

Advisory Opinion - Nonresident Aliens

Agency Name:	Department of Employment Security
Contact:	Office of Legal Counsel - Chicago
Address 1:	33 S. State St., Rm. 936
City:	Chicago
State:	Illinois
Zip:	60603
Subject:	Unemployment insurance exemption for nonresident aliens
Type of Impact (Reporting/Cost or Fee/Education Credit/Other - specify):	Exemption for unemployment insurance contributions
Business or Industry Type Affected:	Any business that employs nonresident aliens
Advisory Opinion (if applicable):	Inquiry is made as to whether there is unemployment insurance liability to pay contributions upon the wages paid to individuals who are nonresident aliens and work in the United States. Section 206 of the Illinois Unemployment Insurance Act provides that "[s]ubject to the provisions of Sections 207 to 233, inclusive, and of section B of Section 245, 'employment' means any service performed by an individual for an employing unit..." While Section 3306(c)(19) of the Federal Unemployment Tax Act provides for an exemption for service which is performed by a nonresident alien for the period he or she is temporarily present in the United States as a non immigrant under subparagraph (F), (J), (M), or (Q), of section 101(a)(15) of the Immigration and Nationality Act, and which is performed to carry out the purpose so specified, there is no equivalent exemption in the Illinois Act. Accordingly, there is no basis to exempt such service from "employment" for Illinois unemployment insurance purposes.

Members of the public may submit comments to the agency contact listed above. Comments should be submitted within 45 days of publication in the *Illinois Register*.