



Seasonal Employer Designation May Reduce Unemployment Costs

Employment, Labor & Benefits Practice Group

Foster Swift Employment, Labor & Benefits Quarterly

October 2009

Employees may be denied unemployment benefits between seasons if the Employer is designated a "seasonal employer" under the law. To receive this designation, an employer must be seasonal and the industry of which the employer is a part must be seasonal (the construction industry is specifically exempt). A seasonal industry is one that either customarily operates during 26 or fewer weeks in a period of 52 consecutive weeks, or customarily employs at least half of its workers during 26 or fewer weeks in a period of 52 consecutive weeks.

An employer wishing to take advantage of this law must apply to the Unemployment Insurance Agency (UIA) on an *Application for Designation as Seasonal Employer*. The employer must post the application for employees to see at the time the application is made. The application must be received by the UIA no less than 20 days before the expected beginning date of the season. The UIA will review the employer's application and will issue a *Determination*. If the seasonal designation is granted, the employer will receive a *Notice to Workers of Employer's Designation as Seasonal*. This form will specify the beginning and ending of the normal seasonal work period. This too, must be posted for the employees to see.

If the seasonal designation is granted, the employer must give written notice to each employee, at the time of hire, that the employee is seasonal and that the benefits may be denied during the period between seasons. At the end of the season, the employer must give the employee "reasonable assurance" that work will be available in the next season. Reasonable assurance is not a guarantee of employment. It is an employer's good faith statement of intent that work will be available for the seasonal worker for the next season.

Please contact our office if you believe you may be eligible to receive a seasonal designation. We can help assist your organization with questions regarding seasonal industries, applications for designation, posting requirements, written notices to employees, and reasonable

PRACTICE AREAS

Employee Benefits

Employment Law

Labor Relations

assurance letters.