Public Hearing on Unemployment Tax Rules, 11/8/07

EMPLOYMENT SECURITY DEPARTMENT
STATE OF WASHINGTON

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TRANSCRIPT OF PROCEEDINGS
of
UNEMPLOYMENT INSURANCE PUBLIC HEARING
PROFESSIONAL EMPLOYER ORGANIZATIONS

Date and Location

November 8, 2007
Thursday, 8:30 a.m.
Employment Security Department
Maple Leaf Conference Room
212 Maple Park
Olympia, Washington

BE IT REMEMBERED, that a public hearing was held on the date and location as set forth above. The Employment Security Department was represented by Pamela Ames, Rules Coordinator, as the hearing officer; and Art Wang, Lisa Marsh, Jill Will and Susan Hettinger.

Reported by:
Cheryl A. Smith, CCR, CVR
(License #3017)

EXCEL COURT REPORTING
16022-17th Avenue Court East
Tacoma, WA 98445-3310
(253) 536-5824
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PROCEEDINGS

Introduction

MS. AMES: This is a rules hearing for PEO's. Pursuant to authority given under RCW 50.12.010 and 040, Chapter 42.30 RCW, the Open Public Meetings act, and Chapter 34.05 RCW, the Administrative Procedures Act, this hearing is hereby convened. We're beginning at about 8:36 on November 8 at 212 Maple Park in Olympia.

This hearing is convened to consider testimony to consider the following rulemaking proposals, and that's rules to clarify how professional employer organizations will register client companies and pay taxes for those clients. And the reason for doing this is to clarify the terms and outline how the Department will implement new legislation regarding professional employer organizations.

Notice of this hearing was published in the Washington State Register on October 17, 2007, as number WSR 20-123 and was sent out to interested parties.

I am Pamela Ames, the rules coordinator for the State of Washington Employment Security Department. And I will be representing Commissioner Karen T. Lee at this hearing.

From the Department we have several staff attending. And we'll have them introduce themselves.
MR. WANG: Art Wang, special assistant for unemployment insurance taxes.

MS. MARSH: Lisa Marsh, Director of UI tax and wage operations.

MS. WILL: Jill Will, legislative liaison.

MS. HETTINGER: Susan Hettinger, unemployment insurance. I'm just here to listen and learn.

MS. AMES: And we have the hearing attendance log. Did they sign in to testify? We do have two interested parties that have indicated they will testify.

And under this hearing, we're considering written submission and oral testimony and we're completing the comments today. When I receive the report -- it will be from our court reporter -- it will be presented to the Commissioner of the Employment Security Department. And before we file the final rule with the code revisor, we will do a concise explanatory statement of the agency's reasons for adopting the rule including a summary and response to all comments received. And that will be sent to all requesting and commenting parties and placed in the permanent rulemaking file. And if you do want to receive any written submissions received to date or receive a concise explanatory statement, please make sure that we know that. We do have information available on the side table.
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And, of course, the hearing is being recorded and the transcript will be made part of the official rulemaking file.

Testimony

MS. AMES: So now we'll start the testimony with Art Wang.

MR. WANG: For the record, my name is Art Wang with the Employment Security Department. And my testimony is simply in the form of written materials, which I've submitted, and people have a copy of it.

MS. AMES: Thank you, Art.

Now we will hear testimony from those logged in in attendance. We will start with Jim Halstrom.

MR. HALSTROM: I'm appearing here this morning on behalf of the National Association of Professional Employer Organizations better known as NAPEO. And we think as an organization one of the things that's really important that we express today is our appreciation for the manner in which the Department has approached the development of the rulemaking, the opportunity we had to discuss the development of the rules. They don't meet all our needs, obviously, but acting within the constraints the legislation as written, we feel the Department has
1 done a good job of developing the rules and we're here to
2 express our support for whatever assistance we can render
3 in the implementation of the rules.
4        MS. AMES: Thank you.
5 And we also have signed in John Heaton.
6        MR. HEATON: I'm president of Pay Plus Benefits, a
7 professional employer organization headquartered in
8 Kennewick, Washington. And I'm here this morning to give
9 some feedback, because the Department has always been very
10 receptive, on kind of what's happening in operational
11 reality from our perspective out in the field. I did ask
12 the person in our company who has been the major interface
13 with the Department to quickly put down some thoughts.
14 She couldn't be here with me today.
15 I won't go through the entire thing. I would
16 summarize it in that I would like to be able to have
17 feedback from the Department or a way to know exactly
18 what's happened. We did ask that we be notified when we
19 send information, and that is now in place and we
20 appreciate it, so that we know that when we've sent an
21 electronic file with lots of sensitive data, the
22 Department did receive it.
23 But most of the data that's been sent, for example,
24 the power of attorneys, this is all information that has
25 to be transposed into an electronic system. We don't know
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1 exactly if everything has been understood by what was on
2 the forms as it is entered. For example, we have three
3 clients that do not use our service as a PEO for all of
4 their employees. And we were informed that when we put on
5 the POA, to make sure there was a note on there that
6 denoted that this client does not use the services for all
7 of their employees and that this would be a branch
8 account.
9 So we think some information is being missed
10 somewhere in the translation. And the reason that we're
11 assuming this is we've started receiving communication in
12 the mail that would denote to us that all of the
13 information for that client company is now coming to us.
14 There's no method. When we ask our contact how do we
15 really know what you have, what's really happening,
16 the answer is, well, in December or January you will start
17 receiving packets for your clients. That's kind of
18 unsettling. I would ask that -- through this transition
19 period.
20 There is confusion. There's confusion from the point
21 we've had clients with us long enough that the Department
22 says, "These people don't exist. You're going to have to
23 open a new account." Well, not really because we have
24 subaccounts with the Department of Labor and Industries.
25 So once we've started setting up accounts, we'll get a
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1 call from the Department of Labor and Industries saying,
2 "You're mucking up the system by setting up this new
3 business account."
4 So there's not been a good coordination between the
5 two departments. We're kind of caught in the middle. The
6 clients are confused on why am I now getting these new
7 applications. The Department of Labor and Industries has
8 said to stop doing that. Let me do this on our end. And
9 we would simply like to know exactly where everything is
10 other than sometime in December or January you will
11 receive a packet.
12 MS. AMES: I believe the Department has noted that
13 comment.
14 MR. HEATON: Thank you very much.
15 MS. AMES: Do we have any commitment to respond to
16 that? Are we planning to respond?
17 MR. WANG: Why don't we talk about it off the record
18 after the hearing.
19 MS. AMES: Is there any other testimony?
20
21 Conclusion
22
23 MS. AMES: We're at the conclusion part. This
24 hearing was convened to consider the testimony on the
25 proposed rules to clarify how professional employer
organizations will register client companies and pay taxes for those clients. And, of course, all the testimony presented and written submission will become part of the official record.

The deadline for submitting written comments was November 7th, I believe, which was yesterday. If there is any additional written comments, please submit them to me by November 13th. That's Pamela Ames, Rules Coordinator, Washington Employment Security Department, 212 Maple Park, Post Office Box 9046, Mailstop 46000, Olympia, Washington 98507. And I could certainly give that to you afterwards.

The final decision regarding adoption of the proposed rulemaking will be made on November 20th.

And so before I conclude, is that all the testimony we have?

So on behalf of Commissioner Karen T. Lee, thank you for participating in this hearing. And it is adjourned now at 8:46 on November 8th.

(Whereupon, proceedings adjourned at 8:46 a.m.)
CERTIFICATE

STATE OF WASHINGTON )
   ) ss.
County of Pierce )

I, Cheryl A. Smith, a Certified Court Reporter in and for the State of Washington, do hereby certify:

That the foregoing transcript of proceedings was taken before me and transcribed under my direction; that the transcript is an accurate transcript of the proceedings insofar as proceedings were audible, clear and intelligible; that the proceedings and resultant foregoing transcript were done and completed to the best of my abilities for the conditions present at the time of the proceedings;

That I am not a relative, employee, attorney or counsel of any party in this matter, and that I am not financially interested in said matter or the outcome thereof;

IN WITNESS WHEREOF, I have hereunto set my hand on this 14th day of November, 2007, at Auburn, Washington.

____________________________
Cheryl A. Smith, CCR, CVR
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Tacoma, WA  98445

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