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# Your Company Can Control Unemployment Insurance Costs

By Jill Sherman

**R**ecent reports suggest the economy is rebounding with an increase in new jobs and a decrease in unemployment. However, many states face severely depleted unemployment trust funds, which have declined by about \$27 billion since September 2001.

## Fight Rising Unemployment Taxes

States are responding with a flurry of unemployment tax increases, including higher rates and wage bases, surcharges, and other measures. This means employers will be paying even higher taxes in 2005.

Eight states have already been forced to borrow to continue paying benefits. Others will need loans if something is not done to replenish the funds. Some states may not recover until after 2008.

“With the support of 200 employees and employers, we’ve organized a lobbying campaign urging Congress to transfer \$9 billion in Federal Unemployment Tax Act (FUTA) revenue to the state accounts in the Unemployment Trust Fund,” said Eric J. Oxfeld, President of UWC—Strategic Services on Unemployment & Workers’ Compensations. “This proposal will return to the states their pro rata share of FUTA revenue collected through an unnecessary 0.2% FUTA surtax.”

It is not clear whether this proposal has enough support to move through Congress, but the FUTA balances in the federal Unemployment Trust Fund are now \$14 billion and are projected to swell to \$38 billion by 2008. Rather than accumulating unnecessary FUTA taxes in the trust fund, transferring money back to the state unemployment accounts will return the funds to the economy, putting these resources to work by stimulating jobs and employment growth.

Oxford urges employers to become actively engaged with their local and state governments if they aren't already. Many changes are under consideration that will affect the current unemployment benefits process for employers and employees.

Employers need to help elect candidates who are in favor of laws that benefit them. They also need to help elect or select judges who interpret the laws fairly. Some employers do not know that unemployment insurance is a controllable expense. If they do not become actively engaged with the political process, they forego the opportunity to shape their future.

## What Can Be Done Now?

In addition to getting involved in state and national government issues, employers can do several other things under existing law to help control and reduce their unemployment insurance costs.

"Many employers don't realize this is the only business tax that can be controlled, but it requires discipline and careful planning," said Ed Chaffin, President of TALX Corporation's UC eXpress Services, which offers unemployment claims management and tax services.

"One of the first things a company can do is redefine its internal claims management process to help decrease the number of payable benefit claims by former employees," Chaffin continued. "The other is to project tax costs and analyze planning options such as voluntary contributions and joint accounts that are allowed in several states and exercise the ones that are most beneficial.

"If a company has multiple operating units in several states, controlling these two areas can be very difficult, especially in times like these where changes in benefit levels and taxes are widespread."

## Claims Management

The two biggest factors that determine a company's state unemployment insurance (SUI) rate are its payroll and past unemployment claims experience. If your company has paid more unemployment claims in the past few years, your unemployment taxes will probably increase, in some cases, dramatically. How can a company improve its claims management process?

### Establish policies and procedures

Some claims, as in the case of discharges for misconduct and voluntary quits, should not be paid. In these cases, it is important to have effective personnel policies and procedures in place for hiring and training employees, as well as keeping documentation for all employee disciplinary actions. Thus, communication is increasingly important to challenge unwarranted claims.

"We're committed to educating our clients regarding

appropriate employee counseling, discipline, and separation practices," said David Harrod, Senior Business Analyst for ADP's Unemployment Compensation Services (UCS).

"This affords the opportunity to salvage an employment relationship that may have taken a turn off course, as well as allowing for proper steps leading to discharge when appropriate. By utilizing informed and effective management skills, businesses can control their unemployment tax rate to lower levels due to decreasing the number of payable benefit claims by former employees."

Harrod continued, "It is also important for employers to be vigilant regarding approved benefit claims, even claims for separations such as lack of work. It is not uncommon for states to overpay claimants in error or due to improper reporting.

"Part of educating our clients is making sure they are aware of opportunities available to remove erroneous charges relating to benefit overpayments," he said. "These opportunities include reporting to the state when an employee has returned to work or has refused a reasonable offer of work. Regulations vary from state to state, which is why it is important to have a solid background and knowledge base of the unemployment process."

### Manage deadlines

It is equally important to respond to all claims and related protests on time. Employers need to review each claim as soon as it comes in the mail to make sure it is accurate.

"Staying ahead of the claims filing process is extremely difficult for most companies, especially if they have an active workforce," said Bob Austin, Director of UC eXpress Services.

"In 2003, we processed nearly 5 million claims for the 6,000 employers we represent. Each claim needs to be opened immediately and verified for accuracy, and if a protest is warranted, we compile all required information so the valid protest gets filed on time.

"Deadlines are usually seven days," Austin explained. "Failure to respond in a timely manner means you can potentially lose your right to protest at any further level or appeal the decision and the charges against your tax rating account."

## Explore Tax Management Options

Many states offer employers several options for controlling unemployment tax costs, including joint accounts, voluntary contributions, and options involved with mergers, acquisitions, and divestitures. While each state interprets these options differently, staying aware of them can bring big rewards, especially when unemployment taxes are dramatically increasing.

### Forecast rate changes

The first step to maximizing tax management options is to forecast your company's tax rates for the coming year. Most

states provide rate determinations in mid-December or into the early part of the following year, which is not always useful because most companies already have budgets in place for the coming year.

However, most unemployment tax rates can be determined for the upcoming year by the preceding September. Knowing your company's high-cost states can help you prioritize the use of the options available in a particular state and provide valuable budget-planning information.

#### **Leverage voluntary contributions**

The easiest options to leverage are voluntary contributions. Many states allow employers to make an additional tax payment when their yearly tax rate notice is issued, which can reduce the rate for the upcoming year. In many cases, the additional payment will reduce the potential tax much more than the payment, which is a good investment.

States that currently offer this option include Arizona, Arkansas, Colorado, Georgia, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, Maine, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Pennsylvania, South Dakota, Texas, Washington, West Virginia, and Wisconsin.

Every year employers need to look at the voluntary contribution option to review which states offer it, confirm the deadlines, and calculate business projections that determine if this is an advantage.

#### **Determine Joint or Common Rate**

Another way a company can reduce its spending is to determine whether it is operating in a joint- or common-rate state. Companies with several subsidiaries operating in a state that permits joint accounts may be able to reduce their SUI taxes by combining their unemployment experience and applying a lower blended rate that applies to all entities.

There are 13 common-rate states—Arizona, Arkansas, California, Connecticut, Delaware, Hawaii, Minnesota, Missouri, New Jersey, New York, Ohio, South Carolina, and West Virginia. Each state enforces a different time period for its common rate.

It is important to understand the state's criteria before you apply for a joint account. For example, Ohio only requires participation for one year, but California requires such an arrangement to be permanent. Flexibility is key, especially where changes may occur in your company's structure that could affect the benefit.

#### **Advance Planning for Mergers and Acquisitions**

Substantial savings can be achieved during an acquisition, merger, or reorganization. All state unemployment laws have provisions that affect the unemployment experience of a

predecessor and successor when such transactions occur. Knowledge of these provisions is key to avoiding cost increases and maximizing savings, and such options are often missed altogether.

As in other areas concerning unemployment taxes, extensive paperwork may have to be supplied to the state under a tight deadline depending on the transaction. The burden is on the employer to understand how to make the request and know the time frame in which this information will be required in order to benefit from the predecessor's unemployment tax experience. This is a sensitive area, and consideration needs to be given to avoid penalties, interest, and assessments.

#### **Recover Funds Because of Errors**

Refunds and/or reductions in taxes may also be obtained by reviewing past mergers, acquisitions, and reorganizations to evaluate if transfers were correctly requested. Many employers are not familiar with the transfer of experience provisions or wage base continuation allowances for FICA, FUTA, and SUTA or the experience rate impact of such transactions.

Many states will allow a company to file amended tax returns that will restore missed opportunities and allow the savings, but companies have to act within the statute of limitations, which is generally three years. For example, UC eXpress assisted a communications company in Seattle that had several acquisitions over a two-year period. They analyzed the taxes paid on overstated wages. As a result, the company recovered \$2 million.

#### **Make Your Voice Heard**

Given the scope of opportunities to improve the claims and tax management process, companies may choose to employ a team of professionals to implement these options or seek the assistance of an unemployment cost control provider.

Outsource service providers employ professionals who are responsible for assisting with claims management, giving advice, and submitting the required documents to obtain the correct assigned tax rates. They can help a company pay just what it owes and gain greater control over the process.

"Whether you self-administer or work with a professional cost control company, it is critical for employers to be directly involved in the legislative and regulatory process," said Oxfeld. "Elected officials want to know what employers think when they make public policy decisions."

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