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HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 285

AN ACT TO AMEND TITLES 19, 29 AND 30 OF THE DELAWARE CODE RELATING TO COVID-19 RELATED
UNEMPLOYMENT BENEFITS, ASSESSMENTS AND RULEMAKING AUTHORITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members
elected to each house thereof concurring therein):

Section 1. Amend § 1106(b), Title 30 of the Delaware Code by making deletions as shown by strike through and
insertions as shown by underline as follows:

§ 1106 Modifications.

(b) Subtractions. – There shall be subtracted from federal adjusted gross income:

(10) The amount of any unemployment benefits received in calendar ~~year~~ years 2020 and 2021, to the extent
included in federal adjusted gross income.

Section 2. Amend § 3348, Title 19 of the Delaware Code by making deletions as shown by strike through and
insertions as shown by underline as follows:

§ 3348 Average employer assessment rate; average industry assessment rate; average construction industry
assessment rate; new employer rate; standard rate of assessment.

(k) Notwithstanding the required computation of the average employer assessment rate, the average industry
assessment rate or the average construction industry assessment rate to be established by the Secretary of Labor for the next
succeeding calendar year pursuant to subsections (a) through (c) of this section, for calendar year 2022, all employers
assigned an assessment rate under subsections (d) or (e) of this section shall have the same rate as established by the
Secretary of Labor for the calendar year 2020.

Section 3. Amend § 3350, Title 19 of the Delaware Code by making deletions as shown by strike through and
insertions as shown by underline as follows:

§ 3350 Variations from new employer rate.

(12) Notwithstanding the required computation of the employer assessment rate to be determined by the
Department for the next succeeding calendar year pursuant to this section, for calendar year 2022, employers shall be

21 assigned an assessment rate equal to the lowest of the rate determined by the Department pursuant to this section for
22 the calendar year 2020, 2021, or 2022; except that employers who are determined for calendar year 2022 to have the
23 delinquency rate of assessment pursuant to subsection (6) of this section shall continue to be assigned the delinquency
24 rate, subject to the administrative authority provided for in subsection (13) of this section.

25 (13) Notwithstanding subsection (6) of this section, the Department shall have the authority in its sole
26 discretion to make changes to the delinquency assessment rate of any employer to take effect on the date determined by
27 the Department, and to provide assessment credits to any employer, as necessary to correct administrative errors or
28 address fraudulent claims charged to employers, except with respect to employers who are charged the delinquency
29 assessment rate because they have not filed any quarterly tax report owed to the Department.

30 Section 4. Amend § 3302(19)(A), Title 19 of the Delaware Code by making deletions as shown by strike through
31 and insertions as shown by underline as follows:

32 (ix) Notwithstanding any other provisions in this section, from January 1, 2022 to December 31, 2022, “wages”
33 does not include that part of the remuneration which, after remuneration equal to \$14,500 (or such greater amount as may
34 be specified as the taxable wage base in the Federal Unemployment Tax Act (26 U.S.C. § 3301 et seq.)) with respect to
35 employment during any calendar year, is paid to an individual by an employer or the employer's predecessor during such
36 calendar year.

37 Section 5. Amend Title 29, Chapter 85 of the Delaware Code by making deletions as shown by strike through and
38 additions as shown by underline as follows:

39 Departments of Government

40 Chapter 85. Department of Labor

41 § 8503 Powers, duties and functions of the Secretary.

42 (7) To establish and to promulgate such rules and regulations governing the operation of the Department as
43 may be deemed necessary by the Secretary and which are not inconsistent with the laws of this State. The Secretary is
44 authorized to develop emergency rules amending the Delaware Unemployment Insurance Code which enhance the
45 flexibility of the unemployment insurance program in response to COVID-19 and alleviate some of the burden of
46 temporary layoffs, isolation and quarantine by ensuring unemployment benefits are available to individuals whose
47 employment has been impacted directly by COVID-19.

48 Section 6. Section 5 of this Act expires on December 31, 2022.

SYNOPSIS

This bill provides COVID-19 related relief to both claimants receiving unemployment benefits and employers who are assessed unemployment taxes, and extends the end date of the Secretary of Labor's COVID-19 related rulemaking

authority. Section 1 exempts unemployment compensation benefits received in 2021 from the calculation of Delaware adjusted gross income so that unemployment claimants will not have to pay state taxes on the benefits they received during the continuation of the pandemic into 2021. This exemption was previously granted for 2020 state taxes. Section 2 holds the 2022 new employer assessment rate, average industry assessment rate and average construction industry assessment rate at the same rate as 2020 in order to avoid an increase in these rates as a result of the increase in unemployment claims due to COVID-19. Section 3 reduces the unemployment tax assessment rate for merit rated employers to the lowest of their earned rates for 2020, 2021 and 2022, in order to provide further tax relief for employers dealing with the economic effects of COVID-19, but does not provide this reduction for any employers who are paying the delinquency rate of assessment because of a failure to file quarterly assessment reports or failure to pay assessments. Section 3 also allows the Department the administrative authority to reduce employer assessment rates below the delinquency rate and provide responding credits, as necessary to correct administrative errors or address fraudulent claims charged to employers, except for employers who are charged the delinquency assessment rate because they have failed to file any quarterly tax report. Section 4 holds the taxable wage base at \$14,500 for 2022, which will reduce the amount of wages on which employers pay unemployment tax assessments into the UI Trust Fund for 2022. The Department has determined that the impact of this change on the UI Trust Fund balance is estimated to be \$11.4M in 2022. Sections 5 and 6 extend to December 31, 2022 the provision in HB 65, which authorized the Delaware Secretary of Labor to issue emergency rules amending the Delaware Unemployment Insurance Code to deal with the continuing effects of COVID-19 and implement federal programs providing unemployment benefits to respond to COVID-19.