

§1221-A. Employee leasing companies

1. Joint and several liability. A client company is jointly and severally liable for unpaid contributions, interest and penalties due under this chapter from the employee leasing company for wages paid to employees leased to the client company.

[PL 1995, c. 221, §1 (AMD).]

2. Liability for contributions. Notwithstanding any other provisions of this chapter, during the term of the employee leasing arrangement, an employee leasing company is liable for the payment of contributions, penalties and interest on wages paid to employees leased to a client company, except compensation paid to sole proprietors of or partners in the client company.

[PL 1991, c. 468, §3 (NEW); PL 1991, c. 468, §6 (AFF).]

3. Reporting requirements. The employee leasing company shall report and pay all contributions under its state employer identification number, using its contribution rate. The employee leasing company shall keep separate records and submit separate quarterly wage reports for each of its client companies to the bureau.

[PL 1991, c. 468, §3 (NEW); PL 1991, c. 468, §6 (AFF).]

4. Administration of benefits. The employee leasing company is responsible for administration of claims for unemployment insurance benefits for the employees leased to each client company.

[PL 1991, c. 468, §3 (NEW).]

5. Surety bond securities.

[PL 1995, c. 221, §2 (RP).]

6. Limitation on application. This section does not apply to private employment agencies that provide their employees to employers on a temporary help basis, if the private employment agencies are liable as employers for the payment of contributions on wages paid to those temporary employees.

[PL 1991, c. 468, §3 (NEW).]

7. Client company ceasing to pay wages. Whenever a client company does not pay wages for a period of 12 consecutive calendar quarters following the latest calendar quarter in which it paid wages, the commissioner shall terminate the client company's account and experience rating record. If the client company subsequently becomes subject to this section after its account and experience rating record have been terminated, the client company is deemed a new employer for the purposes of this chapter and shall pay contributions at the average contribution rate as defined in section 1221, subsection 4, paragraph A.

[PL 1991, c. 468, §3 (NEW).]

8. Penalty. A person or an employee leasing company that violates this chapter is subject to a forfeiture of \$100 per day for each violation. A corporation, partnership, sole proprietorship or other form of business entity and an officer, director, general partner, agent, representative or employee of any of those types of business entities that knowingly uses or participates in an employee leasing agreement, arrangement or mechanism for the purpose of depriving one or more insurers of premiums or avoiding the calculation of the proper contribution rate for purposes of unemployment contributions commits a Class E crime.

[PL 1995, c. 221, §3 (RPR).]

9. Rebuttable presumption. When an employee leasing company leases employees to only one client company or when the leasing company and the client company or companies are owned or controlled by the same parties or interests, directly or indirectly, by legally enforceable means or otherwise, there is a rebuttable presumption that the client company or companies entered into an employee leasing arrangement to avoid the calculation of the proper contribution rate for payment of unemployment contributions.

[PL 1995, c. 221, §4 (NEW).]

SECTION HISTORY

PL 1991, c. 468, §3 (NEW). PL 1991, c. 468, §6 (AFF). PL 1993, c. 264, §§1,2 (AMD). PL 1995, c. 221, §§1-4 (AMD).

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