PURCHASE OF EXISTING BUSINESS NOT BEING REPORTED
One of the largest issues facing the Unemployment Insurance Tax Registration Unit is related to the purchase/acquisition of an existing business. The UI Tax Registration Unit is finding companies are not notifying the Department of Workforce Services when they have acquired or purchased an existing business; instead, they apply as a new company. According to Wyoming Statute 27-3-507:

27-3-507. Person acquiring trade of employing unit; transfer of experience and assignment of rates.

(a) A person acquiring the trade, organization, business or substantially all the assets of an employer subject to this act shall assume the employer’s account, benefit experience and contribution rate. If the acquiring person is an employer subject to this act, the department shall consolidate the separate accounts and benefit experience and shall determine the contribution rate of the acquiring person effective the first day of the calendar quarter following the date of acquisition. A delinquency rate shall be assumed by the acquiring person as provided in W.S. 27-3-503(b) when the acquiring person owned or controlled an interest in the transferring employer or if the acquiring person is a member of the immediate family of the transferring employer.

(b) The transfer of some or all of an employer’s workforce to another person shall be considered a transfer of trade or business when, as a result of the transfer, the transferring employer no longer performs trade or business with respect to the transferred workforce, and the trade or business is performed by the person to whom the workforce is transferred, etc.

It is important for any employer who has purchased an existing business or acquired the majority of employees from an existing business to notify the Agency as soon as possible. Many times the owners have formed a new corporation/LLC/partnership, sole proprietorship, or other new entity. Although this is technically a new business, for UI Tax purposes, the new owner has acquired the trade or business of the predecessor.

It is always best to give the division information regarding the sale or lease of the business. Many times the division is notified later or the purchase is detected during fraud research, and this may result in a retroactive decision which has the potential to cause penalties and interest on the Unemployment Tax Insurance account.

If you have questions regarding a purchase/acquisition and how it may affect your account, please contact the Unemployment Insurance Tax Registration Unit at 307-235-3651 or 307-235-3622.

NOTICE TO LLC MEMBERS
If your company is registered with the Wyoming Secretary of State’s office as a Limited Liability Company (LLC), Unemployment Insurance coverage on the members of the LLC is elective. However, there is liability for all other employees.

The division distinguishes the type of entity based on the actual corporate structure—it does not take into consideration how the business files with the IRS. The IRS does not recognize an LLC – so they file federally as either an S-Corp or sole proprietorship. The following outlines how LLC members can elect coverage:

27-3-502 (Section D only)

(d) An employing unit not qualifying as an employer or for which services not qualifying as employment are performed may elect coverage under this act for a period of not less than two (2) years by filing written notice of its election with the department. If the department approves the election in writing, coverage is effective on the date of approval. Application for termination of coverage as an employer under this subsection shall be filed in writing with the department not less than thirty (30) days before January 1 of any year following the initial two (2) years of coverage and for termination of coverage of employment, not less than thirty (30) days after January 1. The department may terminate coverage under this subsection for good cause by giving notice to the employer.

**This is an election for Wyoming State Unemployment Tax (SUTA) only and does not affect your liability for Federal Unemployment Tax (FUTA).**

If you have questions, or you would like to elect Unemployment Insurance Tax coverage for your LLC members, please contact the Unemployment Insurance Tax Division at 307-235-3651.

SURVEY SHOWS INCREASE IN NONRESIDENT HIRING IN WYOMING
The proportion of nonresidents among all new hires has increased significantly since 2009, according to the New Hires Survey, conducted by the Wyoming Department of Workforce Services, Research & Planning section. Nonresidents accounted for 9.7% of the 20,697 new hires in fourth quarter 2009 (2009Q4). Since 2012Q2, nonresident hires have made up approximately one in every four new hires during each quarter. In 2013Q2, nonresident hires made up 34.2% of all new hires. Of the top 10 occupations for nonresident new hires from 2010Q4 to 2012Q3, nine required a high school diploma or less. Only one (operating engineers & other construction equipment operators) required any sort of post-secondary education. The top occupations for nonresident new hires were cooks, restaurant (1,145); cooks, restaurant (1,115); truck drivers, heavy & tractor-trailer (999); and cashiers (998).

For more information about the New Hires Survey, see doe.state.wy.us/LMI/newhires.htm or R&P’s main website at doe.state.wy.us/LMI.

GENEX SERVICES OUTLINES TOP BARRIERS TO EFFECTIVE RTW PROGRAMS
GENEX Services, LLC, one of the nation’s largest providers of managed care services, recently reported that more than three million American employees experienced a work-related injury last year at a direct cost to employers of some $1

Workers’ Compensation Officer/Owner Average Wage for 2014
$11,169/quarter; $3,723/month

Unemployment Insurance Taxable Wage Base for 2014
$24,500
The business might be small but that does not mean the risk is necessarily small. Just because a business works with flowers and not heavy machinery does not mean they are immune to a workplace accident. Along with an injury may come increased workers’ compensation premiums, money to pay for an investigation and maybe even a fine from the Occupational Safety and Health Administration (OSHA). Just about half of all new businesses survive beyond five years in the first place, and paying out even more money for insurance is something that realistically most small businesses cannot afford.

Even though a small business can sometimes seem like a family and owners might be hesitant to “come down too hard” on employees, it is important that owners make sure the rules are enforced and that they don’t let their employees slide when it comes to safety. Make sure that everybody knows the rules when it comes to preventing hazards - and enforce them. If you work in a kitchen and an employee shows up wearing sneakers instead of non-slip shoes are you going to let them stay and work or are you going to make them change? Set a precedent that shirking safety measure will not be tolerated.

A small business is a tight-knit community, and an injury can do a lot to hurt workplace morale. Return to work programs can be critical to show everyone at the company that the owners take their workers’ safety seriously. It might be hard to find a job that the worker can do, especially in a small business where the work may be very specialized. But seeing that worker back on the job and back with their co-workers could go a long way to improve attitude at the company after an injury.

There is help for small businesses who feel overwhelmed or feel they may not know enough about safety. OSHA Consultation, for instance, will come to your business for free and help identify workplace hazards and provide advice on compliance and prevention programs. These inspections do not result in penalties or citations. The Department of Workforce Services offers cooperative programs that aim to prevent injury or illness in the workplace. And the Department of Workforce Services provides training courses in safety as well as many online resources. Also, check and see if your insurance provider offers any kind of training or safety initiatives.

Safety is important for every workplace, but especially for small businesses. It is crucial that employers try to identify safety hazards and prevent injuries before they even happen. Properly training employees and making sure they are also actively taking precautions to protect themselves and their co-workers is extremely important to small businesses as well.

**ELECTRONIC SEPARATION REQUESTS AND RESPONSES NOW AVAILABLE**

SIDES (State Information Data Exchange System) E-Response

Wyoming employers can elect to receive electronic separation requests and reply online to those requests. This service is offered through SIDES (State Information Data Exchange System) and provides time and cost savings to employers.

Developed through a partnership between the United States Department of Labor (USDOL) and state unemployment insurance (UI) agencies, the SIDES E-Response website offers employers and third-party administrators (TPAs) - free of charge - a secure, electronic, and nationally-standardized format in which they can easily respond to UI information requests, attach documentation when needed, and receive a date-stamped confirmation of receipt. Now, employers and TPAs can adopt an electronic standardized format to better anticipate and supply the data needed for UI information requests and, in return, reduce follow-up phone calls and paper work, and streamline their UI response processes while saving time and money.

To enroll in SIDES E-Response, an employer needs access to their Wyoming Internet Reporting for Employers, (WIRE) account. At the employer profile screen, follow the link to electronic separation notices and provide a valid email address so the agency may communicate when separation notices are available. The agency will send an email with an activation link to complete the process.

Once enrolled in SIDES, the agency will no longer send paper separation requests to the employer’s address on record. Instead, when an enrolled employer is identified as the last employer on a claim, an e-mail is sent to the employer. The e-mail instructs the employer to login to the SIDES website using their FEIN, State UI account number and a password. The SIDES site will provide claimant information to the employer who can then respond to the separation request electronically.

To elect the SIDES option, review the electronic separation notices area inside your WIRE account.

**WHAT SMALL BUSINESSES SHOULD CONSIDER FOR WORKERS’ COMPENSATION**

According to the Small Business Association, in 2010, there were 27.9 million small businesses across the country. A small business is one with less than 500 employees, and between 1993 and 2011 small firms created almost 11.8 million jobs. Those who work for themselves or with their spouse might not need workers’ compensation. If they employ others, workers’ compensation is something they have to think about, and think about it differently than a big company might.

For a smaller company with fewer employees to begin with, an injury that takes a worker out of the workplace for a while could be devastating. If they can survive without the extra hands for a few weeks or even months that’s great, but a lot of small businesses need all the help they can get. They might have to take extra time and cost to train a new hire or temporary worker, or take on the extra responsibility themselves which could result in a decrease in productivity for the company.