

EDUCATION AND LABOR CABINET
Department of Workforce Development
Office of Unemployment Insurance
(Amended at ARRS Committee)

787 KAR 1:370. Professional Employer Organization contribution and reporting requirements~~[Organizations]~~.

RELATES TO: KRS 336.232

STATUTORY AUTHORITY: KRS 336.248, 341.115

CERTIFICATION STATEMENT:

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 ~~the~~ Professional Employer Organization Application for Unemployment Insurance Employer Reserve Account ~~form~~, the procedures to add or delete clients, the treatment of experience history transfers, ~~and~~ the application ~~effect~~ of successorship provisions under KRS Chapter 341, and the procedures to change the professional employer organization's contribution election.

Section 1. Definitions.

- (1) "Benefit experience history" means the benefit charges and other experience rating data maintained for a client employer under KRS Chapter 341 that are used to determine the employer's contribution rate.
- (2) ~~{(1)}~~ "Client" is defined by KRS 336.232(1).
- ~~{(2)}~~ ~~["Covered employee" is defined by KRS 336.232(4).]~~
- (3) "Election" means the selection made by a PEO pursuant to KRS 336.248(1) regarding the reporting and payment of unemployment insurance contributions.
- (4) "Professional employer agreement" means an agreement as defined in KRS 336.236.
- (5) ~~{(3)}~~ "Professional employer organization" or "PEO" is defined by KRS 336.232(8).

Section 2. Professional Employer Organization Reporting Requirements and Election of Contribution.

- (1) A professional employer organization (~~the~~ PEO ~~shall~~) shall submit its initial election to report and pay unemployment insurance contributions pursuant to KRS 336.248(1) on the application provided in subsection (4) of this section. The Office shall apply the PEO's election to all clients covered under the PEO agreement as of the effective date of the election.
- (2) The PEO shall keep separate records for each client 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>.~~;~~The PEO shall submit all required unemployment contribution payments associated with those reports in a timely manner. Wage and premium reports shall be filed~~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 pursuant to~~, per~~ KRS 336.248 (1)(a); or
 - (b) Assigned tax rate of the client pursuant to~~, per~~ KRS 336.248(1)(b).
- (3) If a PEO elects the client account method under KRS 336.248(1)(b):
 - (a) The PEO shall file unemployment insurance reports and pay contributions on a client-by-client basis; and

(b) The client's benefit experience history, ~~f, as defined in Section 1(3) of this regulation,~~ shall be transferred by the Office to the account assigned to that client as co-employer, as required by KRS 336.248(1)(b)(3)(b).

(4) ~~(2)~~

(a) ~~A~~ ~~For each~~ PEO having one (1) or more covered employees with a client in this state, ~~the PEO~~ shall file an electronic application titled ~~UI-1P, Professional Employer Organization Application for Unemployment Insurance Employer Reserve Account,~~ incorporated in 787 KAR 1:010, using the Unemployment Insurance Self-Service Web Portal located at <https://kewes.ky.gov>.

(b) To apply for an account number, the application shall include:

1. The name, address, phone number, and 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 required by the Office of Unemployment Insurance.

(c) The PEO shall notify the Office of Unemployment Insurance (OUI) in writing of any additions or deletions of clients during the quarter in which a change occurs. Written notifications shall be submitted to the OUI ~~through~~ ~~via~~ the methods listed at <https://kewes.ky.gov>.

(d) ~~If in cases where~~ the PEO has not been subject to the provisions set forth in KRS 336.248, the PEO ~~professional employer organization~~ shall not be assigned the new employer ~~premium~~ rate for a ~~based upon the reserve ratio of the PEO's industrial classification.~~ client that has benefit experience history ~~as defined in Section 1 of this regulation~~. The contribution rate for each client shall be based on that client's experience in accordance with KRS Chapter 341.

Section 3. Effect of Successorship.

(1) The transfer of benefit experience history required under KRS 336.248(1)(b)(3)(b) shall occur without regard to ~~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 retain its own reserve account and shall not acquire any portion of the ~~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 unless otherwise required under KRS Chapter 341 ~~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.~~

(2) The provisions of KRS 341.540 regarding successor employers shall not apply to a PEO or a client employer based solely on the existence of a professional employer agreement.

Section 4. Change of Contribution Election.

(1) 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 ~~through~~ ~~via~~ the methods listed at <https://kewes.ky.gov>.

(2) Any changes to the initial election are effective in the calendar year following the date the Office approves the change in accordance with KRS 336.248(5).

CONTACT PERSON: Haley Presley, Deputy Executive Director, Office of Unemployment Insurance, 500 Mero Street, Third Floor, Frankfort, Kentucky 40601, 502-782-3132, haleys.presley@ky.gov.