

EDUCATION AND LABOR CABINET
Office of Unemployment Insurance
(New Administrative Regulation)

787 KAR 1:370. Professional Employer Organizations.

RELATES TO: Professional Employer Organizations reporting and contribution obligations.

STATUTORY AUTHORITY: KRS 341.115, 336.248, 336.232

NECESSITY, FUNCTION, AND CONFORMITY: KRS 341.115(1) authorizes the secretary to promulgate administrative regulations for the proper administration of KRS Chapter 341. KRS 336.248 requires professional employer organizations to make certain reports and contributions to the unemployment insurance fund. This administrative regulation provides the procedures to file client unemployment insurance wage and premium reports; the procedures to complete the "Professional Employer Organization Application for Unemployment Insurance Employer Reserve Account" form; the procedures to add or delete clients; the effect of successorship; and the procedures to change the professional employer organization's contribution election.

Section 1. Definitions

- (1) The term "client" is defined by KRS 336.232(1).
- (2) The term "covered employee" is defined by KRS 336.232(4).
- (3) The term "professional employer organization" is defined by KRS 336.232(8).

Section 2. Professional Employer Organization reporting requirements

(1) A professional employer organization (hereafter "PEO") shall keep separate records and submit separate state unemployment insurance wage and premium reports to the Office of Unemployment Insurance (OUI) using the Unemployment Insurance Self-Service Web Portal located at <https://kewes.ky.gov>, with payments to report the covered employees of each client by using the client's state employer account number as provided for in subsection (2) and using the:

- (a) Assigned tax rate of the PEO, per KRS 336.248 (1)(a); or
- (b) Assigned tax rate of the client, as that term is defined in KRS 336.232(1), per KRS 336.248(1)(b).

(2)

(a) For each PEO having one (1) or more covered employees with a client in this state, such PEO shall file an electronic application titled, UI-1P, Professional Employer Organization Application for Unemployment Insurance Employer Reserve Account, using the Unemployment Insurance Self-Service Web Portal located at <https://kewes.ky.gov> to apply for an account number; the application shall include:

1. The federal identification number of the professional employer organization, along with the name, address and phone number of the professional employer organization;
2. The name, physical address and phone number of each client in a format as prescribed by the Office of Unemployment Insurance;
3. The name of the client's owner, partners, corporate officers, limited liability company members and managers, if board managed, or general partners;
4. The federal identification number of the client;
5. A brief description of the client's major business activity; and
6. Any other information which may be required by the Office of Unemployment Insurance.

(b) The PEO shall notify the Office of Unemployment Insurance (OUI) in writing of any additions or deletions of clients during the quarter in which such changes occur.

Written notifications shall be submitted to the OUI via the methods listed at <https://kewes.ky.gov>.

(c) In cases where the PEO has not been subject to the provisions set forth in KRS 336.248, the professional employer organization shall be assigned the new employer premium rate based upon the reserve ratio of the PEO's industrial classification.

Section 3. Effect of successorship. A PEO shall not be considered a successor employer to any client and shall not acquire the experience history of any client with whom there is not any common ownership, management or control. The client, upon terminating its relationship with the PEO, shall not be considered a successor employer to the PEO and shall not acquire any portion of the experience history of the aggregate reserve account of the PEO with whom there is not any common ownership, management or control. For purposes of this regulation, the existence of a professional employer agreement, without other evidence of common control, shall not constitute common ownership, management or control.

Section 4. Change of contribution election. KRS 336.248(5) permits a PEO to change its contribution election under KRS 336.248 (1)(a) or KRS 336.248(1)(b) only once. The change of contribution election shall be submitted in writing via the methods listed at <https://kewes.ky.gov>.

GREG HIGGINS, Executive Director

APPROVED BY AGENCY: October 10, 2024

FILED WITH LRC: October 14, 2024 at 10:40 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on December 21, 2024, at 1:00 PM. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through December 31, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Charles Wheatley, Deputy General Counsel, Education and Labor Cabinet, 500 Mero St., 3rd Floor, Frankfort, Kentucky, 502-782-0555, Charles.wheatley@ky.gov.