

Update: July 2009

Unemployment Bulletin



Tennessee Enacts UI Benefit and Tax Changes

Situation

Recently signed legislation amends Tennessee unemployment insurance (UI) law to provide additional assistance to unemployed workers and protect the solvency of the unemployment trust fund. Highlights of the UI benefit and tax changes are outlined below.

What Employers Need to Know

UI Benefit Changes

The following provisions are prompted by Recovery Act incentives, in which states receive special one-time funding in exchange for specific benefit expansions known as "UI Modernization."

- **Alternative Base Period** – The UI law is amended to include an alternative base period defined as the last four completed calendar quarters from the claim filing date. If a person has insufficient wages to establish a valid UI claim using the standard base period (wages in the first four of the last five completed calendar quarters from the date of filing), the alternative base period will be used. The change will go into effect mid-year 2010, after reprogramming of the Tennessee unemployment agency's benefit system is completed.
- **Dependents' Allowance** – The law is amended so that a person eligible to collect UI may receive an allowance of \$15 per dependent child, less than 18 years of age, not to exceed a total of \$50. This change will also be implemented in 2010 after necessary system programming is done.
- **Part-time Work** – The UI statute is clarified regarding reasonable work search efforts. A person will not be held ineligible for benefits solely for the reason of accepting part-time work instead of full-time work, if the part-time work is at least 20 hours per week.

The law is also amended to include an alternative state extended benefits (EB) trigger using the total unemployment rate instead of the insured unemployment rate. The Tennessee UI agency expects to begin taking EB claims by July 15, 2009.

In addition, a new section has been added to the UI law which specifies the requirements and consequences regarding certain excessive absenteeism or tardiness discharges. An individual will be held ineligible for UI benefits for excessive absenteeism or tardiness, where failure to notify the employer is a factor.

Absence is deemed excessive, if an employee is absent 2 or more scheduled work days in a 12-month period preceding the date of discharge, without giving adequate notice to the employer.

Tardiness is deemed excessive if an employee is late 6 or more scheduled work days in a 12-month period preceding the date of discharge, without giving adequate notice to the employer.



In order for the provisions to apply, an employer must have a written policy on absence and tardiness notification. In addition:

- The policy must define what constitutes a single occurrence of absenteeism or tardiness.
- The policy must define what constitutes an excused absence.
- The policy must describe the process for providing adequate notice of absence or tardiness.
- The policy must advise the employee that failure to provide adequate notice of absence or tardiness may lead to discharge.
- A copy of the written policy must be given to each employee and the employer must have evidence that employees received the policy.
- The employer must give the employee at least 1 warning within the 12 month period preceding the discharge date where the written policy was violated.
- The written policy must be uniformly applied to all employees.

This law change became effective July 1, 2009.

UI Tax Changes

The law has been rewritten to establish a taxable wage base according to the balance of the UI trust fund. The wage base will be:

- \$7,000, if the UI trust fund balance is greater than \$1 billion;
- \$8,000, if the UI trust fund balance is more than \$900 million, but not more than \$1 billion; or
- \$9,000, if the UI trust fund balance is less than or equal to \$900 million.

Retroactive to January 1, 2009, the taxable wage base has increased from \$7,000 to \$9,000.

Since employers have already reported first quarter 2009 wages, but the wage base increase applies to all quarters in the current year, the Tennessee UI agency is asking employers to make the necessary taxable wage adjustments in one of two ways:

- 1) On line 3 of the second quarter 2009 tax and wage report (a.k.a. premium report), employers should provide any taxable wages over the previous \$7,000 base as "additional year-to-date taxable wages." The \$9,000 taxable wage base should then be used for wage and tax reporting for the remaining quarters this year.
- 2) Any employer whose payroll system cannot accommodate the reporting of additional taxable wages for the first quarter 2009 on the second quarter 2009 tax and wage report must file an amended premium report for the first quarter.

Legislation also implements a temporary additional fee of 0.6% for all UI rates on Premium Tables 1, 2 and 3. Since this provision is also effective retroactive to January 1, 2009, the Tennessee UI agency recently mailed employers an Employer Statement of the amount due, based on first quarter 2009 taxable wages reported and the 0.6% assessment.

What You Can Expect

TALX continues to be committed to UI cost containment through claims and tax administration on behalf of our clients. Employers may contact their service representative regarding any UI program management needs.