Kentucky Tax Talk: Companies May Have To Foot Unemployment Bill

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Authors:

Mark F. Sommer
Daniel G. Mudd
Elizabeth M. Ethington

Since Gov. Andy Beshear's declaration of a state of emergency in response to the COVID-19 pandemic in March, Kentucky has received an unprecedented number of claims for unemployment benefits leaving many to wonder, where is the money coming from and who will be responsible for the long-term ramifications?

In June, roughly 45% of the state's workforce had filed for unemployment benefits for the first time.[1] This is largely due to the state's COVID-19 relief legislation, which expanded unemployment insurance eligibility to employees such as independent contractors, self-employed individuals and others who had not previously qualified for the assistance. the Kentucky Education and Workforce Cabinet has struggled to manage the increased number of claims, with as many as 63,000 unprocessed claims through the end of July.[2]

The cabinet contracted with a global accounting firm — at a cost of $7.6 million — during July to assist with claims processing and the state announced its plan to extend the firm's contract for another five weeks for an additional $4.4 million due to the high number of claims still outstanding.[3]

Kentucky made national news as thousands of unemployed taxpayers lined up and waited outside the cabinet's doors for hours, and days, to have their claims submitted. These issues led to several cabinet and relevant agencies' employees being relieved of their duties as thousands of unemployed claimants still await their first unemployment checks since the beginning of the pandemic.

According to the Kentucky Career Center, Kentucky calculates the amount of unemployment funds each applicant is eligible for each week by taking the person's wages from the first four of the last five complete calendar quarters and multiplying by 1.1923%.[4]

Considering the rising number of filed and processed claims and the cost of each of these claims, the state secured an $865 million

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zero-interest loan in June from the federal government.[5] Nevertheless, the fund was depleted to a zero balance by the end of July, leaving many Kentuckians and businesses wondering who will bear the burden of repaying the debt and what further steps must be taken to ensure the unemployment need does not continue to outpace the state's resources.

Based on past experience, Kentucky's most likely options to deal with this depleted fund are either to borrow more from the federal government or to increase tax rates on Kentucky employers.

The state faced similar circumstances during the 2008 recession when it owed nearly $1 billion to the federal government for loans used to support the unemployment insurance fund. In response to this outstanding debt, then-Gov. Steve Beshear, father of the current governor, initiated a bipartisan task force of legislators, union officials and business representatives that lead to the passing of H.B. 5 during the 2010 legislative session.

This legislation required each employer in the state to pay a 0.21% surcharge of their taxable wage base of $10,200 per employee. In 2016, the former Gov. Matt Bevin's administration removed the surcharge after the $972 million federal loan was repaid two years ahead of schedule in August 2015 and the unemployment insurance fund achieved a positive balance, saving Kentucky employers approximately $34.2 million annually.[6]

While some believe Andy Beshear may attempt a similar approach as his father 10 years prior, it is noteworthy that during the worst month of the 2009 recession, the state's unemployment rate was 10.9%. In comparison, the state's unemployment rate was 13.3% this May.[7]

Many from the business community still fear a significant increase in taxes — for some as much as 2,000% — as a result of the depleted unemployment insurance fund.[8] In anticipation of these increases, many businesses are calling for additional federal funding as well as allocating CARES Act funds.

Regardless of the path chosen, the state's depleted fund will have large effects on Kentucky businesses in a time when many are still working to overcome the negative effects of the COVID-19

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pandemic.

It is important for business and tax professionals to note that they may be called upon for input in the coming months as Kentucky and several local business chambers have created task forces to work closely with the business community to examine or propose more business-friendly options to keep everyone afloat as the effects of the pandemic persist — both for employers and state government alike.

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[1] Ben Tobin, Another 40,000 Kentuckians file for unemployment insurance; 927,000 over past 12 weeks, Louisville Courier Journal (Jun. 11, 2020).

[2] Matthew Glowichi, Most claims in Kentucky's unemployment backlog are '95% complete,' but final step remains, Louisville Courier Journal (Jul. 27, 2020).

[3] Matthew Glowicki, Kentucky extends private vendor contract for 5 more weeks of unemployment claim help, Louisville Courier Journal (Jul. 24, 2020).

[4] Effective July 1, 2020 the minimum rate is $39 and the maximum rate is $560 per week. Additionally, this calculation does not include the $600 weekly payments provided by CARES Act funding. Thus, the additional $600 per week does not effect the state's unemployment fund.

[5] Jacqueline Pitts, Kentucky takes out $865 million federal loan for unemployment insurance trust fund, Bottom Line: Kentucky Chamber of Commerce (Jun. 29, 2020).

[6] Jack Brammer, Kentucky pays off $972 million federal loan that propped up unemployment insurance program, Lexington Herald Leader (Aug. 10, 2015).

[7] James Wellemeyer, As states reopen, out-of-work Americans converge en masse at unemployment offices, NBC News (Jun. 17 2020).

[8] Jacqueline Pitts, The Bottom Line: Some employers could see a 2,000% increase in unemployment insurance tax, The Lane Report

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