



Modifications to New York State Unemployment Law Insurance Law Relevant to NYS Employers

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Changes to the New York state unemployment insurance law will require employers to think twice about how they respond to formal inquiries from the New York State Department of Labor (“NYDOL”) on former employees who have filed claims for unemployment benefits.

Employers now may be penalized for failing to respond on time to a request for information from the NYDOL under a change in the law that became effective on October 1, 2013. An employer must submit a response to a notice of potential charges to the employer’s account within 10 calendar days. If there is an overpayment to a claimant resulting from an employer’s late or insufficient response (such as failure to timely provide information supporting a discharge for cause), and the employer does not qualify for an exception, the employer will not be relieved of charges to its account due to the overpayment. Additionally, the failure to respond truthfully to all requests for information can result in further penalties. To ease the burden on employers and streamline the process, the NYDOL is launching an online system. The State Information Data Exchange System (SIDES) will enable employers to receive information and respond to inquiries electronically.

Additional changes took effect January 1, 2014, and include the following:

To relieve underfunding of the New York State Unemployment Insurance Fund, employer contributions are due on the first \$10,300 of wages per employee, up from \$8,500, thereby increasing the tax contribution owed for employees whose annual earnings exceed \$8,500.

Additional increases will occur each January 1st starting in 2015, rising to \$13,000 by 2026.

The six lowest contribution rates for employers have been eliminated. Employers in these lower contribution brackets should contact the NYDOL to confirm their new rate.

Claimants will have to earn 10 times their benefit rate to re-qualify for benefits after exhausting benefits or being disqualified for resigning without good cause, declining a job offer or misconduct.

Severance pay may affect benefit eligibility. Employers should review severance practices, representations regarding unemployment eligibility and provisions in separation agreements.

If the claimant is collecting pension from an employer and the employer contributed to the pension, the claimant may have his or her weekly unemployment benefits reduced based on receipt of such pension benefits.

Employers must consider the manner in which they respond to claims and recognize the additional costs imposed by the higher income levels that must be reached for contributions to be capped. Employers also must consider the potential effect of severance and pension benefits on an employee’s eligibility and amount of benefits. Please contact Richard I. Greenberg, GreenbeR@jacksonlewis.com, Daniel J. Jacobs, JacobsD@jacksonlewis.com, or

Noel P. Tripp, TrippN@jacksonlewis.com, or the Jackson Lewis attorney with whom you regularly work if you have any questions.

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