



February 3, 2021

NY DOL Indefinitely Cancels Unemployment Insurance Charges

On January 14, 2021, the New York Department of Labor (“DOL”) Commissioner signed an order (the “Order”) temporarily modifying the unemployment benefit charging system to ease the burden of unemployment charges incurred by all employers during the COVID-19 pandemic. Specifically, the Order, which became effective immediately, applies retroactively to March 9, 2020, and provides that: (1) any future charges for unemployment benefits paid out to claimants shall not be charged to the employer’s individual unemployment insurance account and shall instead be applied to New York State’s general unemployment insurance account during the pandemic; and (2) any past charges for unemployment benefits paid out to claimants since March 9, 2020, and previously applied to an employer’s account are canceled and shall instead be applied to the general account.

The provisions of the Order apply to 100% of benefits attributable to employers liable for contributions (i.e., employers that pay unemployment insurance taxes) and to 50% of benefits attributable to employers liable for reimbursement payments in lieu of contributions (i.e., government agencies, self-insured nonprofits, and Native American tribes, which were already provided a separate 50% relief for unemployment charges incurred between March 13, 2020, and December 31, 2020, under the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”). Notably, the Order does not apply to an employer if doing so causes a failure to meet the requirements of the Federal Unemployment Tax Act.

Takeaway for Employers

Employers' experience ratings should not be impacted by the influx of unemployment claims they experienced due to the pandemic. However, it is unclear whether employers will ultimately still have to pay some amount of unemployment insurance taxes. Employers who receive charge statements, bills, and other documents from the DOL may continue to protest claims and alert the DOL of fraudulent claims for benefits. Employers should consult with legal counsel to ensure they are meeting their obligation and confirm whether any future payment is due.

* * *

If you have any questions regarding this alert, please do not hesitate to contact us.

[PUTNEY, TWOMBLY, HALL & HIRSON LLP](#)

These materials have been prepared by Putney, Twombly, Hall & Hirson LLP for informational purposes only and are not intended as legal advice or advertisement of legal services. Transmission of the information is not confidential and is not intended to create, and receipt does not constitute, an attorney-client privilege. You should not act upon any of the information contained in these materials without seeking the advice of your own professional legal counsel.