

Advisory Opinion: Unemployment Insurance exemption for insurance agent

Subject: Unemployment Insurance exemption for insurance agent

Type of Impact (Reporting/Cost or Fee/Education Credit/Other - specify): Exemption from unemployment insurance contributions

Business or Industry Type Affected: Insurance

Advisory Opinion (if applicable):

The 100% owner of a subchapter S corporation asks whether the corporation must pay contributions in the circumstance in which the individual receives a salary from the corporation based upon moneys earned by the individual and received by the corporation as commission. For unemployment insurance purposes, reasonable amounts paid to an officer of a corporation by the corporation are "wages" subject to the payment of contributions. Section 228 of the Illinois Unemployment Insurance Act provides that services performed as an insurance agent are exempt from coverage if all such services are performed for remuneration solely by way of commission. As long as the wages paid by the corporation have the character of a commission the services are exempt. If the character of the payments changes, (for example, if the corporation were to pay as wages a guaranteed amount each month), those wages would no longer be payment solely by way of commission and all reasonable amounts attributable to services performed would be subject to the payment of contributions.

Members of the public may submit comments to the agency contact listed above. Comments should be submitted within 45 days of publication in the Illinois Register.