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EMPLOYERS SEEKING ALTERNATIVE TO LAYOFFS SHOULD CONSIDER IMPLEMENTING A SHARED WORK PLAN

Many Connecticut employers may soon find themselves uttering the dreaded “L” word: layoffs. In light of the current economic conditions and those projected for 2009, it is understandable that employers are considering a wide variety of cost control measures. Before making any hasty employment decisions, however, employers should consider alternatives, such as offering incentives for voluntary resignations, transfers to vacant positions, or hiring freezes. A less known alternative is the implementation of a shared work plan.

The Connecticut Department of Labor (“DOL”) administers shared work unemployment compensation programs (“shared work program”) and is responsible for reviewing shared work plans submitted by employers seeking to participate in a shared work program of their own. Participation in a shared work program allows employers to reduce the hours and wages of a particular group, or groups, of employees, rather than laying off a percentage of the workforce. In turn, those participating employees, whose hours and wages have been reduced, can receive partial unemployment insurance benefits to supplement their lost wages.

The DOL has implemented regulations governing shared work programs. Key requirements for participation in a shared work program include:

- * Shared work plan must apply to and identify each specific affected unit, which is defined as a “specific department, shift, or other unit of four or more employees.” The plan may apply to one affected unit, or multiple affected units.
- * Employer must identify at least four full-time, permanent employees within each affected unit, by name and social security number, as participants in the shared work plan.
- * Shared work plan must reduce the normal weekly hours for the participating employees by not less than 20 percent and no more than 40 percent.
- * Employee fringe benefits must continue to be provided to participating employees as though their normal weekly hours of work had not been reduced.
- * Employer must certify that the shared work plan is in lieu of a layoff that would affect at least ten percent of all participating employees in each affected unit, and otherwise result in an equivalent reduction in work hours.

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A shared work plan is effective on the date it is approved by the DOL Administrator and expires after twenty six weeks. The plan may be renewed for up to an additional twenty six weeks.

One important limitation to note is that shared work plans may apply only to full-time, permanent employees and are not intended to subsidize seasonal employers or employers who traditionally use part-time employees.

Employers who are contemplating participation in a shared work program should consider seeking the advice of counsel in order to determine whether such a program would be appropriate for them, and to ensure strict compliance with the Department of Labor regulations, should the decision be made to submit a shared work plan for DOL approval. For further information about participation in a shared work program or any other employment matter, please contact Christopher L. Brigham of the Employment Law Practice Group at (203) 786-8310 or cbrigham@uks.com, or Angel Peterson of the Employment Law Practice Group at (203) 786-8311 or apeterson@uks.com.

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