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New York Imposes New Quarterly Wage and New Hire Reporting Requirements on Employers

Effective July 15, 2011, New York State employers must report whether dependent health insurance benefits are available to their employees. The new requirement extends to both the quarterly wage reports and new hire reports employers file with New York State.

Background

New York Tax Code (Code) Section 171-a requires employers to report on a quarterly basis the gross wages paid to each employee who resides or is employed in New York State. Code Section 171-h requires employers to report certain identifying information about each newly hired or rehired employee working in New York State. The Low Income Support Obligation and Performance Improvement Act ([A. 8952](#)), which took effect on July 15, 2011, amended Code Sections 171-a and 171-h to add a requirement for employers to report the availability of employer-sponsored family health insurance as part of their quarterly wage reporting and new hire reporting. The law is aimed, among other things, at increasing the number of children enrolled in employer-sponsored health insurance groups.

The New Reporting Obligations

Quarterly Reporting

In addition to reporting to the New York State Department of Taxation and Finance (Tax Department) on a quarterly basis the name, social security number and gross wages paid to each employee who lives in or is employed in the state, employers will now have to disclose whether dependent health insurance benefits are available to those employees. Employers must report the information on the Form NYS-45 (Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return), which is expected to be revised for benefits availability submission, beginning with the third quarter of 2011.

New Hire Reporting

Employers must continue to report to the Tax Department the social security number, name, address, and hire date of each newly hired or rehired employee working in New York State, regardless of whether the employee is a New York resident. Under the new law, employers must also disclose whether dependent health insurance

benefits are available to a new hire or rehire and, if so, the date on which the employee is eligible for the benefits. Employers must either submit the revised [Form IT-2104](#) (Employee's Withholding Allowance Certificate) or [Form IT-2104-E](#) (Certificate of Exemption from Withholding), or report the information electronically at www.nynewhire.com.

BUCK COMMENT. *Previously, an employer could report required new hire and employer identification information on Form W-4 (Employee's Withholding Allowance Certificate). Now, if an employer reports new hire information on Form W-4, it also will have to submit Form IT-2104 or Form IT-2104E. Unlike Form NYS-45, these forms have already been revised to reflect the new reporting requirements.*

Employers generally must report new hires or rehires within 20 days of their hiring dates, including employees who discontinue services within 20 days of their hiring or rehiring. For this purpose, the hiring date is the first day any services are performed for which the employee will be paid wages, commissions, tips, or other compensation. For employees paid solely on commissions, the hiring date is the first day on which the employee is eligible to earn commissions. The penalty for failure to timely file a new hire report or failure to file a report showing the required information is \$20 times the number of employees not reported or the number of incomplete reports filed.

Employees who worked in another state but transfer to work for the same employer in New York State are not considered new hires or rehires, and thus are not reportable. Special reporting [rules](#) apply to seasonal employees, employees recalled from layoffs, temporary employees, hires through placement agencies, teachers and professional athletes.

Conclusion

New York employers should ensure that they are in compliance with the new reporting requirements. Human Resources personnel should ensure that employees who qualify for dependent health coverage and the date coverage is available to them are properly identified. Employers that use payroll providers to file their reports should coordinate with the providers to ensure that their processes satisfy the new requirements and accurate information is being provided.

Buck's consultants would be pleased to discuss the new reporting requirements with you.

This FYI is intended to provide general information. It does not offer legal advice or purport to treat all the issues surrounding any one topic.