Does Change in Business Ownership Trigger Need for an ROE?

Employers must issue a form called the Record of Employment (ROE) when an employee's employment ends. An ROE must also be issued when an employee experiences an interruption of earnings. Here's a scenario that illustrates how these rules play out in mergers and acquisitions when the acquiring company assumes the employees of the target company.

Situation

Fly By Night Ltd. (FBN), a multinational aerospace corporation, decides to sell its Ontario plant to Wind Fall Prophet, a firm that manufactures wind turbines. The sale is a straight purchase of plant assets, including the related employment relationships, rather than an assumption of corporate control by Wind Fall. Carey Yover is one of the employees transferred as part of the sale, which officially closes on December 31, 2024. The sale causes no gap in his actual employment. However, Wind Fall converts the plant from a weekly to a bi-weekly payroll schedule effective January 1, 2025. Wind Fall has access to all of FBN's employee HR and payroll files dating back to the date the plant was established in 1996 and has agreed to issue a combined ROE if and when any employees covered by the sale experience an interruption in earnings after the sale closes.

Question

Does the Dec. 31 sale trigger the need for FBN, the original employer, to give Carey an ROE?

1. Yes, since Carey experienced an interruption of earnings from FBN on Dec. 31, 2024
2. No, since Wind Fall will include Carey's payroll history on any ROE subsequently required
3. Yes, since the sale resulted in a change to Carey's payroll frequency
4. No, since the sale caused no actual break in Carey's insurable hours or earnings

Answer

1. **Yes, FBN must furnish Carey a new ROE because Wind Fall is changing his pay period schedule.**

Explanation

This scenario, which is purely hypothetical, illustrates an important point about the ROE: An ROE can’t be issued for a period of employment which covers more than one payroll frequency or schedule.

Accordingly, the shift in pay period frequency implemented by the new employer, Wind Fall, makes it impossible to issue a single, combined ROE for any employee covered by the shift who later experiences an interruption of earnings. As a result, FBN, the former employer, must produce an ROE for Carey (and any other employees transferred to Wind Fall who got switched from a weekly to bi-weekly pay schedule) resulting from the plant sale on December 31, 2024.

Why Wrong Answers Are Wrong

A is the right conclusion for the wrong reason. Although Carey did, in fact, experience an interruption of his earnings with FBN, Service Canada generally doesn’t require former employers to issue ROEs for such interruptions, as long as the new owner of the business is willing and able to issue a single combined ROE to any employee who subsequently experiences an interruption of earnings. However, the need for the ROE in this case was triggered not by the interruption of earnings but the change in payroll periods.

B is wrong because even though Wind Fall is willing and able, the change in payroll frequency renders it impossible for it to issue a combined ROE covering the period before and after the Dec. 31 sale. In other words, the need for the ROE is triggered by the change in payroll schedules, not the transfer of ownership.

D is wrong because even though there was, in fact, no gap in time between the employment with and the earnings Carey received from the former and new plant owners, the change in the payroll schedule requires the former employer, FBN, to issue Carey an ROE.