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SENATE BILL NO. 248

Senate Amendments in [] - January 18, 2012

A BILL to amend and reenact § 60.2-512 of the Code of Virginia, relating to reporting and paying unemployment insurance taxes; employers of domestic service individuals.

Patron Prior to Engrossment—Senator Obenshain

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That § 60.2-512 of the Code of Virginia is amended and reenacted as follows:**

§ 60.2-512. Requiring payroll and tax reports and payment of taxes.

A. The Commission is hereby expressly authorized to require the filing of payroll and tax reports, and the payment of the taxes required by § 60.2-511 in monthly, quarterly, semiannual or annual payments as shall be determined by the Commission; however, if the due date for filing of reports or payment of taxes falls on a Saturday, Sunday or legal holiday, the due date shall be extended to the next business day that is not a Saturday, Sunday or legal holiday. Beginning January 1, [2009 2013], employers may file payroll and tax reports, and pay the taxes required by § 60.2-511, annually, in the time, form and manner prescribed by the Commission, if the employment that is the subject of the report of taxes due under this chapter consists exclusively of domestic service in a private home of the employer, as defined in §§ 31.3121 (a) (7)-1, 31.3306 (c) (2)-1, and 31.3401 (a) (3)-1 of the Employment Tax Regulations promulgated pursuant to §§ 3121, 3306, and 3401 of the Internal Revenue Code, as amended; ~~however, in order to qualify for this election, an employer shall have a total payroll in each calendar quarter that does not exceed \$5,000, regardless of the number of persons providing such domestic service.~~ The aggregate amount of taxes shall be fully paid to the Commission on or before January 31 of each year next succeeding the year with respect to employment during which year such taxes are imposed, or in the event the time is extended for filing the return of the taxes imposed by Title IX of the Social Security Act for the year for which such taxes are imposed, then before the expiration of such extension. Taxes due and payable in an amount less than five dollars shall be deemed to be fully paid; however, this does not relieve an employer from filing payroll and tax reports as herein required.

B. Beginning January 1, 1994, through December 31, 2008, employers who report 250 or more employees in any calendar quarter shall file quarterly reports on a magnetic medium using a format prescribed by the Commission. Beginning January 1, 2009, employers who report 100 or more employees in any calendar quarter in 2009, or thereafter, shall file quarterly reports on an electronic medium using a format prescribed by the Commission. Waivers will be granted only if the Commission finds this requirement creates an unreasonable burden on the employer. All requests for waiver must be submitted in writing. Beginning January 1, 2009, if any employer who reports 100 or more employees in any calendar quarter in 2009, or thereafter, and who has not obtained a waiver by the date the employer's quarterly report is due, fails, without good cause shown, to file electronically, the Commission shall assess upon the employer a penalty of \$75, which penalty shall be in addition to the taxes due and payable with respect to such report and to any penalty assessed under subsection B of § 60.2-513. Penalties collected pursuant to this section shall be paid into the Special Unemployment Compensation Administration Fund established pursuant to § 60.2-314.

C. Notwithstanding the provisions of subsection A, no payroll and tax reports shall be filed with respect to an employee of a state or local agency performing intelligence or counterintelligence functions, if the head of such agency has determined that filing such a report could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

[2. That the provisions of this act shall become effective on January 1, 2013.]

ENGROSSED

SB248E