
2016 GAPP CPP/FPC Study Group



Section 7 : Unemployment Insurance July 28, 2016

Unemployment Insurance

- Provide income to workers while between jobs
- A combined federal and state system



State Matters

- FUTA Federal Unemployment Tax Act (FUTA)
- SUTA State Unemployment Tax Act (SUTA)
 - State Payments (SUTA) affect FUTA Credit



Federal Unemployment Insurance – FUTA

- Paid by employers
- Calculated % of covered wages
- Cannot be withheld from employee



Who must pay FUTA

- Every employer must pay FUTA except:
 - ☐ Federal, State, and local government employers
 - ☐ Non profit religious, charitable, or educational organizations (tax-exempt)



Wages exempt from FUTA

- All employee compensation subject to FUTA, unless specifically exempt under IRC
 - ☐ Sick and disability
 - ☐ Sick & injury payments- state worker's compensation
 - ☐ Deferred compensation plan payments (except elective deferrals)



Wages exempt from FUTA (continued)

- ☐ Section 125 flexible benefits plan payments (cafeteria plan) except adoption assistance & elective deferrals
- ☐ Non-cash payments work done outside employer's trade or business
- ☐ Qualified moving expense reimbursements
- ☐ Death or disability retirement benefits



Wages exempt from FUTA (continued)

- ☐ Non-cash payments to agricultural workers
- ☐ Reimbursement of excluded educational or dependent care assistance
- ☐ Group term life (including amount over 50K)
- ☐ Meals & lodging by employer
- ☐ Wages paid to beneficiary after year of death



Wages exempt from FUTA (continued)

- ☐ Tips not reported (<\$20/month)



FUTA exempt employment

- Work for federal, state, or local government
- Work on foreign ship – outside U.S.
- Work by full time student at school they attend classes or for organized camp
- Work foreign government/international org.
- Work – student nurse or hospital intern
- Insurance agents who receive only commissions



FUTA exempt employment (continued)

- Newspaper deliverers < age18 direct to customers
- Work for spouse or child
- Work child <21 for parents
- Work inmate of penal institution
- Work- election worker paid <\$1700 (2016)
- Work alien agricultural workers H-2A visa



FUTA exempt employment (continued)

- Work – Statutory Nonemployees – Real estate agents, direct sellers, newspaper deliverers
- Non Immigrant Aliens with F, J, M, Q Visas
- Ins. Agents receiving only commissions



FUTA Tax Rate & Wage Base

- Employers pay tax on 1st \$7000 of covered wages per employee
- Tax rate (through June 30, 2011) = 6.2%
- Rate comprised of 6% permanent rate & .2% surtax.
- .2% surtax expired June 30, 2011
- Rate since July 1, 2011 = 6 % on first \$7000 of covered wages



FUTA Tax Rate and Wage Base

- Most employers reduce rate from 6.0% to .6% if SUTA taxes is paid in full and on time can receive up to a 5.4% credit

6% permanent rate – 5.4 state credit = .6 effective FUTA rate

- Constructive payment rules apply
- Employees working for more than one employer
- Successor Employers
- Common paymaster



Depositing and Paying FUTA Tax

- Liability determined quarterly basis – use .6% rate

taxable wages for quarter x .006 = quarterly FUTA liability

- Due date – last day of month following quarter end (or next business day)
- Tax > \$500, deposit due; otherwise carry to next quarter



Depositing and Paying FUTA Tax (continued) Final Quarter Liability

- Employer determines liability with completion of Form 940
- Employer determines how much of 5.4% state credit actually due
- Employer determines whole year liability
- Determines amount paid & liability & due date



□ Calculating State Credits Against FUTA Tax Liability (2 types)

■ 90% or normal credit

- 90% of the 6.0% FUTA tax rate = 5.4%
- Payments on time and in full (Form 940 due date)
- State – “certified” unemployment insurance program
- Payments “required” by state law
- Amounts owed must be “actually” paid
- State contributions must be paid by employer



□ Calculating State Credits Against FUTA Tax Liability (2 types) – (continued)

■ Additional Credit to reach 5.4%

Employers with lower state rate than 5.4% still entitled to full 5.4% credit

Credit reductions – State loans not repaid timely .3% /yr. loan remains unpaid



Calculating State Credits Against FUTA Tax Liability (2 types) – (continued)

- What happens to FUTA credit if all taxes not paid on time?
 - Amount paid on time = 100% credit
 - Amount paid by extended deadline = 90% credit
 - Amount paid after Form 940 filed = 0%



Calculating State Credits Against FUTA Tax Liability (2 types) – (continued)

- Employer with \$2000 liability paid 1500 by Jan 31 and the remaining 500 with Form 940 a week later
- Employer credit
 - 1500 x 100% = 1500
 - plus 500 x 90% = 450
 - for total credit of 1950



Reporting FUTA Tax on Form 940

- Who files – all employers covered by Federal Unemployment Tax Act

- ☐ IRS provides form
- ☐ Form signed by authorized personnel



Reporting FUTA Tax on Form 940 (continued)

Who Signs Form

- Individual Owner
- Corporate Officer
- Authorized member, partner or officer
- Owner or principal officer authorized to act
- A fiduciary (estate or Trust)
- Other individuals – valid power of attorney



Reporting FUTA Tax on Form 940 (continued)

Due Dates

- Due date January 31 of year just completed
- If all deposits paid, February 10
- Extra day if Saturday, Sunday or holiday



Reporting FUTA Tax on Form 940 (continued)

- Proof of delivery (certified/registered mail)
- Where to file form
- How to amend form (Check Box a)
- Employers who go out of business (Check Box d)
- Successor employers (Check Box b)
- No Payment (Check Box c)



Reporting FUTA Tax on Form 940 (continued)

Info on Form

- Type of return
- State Abbreviation (Single/Multi State)
- Credit Reduction State
- Total payments
- Payments exempt from FUTA
- Payments in excess of \$7000



Reporting FUTA Tax on Form 940 (continued)

Info on Form

- FUTA Taxable wages
- FUTA taxes (gross)
- Credits/Adj including credit reduction state
- If credit reduction state, liability must be paid with 4th qtr - spread payment throughout yr.
- FUTA taxes net



Penalties-Late Filing

- Late filing – 5% of tax per month(reduced by timely deposits and credits) up to 25% with reasonable cause
- Late filing – fraudulent = 15% per month up to 75% maximum



Penalties-Failure to Pay

- Failure to pay - .5% unpaid tax per month with 25% maximum
- Failure with IRS issued a notice and demand = additional
 - .5% per month unpaid tax not paid within 21 calendar days (10 business days if at least \$100,000) max = 25%.
 - 1% not paid 10 days of levy or 1 day after immediate notice



Penalties-Late Deposits

- Failure to make timely FUTA deposits are
 - ❑ 2% if paid within 5 days
 - ❑ 5% if paid 6 – 15 days
 - ❑ 10% if paid more than 15 days
 - ❑ 15% if not paid within 10 days after receiving first delinquency notice or same day notice and demand for payment received
 - ❑ 10% penalty for depositing > 15 days late applies to employers who do not deposit via EFTPS (some exceptions)



State Unemployment Insurance (SUI OR SUTA)

- Employment Relationship
- Work in multiple states – four factors to consider:
 - Services localized
 - Base of Operations
 - Place of Direction or Control
 - State of Residence
- Reciprocal Coverage arrangements



SUI TAXABLE WAGES

- Follow FUTA to determine taxable wages
- State taxable wage base must be at least FUTA base (7000)
- Check state laws to determine if other items included in taxable wages



SUI TAXABLE WAGES

Contribution Rates & Experience Rating

- **Contribution Rates**
 - Employer applies to its taxable payroll
 - Based on employer's experience rating
- **Experience Rating**
 - Based on the employer's unemployment benefit charges and average annual taxable payroll.



SUI TAXABLE WAGES (continued)

Contribution Rates & Experience Rating

■ Reserve Ratio =
$$\frac{\text{Unemployment taxes} - \text{Benefits charged}}{\text{Average taxable payroll}}$$

■ Benefit Ratio =
$$\frac{\text{Benefits charged}}{\text{Total taxable payroll}}$$

■ Benefit Wage ratio (Del. & OK) =
$$\frac{\text{Benefit Wages Paid}}{\text{Total taxable payroll}}$$

Payroll stabilization – tax rate determined by fluctuations in payroll from qtr. to qtr. (Alaska)



SUI TAXABLE WAGES (continued)

Contribution Rates & Experience Rating

- New employers – assigned “new employers rate’
- Successor employers
- Surcharges & assessments



SUI TAXABLE WAGES (continued)

SUTA Dumping

- SUTA Dumping Act of 2004 requires states to enact laws to stop rate manipulation
- SUTA Dumping – an illegal practice to manipulate State UI rate to be lower
- State legislative Action required – States must enact laws to be eligible for federal UI administrative grants



SUI TAXABLE WAGES (continued)

Non profit & Public Sector Employees (2 methods)

- Direct Reimbursement
 - Employer reimburses State for any unemployment benefits paid
- Experience – rated
 - pay as any other employer



SUI TAXABLE WAGES (continued)

Employee Contributions

■ 3 states (Alaska, New Jersey and PA)

- Employees have to contribute
- Employee withholding rates are much lower than employer's contribution rate



SUI TAXABLE WAGES (continued)

Voluntary Contributions

- 26 states – Employers can make voluntary contributions to lower rate. The state must calculate whether a voluntary contribution will save money.



Joint or Combined Accounts

- Employers with > one affiliated subsidiary in state may be able to combine accounts for SUI purposes
- May result in more favorable rate for all subsidiaries
- States place restrictions



Unemployment Benefits Process Claimants eligibility requirements

- Earned certain amt. wages in “base period”
- Involuntarily unemployed
- Filing claim
- Registering work with state unemploy office
- Physically & mentally able to work
- Looking & available to work
- Not unemployed due to labor dispute
- Truth in applying for benefits



Benefit Year

- Period employee is eligible to claim benefits
- Year begins at filing of claim
- Benefits paid 26 weeks within claim year
- Can file for benefits following year (new claim)



American Recovery & Reinvestment Act of 2009

- Part time workers covered
- Coverage for workers in training
- Workers who quit work for compelling family reasons
- Dependent allowances



Benefit Charges to Employer(s)

- If wages from one employer- employer charged for all benefits
- Benefit period first four quarters of five preceding quarters



Benefit Charges to Employer(s)

More than one Employer – Several Methods

- Each employer charged based upon % base period wages paid
- Most recent employer receives full charge
- Employer paying most wages takes full charge
- Most recent employer charged to max, then next most recent, etc.



State Reporting Requirements

State Quarterly Contribution & Wage Reports

- Total Wages paid
- Taxable wages paid
- Nontaxable wages paid
- Number of employees each month
- Gross wages for each employee
- Taxable/nontaxable wages breakdown
- # of weeks worked



Multiple Worksite Reporting

- Employers with multiple worksites in state
- Complete report – breakdown by industry and location
- Used by Federal Bureau of Labor Statistics
- Can be Mandatory



State Disability Insurance

- Five states plus Puerto Rico – benefits to employees temporarily disabled by non-work injury or illness
- States = CA, Hawaii, New Jersey, New York, Rhode Island
- Employers may be required to pay payroll tax
- Each state has rules covering wage base

