

Controlling Unemployment Taxes

By Lesley Sifers, Tax Favored Benefits, Inc.

The Unemployment Insurance Program is a federal and state program designed to provide temporary relief to workers who became unemployed through no fault of their own. The program is funded through a payroll tax on employers. Each state has its own rules and rates under that state's unemployment tax act (SUTA). The Federal Unemployment Tax (FUTA), paid to the Internal Revenue Service, covers administration of Unemployment Insurance and Job Service programs in all states. FUTA also pays half the cost of extended benefits and provides a fund from which States can borrow, if necessary, to pay benefits during periods of high unemployment.

The FUTA tax rate is 6.2% of the first \$7,000 paid in wages to an employee during the calendar year. Employers who pay SUTA on a timely basis receive an offset credit of 5.4%, which reduces the FUTA rate to .8%. Therefore, the effective FUTA tax equates to \$56.00 per employee per year ($.008 \times \$7,000 = \56.00).

The SUTA rate is individually assigned to each employer by the State. Every state uses an experience-rated system of some kind to determine your rate. The idea is to reward employers with low rates of involuntary unemployment while charging higher rates to employers who frequently lay-off and discharge workers. In theory, each employer has an unemployment account to which tax payments are credited and claims for unemployment benefits are deducted. If the account is charged frequently, regardless of the amount, the tax rate will increase based upon claims frequency.

Because your tax rate is directly affected by the number of claims paid to former employees, you should closely monitor unemployment claims that are charged to your account and contest any improper claim. Employers are sometimes surprised to receive a notice from the state that a worker who resigned has filed for benefits. Unfortunately, such claims are often paid simply because no protest is filed. Remember, a discharged worker is not automatically entitled to unemployment benefits. If the discharge is due to a violation of company rules or policies or some form of serious misconduct, you should protest the claim.

The first step to protesting a claim is a written response to the official notice you'll receive in the mail when a claim is filed. Read the state's letter carefully and follow the proper procedure and form for the response. You must submit your response within the deadline shown – extensions are almost never granted, even if you have a very good reason. No response or a late response will usually result in an award of benefits to the worker.

After your protest is received, you will be sent a second notice advising the determination by the State. If unemployment has been awarded and you believe the award is improper, you can file a second protest. Once again, you must follow the proper procedure and submit the protest within the prescribed time limit. The second round includes a hearing before state unemployment officials. You should attend this hearing

along with anyone else with first hand knowledge of the situation (a supervisor, for example). You may also want to have your attorney present. You can expect to present testimony and documents to support your position. Remember, the burden of proof is on you, not the former employee.

It is possible to appeal a claim to the courts and, in some cases, it is justifiable to do so. You should definitely consult with your attorney at this point. You must have representation if you lose at the hearing and decide to appeal to the court. Your attorney is the one to advise you if it is worthwhile to take a case to that level.

You will receive periodic reports from the State showing unemployment claims that have been filed or remain ongoing. Review these reports and advise the State of any new facts you learn that could affect the status of an ongoing claim. For example, if you find that a claimant has turned down a job offer or taken an extended vacation and is not looking for work, report the information to the unemployment office.

Unemployment taxes are one of the few taxes over which you have some control. You should take the time to learn how the system works and how you can work within the system to prevent abuses and control your costs. If you have questions about unemployment in your State, you can call Lesley Sifers at the Tax Favored Benefits, Inc. HR HelpLine. Contact your Association for the toll-free number or website address.