



For Further Information Contact:
Employer Services Section
800-331-3276 ext. 126
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LABOR ADVISORY CORPORATE OFFICERS - UNEMPLOYMENT INSURANCE

A new law requires all businesses in Washington to register corporate officers with the Employment Security Department. The first corporate officer report was due by September 30, 2007. If you have not yet filed the report you should do so immediately. Here is a link to the corporate officer filing form:

<http://www.esd.wa.gov/uitax/formsandpubs/update-ownership-information.pdf#zoom=100>

The law does not specify who is a corporate officer, but ESD has stated that it includes “owners, partners, members, corporate officers, and in the case of sole proprietors, spouses of the owner.” You should report officers who are described in the company’s bylaws or appointed by a board of directors. You should focus on people who have the ability to decide whether unemployment taxes are paid or quarterly tax returns are filed.

Unemployment Taxes for Corporate Officers.

Before the law was passed, corporate officers were not considered employees, and therefore unemployment taxes were not owed. Beginning January 1, 2009, unemployment insurance premiums will be owed unless a separate form is filed opting the corporate officer out of coverage. In order to take advantage of the opt-out, the corporate officer must agree. Furthermore, the corporate officer must be a person who is voluntarily elected in accordance with the articles of incorporation or bylaws of the corporation, exercises substantial control in the daily management of the corporation, and whose primary responsibilities do not include the performance of manual labor. Up to eight corporate officers can be excluded for a private company, in addition to an unlimited number of officers who are related by blood. Before opting out, you may want to check with a tax consultant, as you may still be required to pay federal unemployment taxes on a portion of income. Here is a link to a form which you can use to opt out of coverage.

<http://www.esd.wa.gov/uitax/corporateofficers/exempt-officers-defined.php>

Even if you decide to pay the unemployment insurance tax for a corporate officer, that person may not be eligible for benefits. The new law provides that any corporate officer who owns ten per cent or more of a company is not eligible for benefits, as long as the officer is still an owner or serving a term as an officer, even when the person is no longer collecting wages.

What is the Reason for this new law?

During the last legislative session, ESD testified that some corporate officers were taking unemployment benefits while they continued to be gainfully employed by their company. Other portions of the law make certain corporate officers personally liable to pay unemployment taxes in the event of fraud. To view a copy of the law go to <http://www.leg.wa.gov/pub/billinfo/2007-08/Pdf/Bills/Session%20Law%202007/5373-S.SL.pdf>. To view a copy of ESD’s questions and answers about the new law go to

<http://www.esd.wa.gov/uitax/corporateofficers/faq.php>