



THE STATE

OF WYOMING

**DEPARTMENT OF EMPLOYMENT**  
**UNEMPLOYMENT TAX DIVISION**

Unemployment Tax  
(307) 235-3217

P. O. Box 2760  
Casper, WY 82602

June 28, 2010

ServeWyoming Inc.  
P O Box 1271  
Casper, WY 82602

Re: Wyoming Unemployment Insurance Coverage for AmeriCorps Volunteers

To Whom It May Concern:

Nancy Freudenthal, formerly with Davis & Cannon, LLP, asked that an informational letter be sent to ServeWyoming Inc., regarding Wyoming unemployment insurance coverage for AmeriCorps volunteers.

Under Wyoming Employment Security Law (WESL), in most cases<sup>1</sup> AmeriCorps volunteers will be considered employees.

- AmeriCorps volunteers receive direction and control over the performance of their services, do not represent themselves as self-employed, and cannot substitute other individuals to perform their services; thus, they are employees for unemployment insurance purposes. WESL § 27-3-104(b).
- AmeriCorps volunteers are paid "living allowances" that are subject to FICA taxes and state Workers' Compensation taxes and are issued federal W-2 forms at the end of each year; these living allowances represent remuneration for services. WESL § 27-3-102(a)(xviii).
- AmeriCorps volunteers are not performing services as part of a work experience or workfare program assisted or financed by the federal government or any state or local government. WESL § 27-3-105(b)(xi).
  - "Workfare" is defined by Black's Abridged 7<sup>th</sup> Ed. Dictionary as "a system requiring a person receiving a public-welfare benefit to earn that benefit by performing a job provided by a government agency." The AmeriCorps program operated by the Coalition does not require that participants receive a public-welfare benefit; members of all socio-economic statuses voluntarily apply for service.

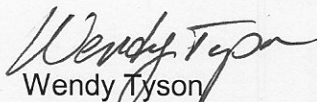
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<sup>1</sup> If the actual working conditions or situation for a specific AmeriCorps volunteer differs from that outlined in this letter, the Division should be consulted for a liability determination based on the actual facts for that specific individual.

- In the United States Department of Labor's Unemployment Insurance Program Letter No. 30-96 (<http://wdr.doleta.gov/directives/attach/UIPL30-96.cfm>), "work relief" is defined as "...projects...primarily intended to alleviate the disadvantaged status of the individual by providing employment" and provides that the following characteristic must be present in either work-relief or work-training: "...the products or services are secondary to providing financial assistance, training, or work experience to individuals to relieve them of their unemployment or poverty or to reduce their dependence upon various measures of relief, even though the work may be meaningful or serve a useful public purpose."
  - Note: As part of a federal-state program, Wyoming's statutes must conform with the Federal Unemployment Tax Act statutes, found at 26 U.S.C. § 3301 *et seq.*

You are welcome to call me (307-235-3201) if you have questions about this letter.

Sincerely,

  
Wendy Tyson  
Administrator

cc: Jennifer Zenor, Executive Director, Wyoming Coalition Against Domestic Violence and Sexual Assault, P O Box 236, Laramie, WY 82073  
Gary Child, Director, Wyoming Department of Employment, 1510 E Pershing Blvd., 2<sup>nd</sup> Floor, Cheyenne, WY 82002  
Bridget Hill, Governor Freudenthal's Office, 123 Capitol Building, Cheyenne, WY 82002  
Mike Causey, Attorney General's Office, 123 Capitol Building, Cheyenne, WY 82002  
Kate Fox, Davis & Cannon, LLP, P O Box 43, Cheyenne, WY 82003