

4141-3-07

Professional employer organizations.

~~(A) This rule shall be effective beginning January 1, 2014.~~

~~(B)~~(A) For the purposes of division (K) of section 4141.24 of the Revised Code and for purposes of this rule, the following definitions shall apply:

- (1) "Client employer" means any employer ~~as defined by section 4141.01 under Chapter 4141.~~ of the Revised Code that enters into a professional employer organization agreement and is assigned shared employees by the professional employer organization.
- (2) "Coemploy" means the sharing of the responsibilities and liabilities of being an employer, including liabilities incurred under Chapter 4141. of the Revised Code.
- (3) "Professional employer organization" means a sole proprietor, partnership, association, limited liability company, or corporation that enters into an agreement with one or more client employers for the purpose of coemploying all or part of the client employer's workforce at the client employer's work site. This definition shall also include any entity that is otherwise known as an employee leasing company.
- (4) "Professional employer organization agreement" means a written contract to coemploy employees between a professional employer organization and a client employer.
- (5) "Professional employer organization reporting entity" means two or more professional employer organizations that are majority owned or commonly controlled by the same entity, parent, or controlling person and that satisfy reporting entity control rules as defined by the financial accounting standards board and generally accepted accounting principles.
- (6) "Shared employee" means an individual intended to be assigned to a client employer on a permanent basis, not as a temporary supplement to the client employer's workforce, who is coemployed by a professional employer organization or professional employer organization reporting entity and a client employer pursuant to a professional employer organization agreement.
- (7) "Subaccount" means the client employer account ~~as that term is applied in division (A)(1) of section 4141.24 of the Revised Code.~~ that shall be maintained as a separate account for each employer pursuant to division (A)(1) of section 4141.24 of the Revised Code.

~~(C)~~(B) For the purposes of section 4141.01 and division (K) of section 4141.24 of the Revised Code, shared employees of the client employer are considered employees of the professional employer organization or the professional employer organization reporting entity pursuant to a professional employer organization agreement.

~~(D)~~(C) The contribution rate previously established for the client employer shall continue to apply for the calendar year in which the agreement is effective and shall be determined annually based solely on the experience of the individual client employer's account.

~~(E)~~(D) All employee wage data and quarterly contributions required by sections 4141.20 and 4141.23 of the Revised Code shall be reported and paid using the unemployment compensation employer account number and contribution rate established for the client employer, also known as the subaccount.

(1) A professional employer organization or professional employer organization reporting entity may transmit quarterly employer wage data and payments required under sections 4141.20 and 4141.23 of the Revised Code in a single electronic file.

(2) Pursuant to division (A) of section 4125.03 and division (K)(1) of section 4141.24 of the Revised Code, a professional employer organization or professional employer organization reporting entity shall ensure that quarterly employee wage data and contributions or payments in lieu of contributions are filed and paid as required by Chapter 4141. of the Revised Code.

~~(F)~~(E) For the purposes of Chapter 4141. of the Revised Code, an individual whose services performed for the client employer are excluded from employment pursuant to division (B)(3) or (B)(4) of section 4141.01 of the Revised Code cannot be considered a shared employee.

~~(G)~~(F) Upon termination of the professional employer organization agreement, the professional employer organization or the professional employer organization reporting entity shall inform the department of the end of the agreement.

Effective: 1/28/2019
Five Year Review (FYR) Dates: 11/7/2018 and 01/28/2024

CERTIFIED ELECTRONICALLY

Certification

01/14/2019

Date

Promulgated Under: 119.03
Statutory Authority: 4141.13, 4141.14, 4141.24(K)
Rule Amplifies: 4141.
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