



December 30, 2013

## **REMINDER: NEW LAWS REQUIRE FLORIDA EMPLOYERS TO TIMELY AND ADEQUATELY RESPOND TO CLAIMS FOR REEMPLOYMENT ASSISTANCE (UNEMPLOYMENT) BENEFITS**

Florida has recently made changes to its unemployment compensation benefits law. In Florida, unemployment compensation is now referred to as reemployment assistance. The changes require employers to timely and accurately respond to a claim for reemployment assistance benefits.

### **Background**

The federal Trade Adjustment Assistance Extension Act ("TAA") became law in 2011. A portion of the TAA known as the Unemployment Integrity Act (the "Act") imposed new requirements on employers regarding their responses to claims for unemployment benefits. The purpose of the Act, a subsection of the Federal Unemployment Tax Act, was to reduce the large amount of improperly paid unemployment benefits.

Pursuant to the Act, state legislatures were required to enact laws bringing their states into compliance with the Act's provisions by October 21, 2013.

### **Federal Law**

The Act prevents States from relieving charges to an employer's unemployment tax account where:

1. The payment was made because the employer, or an agent of the employer, was at fault for failing to respond timely or adequately to the request of the agency for information relating to the claim for compensation; and
2. The employer or agent has established a pattern of failing to respond timely or adequately to such requests. 26 U.S.C. § 3303(f)(1).

### **Florida Law**

In order to comply with the Act, Florida amended its law to require employers to respond to a claim for reemployment assistance benefits. The statute provides:

The Department of Economic Opportunity shall promptly provide a notice of claim to the claimant's most recent employing unit and all employers whose employment records are liable for benefits under the monetary determination. The employer must respond to the notice of claim within 20 days after the mailing date of the notice, or in lieu of mailing, within 20 days after the delivery of the notice. If a contributing employer or its agent fails to timely or adequately respond to the notice of claim or request for information, the employer's account may not be relieved of benefit charges as provided in s. 443.131(3)(a), notwithstanding paragraph (5)(b). The department may adopt rules as necessary to implement the processes described in this paragraph relating to notices of claim. Section 443.151(3)(a), *Florida Statutes* (emphasis added).

### **What does this mean for Florida employers?**

Based on the language of the Florida law, it appears that only one occurrence of failing to timely or adequately respond to a notice of claim or a request for information from the Department of Economic Opportunity may result in an employer's reemployment assistance tax account not being relieved of benefit charges.

### **What action is recommended for Florida employers?**

1. Set up internal measures to ensure responses to notice of reemployment assistance claims are made within twenty (20) days after the mailing date of such notice, or in lieu of mailing, within twenty (20) days after delivery of the notice. If a third party is used to process and respond to the company's reemployment assistance claims, be sure that entity is following Florida's requirements.
2. Ensure the timely response adequately responds to the information being requested by the agency. Failure to do so may result in the employer's reemployment assistance tax account not being relieved of benefit charges.
3. Do not agree or promise (in writing or orally) not to contest a claim for unemployment benefits.
4. Consult with legal counsel before terminating an employee and before responding to a notice of claim or request for information to ensure proper compliance with these new requirements. Requests for information typically begin with an employer's receipt of the UCB 412 Form.

For more information please contact the member of GrayRobinson's [Labor and Employment](#) Law Team and/or [Tax](#) Law Team with whom you work.