

# **Managing Unemployment Liability and Responding to Claims for Benefits**

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# Outline

- Responding to Unemployment Claims
- Managing Employee Departures
- Business Transactions & Unemployment Taxes

## **Timeline for Unemployment Claims**

- Employee files for benefits - Shortly after separation
- UIA Mails a Request for Information to the Employer – Shortly after separation
- Employer has 10 or 30 days to respond to the Request for Information

# Timeline for Unemployment Claims

- In a short period of time (usually about a week), the UIA will issue a second Request for Information or a Determination stating the worker is entitled to benefits or is disqualified for benefits
- The party that does not agree with the Determination can protest and request a Redetermination. The protest must be *received* by the UIA within 30 days of the mail date of the Determination
- Soon after, the Redetermination will be issued

# Timeline for Unemployment Claims

- The party that does not agree with the Redetermination can protest and request a hearing before an Administrative Law Judge (“ALJ”) by submitting a request within 30 days of the mail date of the Redetermination
- A hearing will be scheduled by the Office of Administrative Hearings. Usually, notice will be given only a week or two in advance of the hearing
- All evidence that will be submitted at the hearing must be received by the ALJ and the other parties before the hearing

# Timeline for Unemployment Claims

- At the hearing, the ALJ will take testimony and receive evidence from both the Claimant and the Employer
- Soon afterwards, the ALJ will issue a written decision which summarizes the ALJ's factual conclusion and legal rationale for the decision
- The ALJ's decision is appealable to the Michigan Compensation Appellate Commission

# Responses to Request For Information

- Setting the table for Determination/Redetermination Stage
- Important to provide clear factual information that favors you

# Responses to Determinations

- If you win – **no need to respond**
- If you lose – your protest must be received **within 30 days of the mail date of the determination**
- Include any additional information which helps your case



# Responses to Redeterminations

- If you object to the Redetermination, you may request a hearing with an Administrative Law Judge
- Your request must be received within **thirty (30)** days of the mail date of the Redetermination

## Preparing for Hearing

- Develop a theory of the case
- Develop a timeline of events
- Select proposed exhibits and **submit them to the ALJ and other party at least three days prior to the hearing**

# Hearings

- Theory of the Case
  - Voluntary Quit
    - Claimant will be required to present evidence first
  - Misconduct
    - Employer will be required to present evidence first

## **During the Hearing**

- The party with the burden of proof will present evidence first
- Witnesses may only give testimony over matters they have personal knowledge about
- The ALJ may interject and ask questions

## **After the Hearing**

- The ALJ will issue a written decision
- Typically, the decision is received by the end of the week after the hearing
- There are other appeals available, but **most** cases end here

# Managing Employee Departures

- Negotiation
- Mitigating Unemployment Liability
- Preparing for Voluntary Quits
- Preparing for Misconduct

# **Business Transactions & Successorship**

- Successorship Unemployment Liability Triggers
- Business Registration (Form 518)

# Discontinuance

- Discontinue your unemployment taxes if:
  - The business no longer has employees
  - The business is sold or transferred
  - The business is aggregating workers into another business entity



## **Take Aways**

- Plan early on how you want to approach unemployment claims (voluntary quit v. misconduct)
- Think about how to use unemployment insurance to your advantage
- Always consider the impact on your business in a sale or merger