

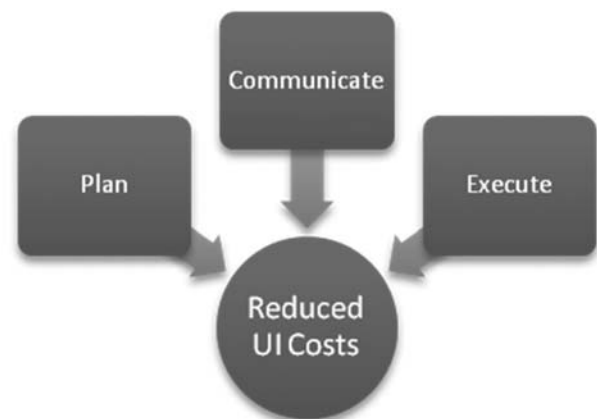
# Managing the Unemployment Insurance Tax Consequences of Staff Reductions

*By Tammy Mullin*

Tammy Mullin addresses various strategies that an employer faced with staff reductions may utilize to control and even mitigate the unemployment insurance tax ramifications.

Deciding to move forward with an organizational staff reduction is stressful. Most companies know that employees are its most valuable assets and, for some companies, team members are like family. Unfortunately, times are tough and an employer may be forced to cut staff to save money. From an unemployment insurance tax perspective, decisions made during the planning and implementation process, and even post-separation, will impact just how cost effective a staff reduction plan will be.

The Unemployment Insurance (UI) System is set up to provide benefits to workers who lose their job through no fault of their own, such as in the case of a general staff reduction. The amount of unemployment benefits paid to such workers will impact the amount of future taxes paid by the employer. In fact, in some states, an employer may end up paying back to the state more than double the amount of unemployment benefits paid to claimants.



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Minimizing the impact on a company's UI costs when managing a staff reduction requires careful planning, effective communication, and precise execution against plans.

### **Timing of a Reduction**

The timing of the reduction has a tremendous impact on the reduction's unemployment insurance tax cost. In some cases, the additional benefits paid in the current year will force a company into the next higher tax bracket which, depending on the state and a company's current tax rate, could end up costing more than is saved in payroll dollars as a result of the actual reduction.

### **Shared Work Programs**

Certain states allow for a Shared Work Program, which is a voluntary employer program intended to provide a practical and mutually beneficial alternative to layoffs when business declines are expected to be short-lived. A Shared Work Program will not eliminate or always reduce unemployment costs, but it does enable a company to keep its skilled workforce intact and to eliminate the costs associated with recruiting, hiring, and training new employees once the business turns around. Participating workers are able to avoid the hardships associated with total unemployment. Both the employer and the employees are able to quickly return to full operational status once the economic conditions rebound.

In basic terms, the hours of all workers participating in an approved Shared Work Program are reduced, but any lost wages are then supplemented by partial UI benefits. Participating workers are not subject to the normal unemployment requirements regarding availability and work search; however, they must be available for their scheduled work week. Not all states, however, offer a Shared Work Program.

### **Severance Benefits**

An employer should consider providing severance benefits to exiting employees. State regulation de-

termines whether the type and amount of severance provided will be qualifying or disqualifying when evaluating monetary eligibility for the UI claimants.

The amount of severance paid is generally used to reduce the weekly benefit amount paid through the UI system based on a state defined calculation. Providing severance benefits could very well reduce the overall costs for the employer without negatively impacting the ongoing income in severance and UI benefits that

the former employees receive to support them through their transition period.

Continuing payments are those that are paid out over a period of time and are thus allocated to specific weeks. Lump sum payments can also be allocated to certain weeks even though paid all at one time. If the employer makes a lump sum severance payment and does not allocate that severance payment to a specific week or weeks, then the severance payment will reduce the unemployment benefits only in the week in which the lump sum severance payment is made. Again, the rules vary by state and any payments made, along with the allocation methods, need to be reported to the applicable state agency in order for such to be considered when determining monetary eligibility.

### **Rehire Programs**

Establishing a rehire program for determining rehire eligibility can help reduce not only the UI benefit charges, but can also keep an employer from paying additional taxes on payroll dollars. If an individual is rehired within the year then a new wage base is not established. Taxes are generally calculated on a state defined dollar amount of wages for the year, regardless of whether there is a break in service for that individual. A rehire program also reduces other rehire costs, such as recruiting and training.

A rehire program can be extremely beneficial in an industry such as retail, where turnover is high and staffing requirements fluctuate dramatically based on consumer demand.

From an unemployment insurance tax perspective, decisions made during the planning and implementation process, and even post-separation, will impact just how cost effective a staff reduction plan will be.

## Reemployment Strategies

A Reemployment Strategy is a proactive plan to help displaced workers find new jobs quickly, thereby reducing the duration of the unemployment benefits paid to those individuals. In addition to helping reduce the unemployment costs, an effective Reemployment Strategy can also reduce the risk of employment litigation or worker's compensation claims, as well as have a positive impact on a company's overall corporate image.

The reemployment opportunity really lies in the highly dynamic nature of the job market. In March 2010, there were 4.2 million new hires. In fact, the job market averages about 50 million new hires a year. To put things into perspective, annual hires, as a percentage of total available jobs, average about 35%. This represents the churn in the marketplace brought about by a shifting in industries due to disruptive technologies and other demographic conditions.

### Highly Dynamic Job Market

(Source: Bureau of Labor Statistics)



The key to a successful Reemployment Strategy is in working with separated workers to connect them with new jobs more quickly. Currently, the average duration that a person remains on unemployment is approximately 20 weeks.<sup>1</sup> A Reemployment Strategy that balances the cost of providing displaced workers with help in finding a new job against the savings in expected reductions in unemployment duration can have a tremendously favorable impact on a company's overall cost of staff reductions, as well as on the lives of those individuals faced with losing their jobs.



A successful Reemployment Strategy should be designed to motivate, educate, and connect job seekers to available jobs more quickly than they would be able to do on their own.

Job seekers face some key challenges in the marketplace today where there are six job seekers for every available job. These individuals are actually de-motivated by the media's lack of understanding of the available job opportunities and, in many cases, the job seekers just do not know where to start. Job loss can also really shake a person's confidence, which can lead to discouragement, making it even more difficult for the person to effectively search for a job.

Few job seekers ever receive job search training. Job search tools and techniques are constantly evolving and the average person searches for a new job only once every four years.<sup>2</sup> Some of the folks in serious need have gone 10 years or more since their last job search, and they might not have the necessary skills or technical savvy to navigate through today's job search technology.

Job seekers should be educated on how to:

- write an effective accomplishments-focused resume;
- evaluate their own transferable skills and passions;
- market themselves; and
- interview.

Job seekers should work with their coaches to create a personalized marketing plan built on their own individual strengths.

There is also an issue with making the right connections. Marketplace disruption has created a situation where job seekers are forced to search for new jobs in new industries that might not identi-

cally align with what they have done in the past. Furthermore, approximately 80% of the available jobs in the market are hidden, meaning that they are not showing up on job boards or on company websites. Job seekers need help making the connections to these available jobs.

An employer should provide opportunities for job seekers to connect with each other as well as with employers that may be hiring. Virtual job clubs and online forums or chat rooms are some great best practices to provide exiting employees with an opportunity to connect with each other and to share successes and lessons learned during their job searches. An employer that is closing a facility in a certain area could also consider hosting a job fair to connect its exiting employees to other employers seeking qualified candidates.

A professional job coach can be instrumental in helping to motivate job seekers. A coach is generally an extremely caring individual that job seekers will respond to because they feel that the coach is on their side and believes in them. A good coach will establish constant contact with job seekers, using structured weekly calls and e-mails that build in accountability and have job seekers working through a structured program designed to have them reemployed within a specified time period.

Whether an employer chooses to outsource the development and management of a Reemployment Strategy to a company that has expertise in the area, or provides selected services in-house, it is essential to evaluate such a Reemployment Strategy as part of the planning process for any staff reduction.

### **WARN Act Notifications**

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The federal Worker Adjustment and Retraining (WARN) Act requires an employer with 100 or more

employees to provide specified parties with at least a 60-day advance notice, through a regulated reporting mechanism, when layoffs or plant closings will occur that meet certain thresholds.

The purpose of the WARN Act is to protect workers, their families, and the community from sudden changes in employment. It gives the workers advance notice, allowing for transition time to adjust to the loss of income and to seek alternative employment. The Act also provides the applicable state workforce agency with advance notice that there are individuals that will soon need to be served by appropriate state programs, such as the UI System.

Since some states may have additional staff reduction notification requirements, an employer must also check those to make sure that the requisite compliance is maintained.

### **Conclusion**

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An employer's tax team should work closely with its Human Resources department to help demonstrate how staff reduction decisions will impact the unemployment insurance tax costs. Tax rate projections should be prepared at each key decision point, and must be included in the final plan so as to show the overall expected tax impact. While having to implement a staff reduction is a difficult decision to make, there is much that can be done to minimize the impact to both an employer and the exiting employees from an unemployment insurance tax perspective.

#### **ENDNOTES**

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- <sup>1</sup> 12-month average based on the federal Department of Labor's Monthly Program and Financial Data report.
- <sup>2</sup> Based on employee tenure data as reported by the federal Bureau of Labor Statistics.

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