Prohibit Companies From Dodging Unemployment Tax -- Kelly Services Declares Support of House Bill 3463

TROY, Mich., March 11 -- Kelly Services, Inc., a global provider of staffing services, today announced its support of House bill 3463 -- the SUTA Dumping Prevention Act. The legislation, which enjoys bipartisan sponsorship, would ban the use of tax schemes by companies to avoid unemployment compensation taxes.

(Logo: http://www.newscom.com/cgi-bin/prnh/19991208/KELLYLOGO)

"Our nation's unemployment insurance system, which provides a safety net for jobless Americans while also benefiting employers and the economy as a whole, is under silent siege," said Carl Camden, president of Kelly Services. "This corporate tax dodge forces society to pay the tab in the form of depleted state coffers, government borrowing and increased taxes. Federal legislation is needed to end this practice in a uniform fashion that sustains a level playing field across the country," he said.

SUTA stands for State Unemployment Tax Acts. The urgency of the SUTA dumping problem was highlighted in a U.S. House subcommittee hearing last summer and with the November 2003 introduction of HR 3463. President Bush has included passage of the bill among his administration's budget priorities.

Longstanding pledge

America's unemployment insurance system was created under the Social Security Act of 1935. States then enacted their own unemployment compensation programs within guidelines established by federal law. These state programs provide temporary financial assistance to eligible workers who are unemployed through no fault of their own.

In most states, benefit funding is based solely on a tax imposed on employers. By law, employers bear a responsibility to pay unemployment taxes at rates determined by the number of claims made by their former employees. Employers with high unemployment activity -- and thus a higher "experience rating" -- are assigned higher unemployment tax rates. Employers with lower activity and a lower experience rating pay less. "This is about as close as you can come to a fair user tax, and the subversion of it puts those companies who aspire to higher ethical standards at a disadvantage," said Camden.

Shell game

A growing number of companies -- encouraged by their accounting, law or consulting firms, according to Congressional testimony -- are engaged in tactics designed to disguise their true claims experience. This practice -- SUTA dumping -- involves companies creating related shell organizations populated with few employees at first to make it "legitimate." Via the new entity, the company is able to manipulate its unemployment claims experience to obtain very low or even zero SUTA rates. The company later transfers a large population of workers into the shell firm to significantly reduce its tax obligations.

Other tactics include the use of mergers, acquisitions and reorganizations as loopholes to dodge a company's fair share of unemployment taxes. "These schemes undermine the integrity of the state unemployment insurance system, harming both workers and employers who play by the rules," said Camden.

The harm

Workers are harmed because this questionable practice depletes state trust funds and eliminates the incentive for companies to keep employees working, because the companies can escape the financial harm that otherwise comes with laying off workers. Employers are harmed because they must pay more to make up for the taxes that other companies avoid through SUTA dumping. The tax- avoidance scheme is most pervasive in businesses where payroll taxes are a large portion of the company's total tax burden, such as staffing, hospitality and construction.

In last summer's U.S. House subcommittee hearing, the Department of Labor said SUTA dumping could be costing states billions of dollars in lost unemployment funds. It is clear that increased unemployment over the last two years has negatively impacted the solvency of unemployment trust funds in most states. In fact, California announced that it will raise unemployment taxes a record 51 percent this year, and the state anticipates the need to borrow $1.3 billion to meet its obligations. When states borrow, employers have to pay interest on these loans.

"Employer SUTA rates are rising in order to replenish unemployment trust funds depleted by the recession. Now is the time when the temptation and payoff of SUTA dumping is greatest, making it even more important for legislators to act quickly to end this practice," said Camden.

Remedy

House bill 3463, the SUTA Dumping Prevention Act, would require states to revise their unemployment laws to require the mandatory transfer of unemployment experience for mergers, acquisitions and transfers of trade or business, regardless of the reason for the transaction. In addition, the Department of Labor is directed to develop tools and provide funding to train state agencies to detect the practice. In some states, laws already exist to prevent such practices; these laws should be enforced.

"If state and federal governments fail to address this critical issue, they will be sending the message to employers that SUTA dumping is acceptable, even expected," said Camden. "Doing nothing threatens the competitiveness of companies that refuse to engage in SUTA dumping schemes. In fact, inaction is a slap in the face of those companies who adhere to higher standards of ethics. The recent lessons of corporate misconduct must not be forgotten so soon."

About Kelly Services

Kelly Services, Inc. (Nasdaq: KELYA, KELYB) is a Fortune 500 company headquartered in Troy, Mich., offering staffing solutions that include temporary services, staff leasing, outsourcing, vendor on-site and full-time placement. Kelly serves 200,000 customers through more than 2,500 company owned and operated offices in 26 countries. Kelly provides employment for nearly 700,000 employees annually, with skills including office services, accounting, engineering, information technology, law, science, marketing, light industrial, education, health care and home care. Revenue in 2003 was $4.3 billion. Visit www.kellyservices.com.

SOURCE Kelly Services, Inc.

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