

336.248 Reports and contributions to unemployment insurance fund -- Options for submitting -- Changing choice of contribution method -- Clients contributing under KRS 341.275 -- Client treated as new employer.

For the purposes of KRS Chapter 341:

- (1) The professional employer organization shall submit all required wage reports and pay all required contributions to the Office of Unemployment Insurance under KRS Chapter 341 using one (1) of the following:
 - (a) The professional employer organization shall file quarterly unemployment wage and tax reports to report the wages of all covered employees and pay all contributions, penalties, and interest on wages paid by the professional employer organization to its covered employees during the term of the applicable professional employer agreement under the reserve account of the professional employer organization; or
 - (b) The professional employer organization shall file quarterly unemployment wage and tax reports to report the wages of all covered employees and shall pay all contributions, penalties, and interest on wages paid by the professional employer organization to its covered employees during the term of the applicable professional employer agreement under the reserve or reimbursing account of the client. If the professional employer chooses this option:
 1. The professional employer organization shall notify the Office of Unemployment Insurance in writing;
 2. The professional employer organization shall assist the Office of Unemployment Insurance in the process of the separation and identification of the contribution history, benefit experience history, and payroll of each of its clients, and the Office of Unemployment Insurance shall transfer the benefit experience history to the client account;
 3. The Office of Unemployment Insurance shall determine the contribution rate of each client account separately based upon the client's contribution history, benefit experience history, and actual payroll. If:
 - a. There is not sufficient benefit experience history in the client account to establish a tax rate, the account will be assigned a tax rate pursuant to KRS 341.270(1); or
 - b. The client has benefit experience history from a previous account, that benefit experience history shall be used in calculating an earned tax rate pursuant to the provisions of KRS 341.270(4). The benefit experience history shall be transferred to the account assigned to that client as co-employer of the professional employer organization. If taxable wages were reported by the client in a previous account within the calendar year that the professional employer organization and the client enter into a professional employer agreement, the professional employer organization shall be given credit for the taxable wages reported by the client on each employee in the previous account; and
 4. The professional employer organization shall produce all documentation

and information necessary for the Office of Unemployment Insurance to create the client account within sixty (60) days of filing a notice under this paragraph. If the information needed by the Office of Unemployment Insurance is not produced within the sixty (60) day period, the professional employer organization shall revert to reporting under subsection (1)(a) of this section;

- (2) Beginning on January 6, 2023, and continuing through December 31, 2024, the professional employer organization shall submit all required wage reports and pay all required contributions to the Office of Unemployment Insurance using the state employer identification number and contribution rate of the client. After January 1, 2025, the professional employer organization shall report and pay all required contributions to the unemployment insurance fund in accordance with the provisions of subsection (1) of this section;
- (3) Any professional employer organization with an existing employer reserve account with the Office of Unemployment Insurance as of June 29, 2023, shall comply with the provisions of this section no later than January 1, 2025;
- (4) Any professional employer organization that does not have a current employer reserve account with the Office of Unemployment Insurance as of June 29, 2023, shall be liable for contributions under KRS Chapter 341 pursuant to this section;
- (5) After choosing one (1) of the elections provided for under subsection (1) of this section, a professional employer organization shall be permitted to change its contribution election only once. The change of contribution election shall be made by the professional employer organization in writing. The change of contribution election shall become effective in the calendar year following the date the Office of Unemployment Insurance approves the professional employer organization's change of contribution option. If the Office of Unemployment Insurance approves a change of contribution election, all contribution history, benefit experience history, and payroll of each client shall be transferred to the:
 - (a) Professional employer organization account, if the election of subsection (1)(a) of this section is chosen; or
 - (b) Individual client accounts, if the election in subsection (1)(b) of this section is chosen;
- (6) Notwithstanding subsection (1) of this section, any client of a professional employer organization that is eligible for and has made an election to use the contribution method under KRS 341.275 shall continue using this method, regardless of whether the professional employer organization elected the option in subsection (1)(a) of this section; and
- (7) Upon the termination of a contract between a professional employer organization and a client or the failure of a professional employer organization to submit reports or make tax payments as required by KRS 336.230 to 336.250, the client shall be treated as a new employer without a previous experience record unless that client is otherwise eligible for an experience rating.

Effective: June 29, 2023

History: Amended 2023 Ky. Acts ch. 1, sec. 2, effective January 6, 2023; and ch. 88, sec. 4, effective June 29, 2023. -- Created 2022 Ky. Acts ch. 50, sec. 10, effective

July 14, 2022.

Legislative Research Commission Note (6/29/2023). This statute was amended by 2023 Ky. Acts chs. 1 and 88, which do not appear to be in conflict and have been codified together.

Legislative Research Commission Note (1/6/2023). 2023 Ky. Acts ch. 1, sec. 5, reads as follows: "For the period beginning July 14, 2022, and continuing until the effective date of this Act [January 6, 2023], the Education and Labor Cabinet shall not require reporting or payment of required contributions to the unemployment insurance fund using the state employer identification number and contribution rate of the professional employer organization or take enforcement action against the professional employer organization pursuant to KRS 336.250 regarding professional employer organization contributions related to KRS 336.248(2)."