

EDUCATION AND LABOR CABINET
Office of Unemployment Insurance
(Amendment)

787 KAR 1:010. Application for employer account; reports.

RELATES TO: KRS 336.248, 341.070, 341.190, 341.243, 341.250, 341.262

STATUTORY AUTHORITY: KRS 336.015, 336.050, 341.115, 2021 Ky Acts Ch. 169 Part 1(I)(7)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 341.115(1) authorizes the secretary to promulgate administrative regulations for the proper administration of KRS Chapter 341. KRS 341.190(2) requires each employing unit to keep specified work records and authorizes the secretary to require additional reports. This administrative regulation establishes the application requirements for an employer account and the requirements for other additional reports required by the office.

Section 1. Each employing unit that has met one (1) or more of the requirements for coverage set forth in KRS 341.070 or KRS 336.248 shall use the Unemployment Insurance Self-Service Web Portal located at <https://kewes.ky.gov> to complete and electronically file with the Office of Unemployment Insurance an Application for Unemployment Insurance Employer Reserve Account UI-1 no later than the last day of the calendar quarter in which the coverage requirements are first met.

Section 2. Each employing unit shall use the Unemployment Insurance Self-Service Web Portal located at <https://kewes.ky.gov> to complete and electronically file with the Office of Unemployment Insurance the following electronic reports as required in accordance with the instructions contained on Unemployment Insurance Self-Service Web Portal:

- (1) UI-1P, Professional Employer Organization Application for Unemployment Insurance Employer Reserve Account.
- (2) ~~{(1)}~~ UI-1S, Supplemental Application for Unemployment Insurance Employer Reserve Account;
- (3) ~~{(2)}~~ UI-3.2, Account Status Information; and
- (4) ~~{(3)}~~ UI-21, Report of Change in Ownership or Discontinuance of Business in Whole or Part.

Section 3. Each employing unit shall complete and file with the Office of Unemployment Insurance the following reports as required in accordance with the instructions contained on the forms:

- (1) UI-3, Employer's Quarterly Unemployment Wage and Tax Report;
- (2) UI-74, Application for Partial Payment Agreement;
- (3) UI-203, Overpayment and Fraud Detection; and
- (4) UI-412A, Notice to Employer of Claim for Unemployment Insurance Benefits.

Section 4. If an employing unit elects to submit the information required in any report listed in Section 3 of this administrative regulation through the Web site at <https://kewes.ky.gov> provided by the Office of Unemployment Insurance for that purpose, the requirement for the filing of that report shall have been satisfied.

Section 5. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) UI-1, "Application for Unemployment Insurance Employer Reserve Account", Rev. 2021;
 - (b) UI-1P, "Professional Employer Organization Application for Unemployment Insurance Employer Reserve Account"

- (c) ~~((b))~~ UI-1S, "Supplemental Application for Unemployment Insurance Employer Reserve Account", Rev. 2021;
- (d) ~~((e))~~ UI-3, "Employer's Quarterly Unemployment Wage and Tax Report", Rev. 11/20;
- (e) ~~((d))~~ UI-3.2, "Account Status Information", Rev. 2021;
- (f) ~~((e))~~ UI-21, "Report of Change in Ownership or Discontinuance of Business in Whole or Part", Rev. 2021;
- (g) ~~((f))~~ UI-74, "Application for Partial Payment Agreement", Rev. 5/11;
- (h) ~~((g))~~ UI-203, "Overpayment and Fraud Detection", Rev. 01/2021; and
- (i) ~~((h))~~ UI-412A, "Notice to Employer of Claim for Unemployment Insurance Benefits", Rev. 09/18.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Director of Unemployment Insurance, Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. and is also available on the office's Web site at <https://kcc.ky.gov/Pages/Reports-and-forms.aspx>.

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 amended administrative regulation shall be held on December 21, 2024, at 1:00 p.m. Eastern Time at the Mayo-Underwood Building Hearing Room, 500 Mero Street, 1st Floor, Frankfort, Kentucky. 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 is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. 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 11:59 p.m. on 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 below.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Charles Wheatley

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes the application requirements for an employer account and the requirements for additional reports required by the Office of Unemployment Insurance.

(b) The necessity of this administrative regulation:

This amended administrative regulation is necessary to carry out KRS 336.248.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 341.115(1) authorizes the secretary promulgate administrative regulation necessary or suitable for the proper administration of KRS Chapter 341.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation provides application procedures for establishing an employer account with unemployment insurance and the requirements for additional reports required by the Office of Unemployment Insurance pursuant to KRS Chapter 341, KRS 341.070, KRS 341.190, KRS 341.243, KRS 341.250, KRS 341.262, and KRS 336.248.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

This amendment adds a new form “UI-1P, Professional Employer Organization Application for Unemployment Insurance Employer Reserve Account” required for professional employer organizations to create an employer reserve account with the unemployment insurance fund pursuant to KRS 336.248.

(b) The necessity of the amendment to this administrative regulation:

The amendment is needed to introduce a new form required by the Office of Unemployment for professional employer organizations to apply for an employer reserve account to satisfy the reporting and contribution requirements set forth in KRS 336.248.

(c) How the amendment conforms to the content of the authorizing statutes:

The amendment establishes the new form for professional employer organizations to apply for an employer reserve account for the employer to satisfy the reporting and contribution requirements to the Office of Unemployment Insurance for their covered employees.

(d) How the amendment will assist in the effective administration of the statutes:

The amendment provides the Office of Unemployment Insurance staff with the necessary information from professional employer organizations (“PEO”) to establish their employer reserve accounts for PEOs to comply with their statutory reporting and contribution obligations to the unemployment insurance fund.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

This administrative regulation affects all professional employer organizations operating in the Commonwealth.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

The amendment provides a new form specifically for the use of professional employer organizations (“PEO”) for the PEO to establish an employer reserve account to facilitate the reporting and contribution obligations to the unemployment insurance fund by the PEO on behalf of their clients. Currently, there is not a PEO specific form for establishing an employer reserve account.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

Additional internal cost expended by professional employer organizations to comply with this administrative regulation is undeterminable by the Office of Unemployment Insurance. The amendment to this regulation does not establish any fees to be paid to the Office of Unemployment Insurance.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

This administrative regulation allows the professional employer organizations to establish an employer reserve accounts to file reports and make contributions required by the Office of Unemployment Insurance on behalf of their clients, thus facilitating the professional employer organizations compliance with their statutory obligations under KRS 336.248.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

The amendment creates no new costs to implement.

(b) On a continuing basis:

This amendment creates no new costs on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

Current state allocations and federal funding will be used for the ongoing implementation and enforcement of this administrative regulation amendment.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

An increase in fees or funding will not be necessary to implement this administrative regulation amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

The amendment to this regulation does not establish any fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied?

Tiering is not applied. All professional employer organizations are treated equally.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 336.248

(2) Identify the promulgating agency and any other affected state units, parts, or divisions:

This administrative regulation impacts Office of Unemployment Insurance (OUI) within the Kentucky Education and Labor Cabinet.

(a) Estimate the following for the first year:

Expenditures: This administrative regulation amendment will create no new expenditures for the first year.

Revenues: This administrative regulation amendment will create no new revenues.

Cost Savings: This administrative regulation amendment will create no cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

The OUI anticipates no new expenditures, revenues, or cost savings in subsequent years as a result of this administrative regulation amendment.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):

(a) Estimate the following for the first year:

Expenditures: None

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

The OUI anticipates no new expenditures, revenues, or cost savings in subsequent years as a result of this administrative regulation amendment.

(4) Identify additional regulated entities not listed in questions (2) or (3):

No additional regulated entities are affected by this administrative regulation amendment.

(a) Estimate the following for the first year:

Expenditures: None

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

The OUI anticipates no new expenditures, revenues, or cost savings in subsequent years as a result of this administrative regulation amendment.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation:

This administrative regulation amendment has no fiscal impact on the OUI.

(b) Methodology and resources used to determine the fiscal impact:

Because there is no fiscal impact related to this administrative regulation amendment, no methodology or resources were necessary to determine fiscal impact.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate)

The administrative regulation amendment does not create an overall negative or adverse major impact on OUI.

(b) The methodology and resources used to reach this conclusion:

Because there is no fiscal impact related to this administrative regulation amendment, no methodology or resources were necessary to determine fiscal impact.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate.

No federal mandate constituted the administrative regulation amendment.

(2) State compliance standards.

KRS 336.248 created the standard for this administrative regulation amendment.

(3) Minimum or uniform standards contained in the federal mandate.

No federal mandate is involved with this administrative regulation amendment.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?

No federal mandate is involved with this administrative regulation amendment.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

No federal mandate is involved with this administrative regulation amendment.