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JOBS RECOUPED LOCALLY & NATIONALLY

There's light at the end of the tunnel. New COVID-19 cases continue to plummet. Fewer Americans are being hospitalized. The death rate peaked in January and has declined steadily since. More people are receiving the vaccine. The logistics of the vaccine rollout continues to improve. **The nation has recouped 12.7 million of the 22.6 million jobs lost in the downturn.** That leaves nearly 10 million Americans without jobs who had jobs this time last year.

January's report, a net gain of only 49,000 jobs, has spurred concerns that the recovery may be slowing. Even so, many economists expect this to be a strong year for job growth. IHS Markit forecasts the U.S. will add 6.7 million jobs in '21, Oxford Economics predicts 5.8 million, and the consensus among economists polled by *The Wall Street Journal* is that the U.S. will add 4.8 million jobs. These forecasts suggest the nation will still finish the year 3.2 million to 5.1 million jobs shy of its pre-pandemic level.

Initial claims for unemployment benefits continue a bumpy trend downward. The U.S. Employment and Training Administration (ETA) reports 861,000 workers filed claims the week ending February 13, 2021, well below the recession peak of 6.9 million the week ending March 28, 2020. That suggests fewer layoffs are occurring. However, recent claims remain well above the pre-recession average of 235,000 claims per week.

Houston's economy is following a similar path. The metro areas lost 350,200 jobs last March and April but has since recouped roughly 60 percent of those losses. Employment in several sectors, notably professional, scientific, and technical services, finance and insurance, and nondurables manufacturing now exceeds pre-pandemic levels. Sectors closely tied to energy—exploration and production, oil field services, equipment manufacturing and wholesale trade—have yet to recoup their losses.

Data from the Texas Workforce Commission (TWC) show that initial claims for unemployment benefits filed in early February '21 were one-fifth those filed in early April '20, the height of the pandemic. Claims, however, remain elevated and have ticked up in recent weeks. The unemployment rate in December was 8.0 percent, down from 8.9 percent in November and 14.3 percent at the height of the pandemic.

In January of '20, Houston's unemployment rate was 4.1 percent, low by historic norms but not a record. The record low was 3.1 percent in April of '81. Over the past 10 years, the rate had ranged as high as 8.7 percent, as low as 3.2, and averaged 5.6 percent. Houston's workforce was clearly benefitting from the long U.S. expansion.

The impact of COVID-19 was felt rather quickly. In February, there were only 135,000 unemployed workers in metro Houston. By April, that had jumped to nearly 465,000. The unemployment rate skyrocketed to 14.3 percent. Texas' rate topped out at 13.3, the U.S. rate at 14.4. Houston's rate began to drop as soon as the economy began to reopen but remains stubbornly high—8.0 percent as of December '20. The rate for Texas was 7.1, the U.S. rate 6.5. Based on the current size of the workforce, another 60,000 or more Houstonians will need to find jobs for the unemployment rate to fall below 6.0 percent. If the workforce expands, as it's likely to do as the population grows and residents re-enter the job market, the number of new jobs needed to bring the unemployment rate below 6.0 percent would grow considerably.

KAMALA HARRIS: THE EXODUS OF WOMEN FROM THE WORKFORCE IS A NATIONAL EMERGENCY

About 2.5 million women have lost their jobs or dropped out of the workforce during the pandemic. That's enough to fill 40 football stadiums. This mass exodus of women from the workforce is a national emergency, and it demands a national solution.

Job loss, small business closings and a lack of child care have created a perfect storm for women workers. Women who work in industries such as hospitality and health care are losing their jobs. Women in lower-wage jobs — those living below the federal poverty level — have been hit hardest. These workers, many of them women of color, have been undervalued and underpaid for too long. And now too many of them are out of work.

Then there are women who own and work at small businesses — the fabric of our communities. We've all felt the loss when businesses in our neighborhoods have closed this past year. In February 2020, around 5 million women were business owners. By April, 1 in 4 had closed their doors.

The pandemic has touched every part of our lives. Families everywhere are shouldering a huge burden as homes have become classrooms and child-care centers, and uncertainty plagues each day. Because of that, many working women have been forced to cut their hours or leave their jobs entirely. Even those who've managed to keep working full-time are stretched. This is not acceptable.

Without affordable and accessible child care, working mothers are forced to make an unfair choice. We have to make sure all working mothers have the support they need — during the

pandemic and after. Because here's the truth: Our economy cannot fully recover unless women can fully participate. Studies have shown that our gross domestic product could be 5 percent higher if women participated in the workforce at the same rate as men. And every day that women are out of work, unlocking that potential becomes harder. When we lift up women, we lift up families, we lift up communities and all of society benefits. This is true in the United States and around the globe.

The American Rescue Plan will tackle the most urgent needs of the American people, particularly women workers. It will get $1,400 in checks to those who need it and at least $3,000 to parents for each of their children. The plan includes unemployment insurance and housing assistance. It provides funding to help schools safely reopen and makes a big investment in child care to help providers keep their doors open or reopen them. And it will make sure that vaccines are available and accessible to everyone. Women everywhere are counting on us. It's time to get to work to get women back to work.

LITTLER'S COVID-19 VACCINE EMPLOYER SURVEY REPORT

The vaccine breakthroughs in late 2020 brought hope for an end to the pandemic, along with a host of novel questions and uncertainties for employers about how to approach immunization of their workforces. Littler's COVID-19 Vaccine Employer Survey Report – completed by more than 1,800 in-house counsel, HR professionals and C-suite executives – provides insight into employers' key concerns and strategies.

Key findings include:

- Most employers are unlikely to mandate COVID-19 vaccination. Less than 1% currently mandate vaccination and only 6% plan to once vaccines are readily available and/or the FDA grants full approval. While 43% are still considering it, nearly half (48%) have already decided against a mandate.
- Employee relations motivate the top two concerns with mandates: 79% cited resistance from employees who are not in a protected category but refuse or oppose vaccination generally, while 67% are concerned about a mandate's impact on employee morale and company culture.
- Employers *are* focused on encouraging vaccination, including providing information to employees (90%), offering vaccine administration on-site (37%), offering paid time off (33%) and providing incentives, such as cash awards or other monetary benefits (11%).
- Employers are not hinging their return-to-work plans on vaccination. Most are extending remote work at least into the summer (49%) or allowing employees to work on-site on a voluntary basis (37%). And the majority plan to keep COVID-19-related safety precautions – such as mask wearing and social distancing – in place even after vaccines are readily available.

CHALLENGER, GRAY, & CHRISTMAS' JOB CUTS REPORT

Planned job cuts announced by U.S.-based companies rose 3.3%, to 79,552, in January from 77,030 in December, according to a report released by global outplacement and business and executive coaching firm Challenger, Gray & Christmas, Inc. January's total is 17.4% higher than the 67,735 cuts announced in the same month last year. It is the highest January total since 2009, when 241,749 cuts were announced.

"While cuts were higher than average last month, we are seeing a leveling off of announcements, which may bode well for recovery in the coming months. Companies may be reassessing their staffing levels and waiting on the impact of the relief bill before making any additional workforce decisions," said Andrew Challenger, Senior Vice President of Challenger, Gray & Christmas, Inc. January job cuts were led by the Aerospace/Defense industry, which announced 29,100 cuts. The industry has seen turmoil caused by a downturn in orders for commercial airliners, as travel dried up due to the pandemic. This sector announced 86,125 cuts in 2020, a record high. The previous record occurred in 2002, with 53,888 announced cuts in the sector. This marked the first month since February that job cut announcements were not led by the Entertainment/Leisure or Transportation sectors. "This appears to be a new wave of layoffs hitting deeper than the initial blow," said Challenger. Telecommunications announced the second-highest number of cuts last month with 19,002. This sector has seen disruption for over a decade, as new technology has changed the way consumers communicate. This industry announced 33,133 cuts last year, the most since 2018, when 59,568 were announced. Warehousing announced the third-highest number of job cuts in January with 6,601, likely due to seasonal positions ending, followed by Entertainment/Leisure with 6,399. Of the 742 Media cuts announced in January, 242 occurred in digital, print, and broadcast news. The leading reason for job cut announcements in January was demand downturn, followed by restructuring. Market conditions accounted for 15,056 cuts in January. COVID-19 was cited for 4,620 job cuts in January.

ENERGY SECTOR SEES SIGNIFICANT BLOW TO EMPLOYMENT

The energy sector, dominated by the oil and gas industry, lost 14,000 jobs last year in Texas, and it's not likely to rebound quickly, per Patrick Jankowski, economist at the Greater Houston Partnership. Houston-based Kinder Morgan Inc. (NYSE: KMI) cut 562 jobs during 2020. Dow Inc. (NYSE: DOW), a chemical company with a large footprint in Houston, cut hundreds of jobs during 2020. Oil field equipment and services giant Schlumberger Ltd. (NYSE: SLB) made deep cuts to its headcount in 2020.

The cuts came as Kinder Morgan COO James Holland, led an examination of changes in the organizational structure. Under these changes, Kinder Morgan centralized certain functions that used to exist under several different business units, driving about $100 million in annual savings, the company said. Those savings came primarily from an approximately 5% reduction in total workforce. The job reductions focused particularly on management and administrative roles, which dropped by 14%, the company said. Also, 200 of the cut jobs came from voluntary severance or employees who were able to fill open positions elsewhere within Kinder Morgan.

The cuts came as Midland, Michigan-based Dow spent the fourth quarter in a restructuring effort meant to, among other things, cut workforce costs by about 6%, the company said at the time. Dow started 2020 with 36,500 employees, but that number had dropped to 35,700 by the end of the year, according to its two most recent annual financial reports. That's an 800-person decline, or about 2% of its 2020 headcount. The whole program is meant to add $300 million to Dow's earnings by the end of 2020, said Howard Ungerleider, Dow's president and CFO, during a conference call with investors. "These are very difficult decisions to take. However, they are necessary to ensure our financial strength continues through the cycle," Ungerleider said. DowDuPont Inc. spun out its materials business as Dow Inc. in 2019. That spinoff had been planned since a massive merger between The Dow Chemical Co. and DuPont was announced in late 2015. As of mid-2020, Dow employed about 7,000 people — including contractors — full-time in the Port of Houston and Houston Ship Channel area, according to Houston Business Journal research. Dow did not respond to a request for comment on how many of its employees currently work in the Houston area.

Schlumberger started 2020 with 105,000 people, and it ended the year with about 86,000, according to the company's two most recent annual financial reports. That's a loss of 19,000 jobs, or 18%, from the ranks of Schlumberger's employees. The decline came as Schlumberger restructured the company in a program meant to cut $1.5 billion in annual costs. The company is about 90% done with that program, said CFO Stephane Biguet during a recent conference call with investors. The lower headcount numbers are also probably associated with Schlumberger's divestment of parts of its business in the North American onshore industry, including the $448 million merger of its OneStim pressure pumping business into Liberty Oilfield Services Inc. (NYSE: LBRT). Schlumberger has a major executive office in Houston.

NEW ADMINISTRATION PUSHES FOR $15 MINIMUM WAGE

Since at least 2015, when grassroots efforts began in Seattle and San Francisco, the increase of the minimum wage from $7.25 to $15.00 has been a top priority for labor and employee advocates. In numerous ways, the Biden administration has made likewise clear that increasing the minimum wage to $15 is a top priority of the new administration.

Throughout his campaign, then-candidate Biden called for a plan to increase the federal minimum wage. The last increase in the federal minimum wage took place over 11 years ago in 2009, when it rose from $6.55 to $7.25 per hour. Unveiled on January 14, 2021, his $1.9 trillion "American Rescue Plan", included a number of initiatives relating to the pandemic, but also calls on Congress to raise the minimum wage to $15.

On January 22, 2021, two days after his inauguration, Biden reaffirmed his commitment to increasing the minimum wage through an executive order that directed the Office of Personnel Management to report recommendations to the president to adopt a $15 minimum wage for federal employees. He has also indicated that he supports requiring federal contractors to pay a $15 per hour minimum wage. The current minimum wage for federal contractors is $10.95.

Separately, on Tuesday, January 26, 2021, Democrats in the House and Senate introduced the Raise the Wage Act of 2021. This bill, which largely mirrors that passed in the House in 2019, suggests that congressional Democrats may seek to tie an increase in the minimum wage to the next round of COVID-19 relief. The Act specifically seeks to implement the following changes:

- Gradually raise the federal minimum wage from $7.25 to $15 by 2025;
- Index future federal minimum wage increases to median wage growth;
- Phase out subminimum wage for tipped workers;
- Phase out subminimum wage for youth workers; and
- End subminimum wage for workers with disabilities.

Under the provisions of the Act, the minimum wage would increase from $7.25 to $15 on the following schedule:

- 2021: increase to $9.50 (on the effective date of the Act, which is the first day of the third month that begins after the date of enactment of the Act)
- 2022: increase to $11.00 (1 year after the effective date of the Act)
- 2023: increase to $12.50 (2 years after the effective date of the Act)
- 2024: increase to $14.00 (3 years after the effective date of the Act)
- 2025: increase to $15.00 (4 years after the effective date of the Act)

Starting in 2026, the minimum wage would index to median wages. The minimum hourly rate for tipped employees and younger workers would increase starting on the effective date of the Act and would reach standard minimum wage by 2027. The minimum hourly rate for workers with disabilities (14(c) workers) would increase on the effective date of the Act and reach standard minimum wage by 2026.

REMOTE WORKERS AND STATE INCOME TAX ISSUE

Many employees during the COVID-19 pandemic are asking: To which state must I pay income tax? Potentially affected are employees who resided in State A and commuted to work in State B before the pandemic but are now working remotely in State A.

Also affected are employees who lived and worked in the same state prior to the pandemic but temporarily relocated to another state to work remotely. Their employers have concerns, too. Employers have state income tax withholding obligations. Equally significant, if the employer does not otherwise have a physical or economic presence in a state where employees are working remotely, is the employer now subject to income tax in that state? And while this might seem to be a "temporary" problem, it may not be — particularly if (as many suspect) remote work continues to increase post-pandemic.

An individual's state of residence can tax all of the individual's income irrespective of where the income is earned, but the individual is generally allowed a credit for income taxes paid to other states. Thus, if an individual lives in State A but commutes to work in State B, both states may impose income tax on the individual's income earned in State B. State A will then allow the individual to claim a credit for the income taxes paid to State B. Will State B continue to tax the individual (and require the employer to withhold) if the individual no longer continues to commute to work but instead works from home in State A during the pandemic?

What about the individual who resides and works in State C but is working remotely from State D during the pandemic? Again, many states have issued no guidance addressing which state gets to tax the income of the employee. In the absence of guidance, employees and employers must apply those states' general rules to determine taxability. To add to the confusion, even the states that have addressed the issue have adopted conflicting rules — with some states saying that the income of the telecommuter is taxed in the employer's state (some states apply this rule

only if the employer's state is taxing the employee's income) and other states saying the income is taxable by the state where the work is performed (usually pursuant to the state's pre-existing tax laws).

Unfortunately, this state of affairs leaves employees and employers no choice but to review and comply with a myriad of different rules. And Congress has failed to step in and pass legislation that could provide much-needed conformity and predictability. The guidance that has been issued by states to date is limited to the emergency caused by the COVID-19 pandemic and will lapse once that emergency is declared to be over. What is likely to continue is the desire of employees to work remotely. The taxability issues discussed above are thus likely to continue to be relevant. And because states will undoubtedly continue to adopt various approaches to these issues, there will be no one-size-fits-all solution and employers should consult their tax advisors.

HOT JOB PERKS: THERAPY AND CHILD CARE

Thanks to the intense competition for talent in Silicon Valley, the tech industry has long stood out for lavish perks that made employees feel as if they barely needed to leave the office. When the pandemic sent workers home last March, those same companies had to figure out how to keep their employees happy while they worked remotely.

That brought on ukulele-building classes and virtual cocktail-making tutorials, along with a host of other, more meaningful benefits. Now many companies are dusting off their return-to-office plans as the rollout of Covid-19 vaccines kindles hope for an end to the coronavirus's persistent spread. In addition to sorting out the details of hybrid-work models, companies are figuring out which pandemic perks should eventually go away, and what needs to become permanent to keep recruiting and retaining the best talent.

What's emerging is a focus on offerings that yield actual value and that contribute to employees' well-being beyond the office, whether that's meetings with financial planners and parenting coaches or free therapy, subsidized child care and compulsory time off. When the job-search site Indeed conducted a survey of 1,000 job seekers at the end of last year and asked about the future of work, 43% of respondents agreed that the lines between work and life for most people have become permanently blurred.

But companies will also have to grapple with how feasible it is to offer such benefits long-term. How do you allocate perks fairly when some workers will be remote, some will be in the office and some will be doing a combination of the two? And how do you weigh the benefits of compulsory time off against the potential for lost productivity long after the pandemic is over?

Facebook Inc., which said in May that it expects much of its workforce to remain remote on a permanent basis, recently started providing home-office design consultations for employees. The free sessions include advice on paint colors and how to set up furniture; employees can pay out of their own pockets for the designer to pick out accessories and décor.

With many schools and day-care facilities closed for most or all of the past year, parenting has become one of the biggest areas where employees want support and where some companies say they'll continue to offer it. Facebook started offering expanded child care benefits in July, and plans to continue them for the foreseeable future. Not all employers have Facebook's

resources, but companies that provide nontraditional services as part of their benefits packages report they have experienced a surge in sign-ups recently.

Playground Global, a venture-capital firm in Palo Alto, Calif. has implemented a one-week, companywide holiday each quarter. The firm plans to continue doing so as long as most employees remain remote. Once everyone is back in the office the company plans to ask employees if they want to keep doing it or revert to a more traditional time-off setup, according to a company spokeswoman.

SOURCES

Littler; Houston Chronicle; Greater Houston Partnership; Wall Street Journal; Challenger, Gray, & Christmas; Lexology; Houston Business Journal; Washington Post