 1,578

- Residential drywallers – 1,227

- New single family general contractors – 813

- Commercial building construction – 398

- Nonresidential drywall contractors – 287

Misclassification by Industry (2013 to Oct. 2019)

Administrative and Support Services – 4,488 workers found; 1,330 audit assignments

Categories with the greatest number of misclassified workers found during audits:

- Landscaping services – 1,752

- Janitorial services – 1,652

- Security guards and patrol services – 101

Misclassification by Industry (2013 to Oct. 2019)

Accommodation and Food Services – 4,213 workers found; 2,291 audit assignments

Categories with the greatest number of misclassified workers found during audits:

- Full-service restaurants – 2,066

- Drinking places, alcoholic beverages – 837

Misclassification by Industry (2013 to Oct. 2019)

Retail Trade – 4,091 workers found; 1,268 audit assignments

Categories with the greatest number of misclassified workers found during audits:

- Electronic shopping and mail-order houses – 1,548

- Direct selling establishments – 446

- Supermarkets – 390

- Shoe stores – 288

Misclassification Effort Effectiveness

Closed audits – 2013 to October 2019

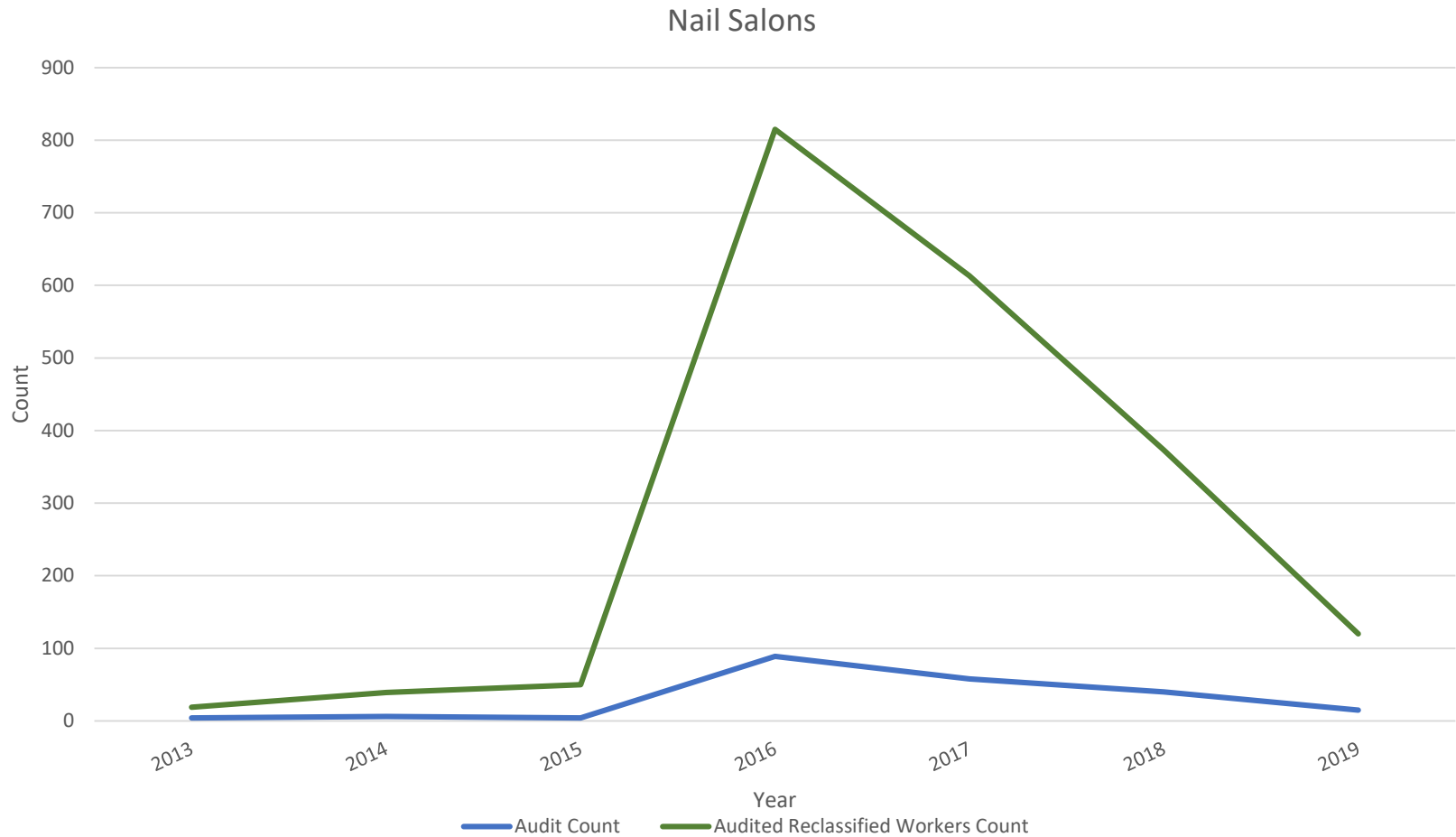Nail salons audited based primarily from BOLA misclassification investigations: 216

- 202 audit assignments of nail salons since 1/1/2016

Total Misclassified Workers Found: 2,029

Moving toward compliance

Misclassification Effort Effectiveness

Nail Salons

Summary

- The Department of Labor (DOL) governs and monitors the effectiveness of the UI Field Audit Section through the Effective Audit Measure.

- Proper classification of workers is a primary goal of the Wisconsin DWD and the DOL.

- Education of employers and enforcement of proper classification is essential.