

Update: February 2009

Tax Intelligence

Federal Title XII Advances Impact Federal Unemployment Taxes

Situation

The current state of the national economy has adversely impacted state unemployment insurance (UI) trust fund solvency. Recent information provided by the Bureau of Labor Statistics indicates nonfarm payroll employment fell by 598,000 in January, and the national unemployment rate rose from 7.2% to 7.6% in the same month.

Solution

The Governor of any state may request a loan under Title XII of the Social Security Act when their state determines the unemployment trust fund will not have adequate reserves to pay unemployment benefits. If a state has an outstanding loan balance on January 1st of two consecutive years and has not repaid the balance by September 30th of the second year, employers in that state are at risk of losing a portion of their state FUTA tax credit for that year. The credit is reduced by 0.30% for each year the loan remains outstanding beyond the second year of the loan.

In the first year of the state FUTA tax credit loss, the *effective FUTA tax rate increases from 0.80% to 1.10%*. The FUTA tax rate can increase further if the loan remains outstanding on September 30th of subsequent years.

Current States with Title XII Loan Balances

State	Outstanding Loan Balance as of:		Loan Balances as of February 12, 2009 ¹
	1/1/08	1/1/09	
Michigan	✓	✓	\$1,217,000,000
Indiana		✓	\$370,884,148
South Carolina		✓	\$122,820,631
New York		✓	\$358,219,435
Ohio		✓	\$201,737,799
California			\$153,116,037
Kentucky			\$38,675,000
North Carolina			\$13,141,000

The effective FUTA tax rate increase can be avoided if the state has repaid a sufficient portion of the outstanding loans and/or improved the solvency of the state unemployment trust fund by legislative changes. Currently, if Michigan does not repay a sufficient portion of its outstanding Title XII loan balance by September 30, 2009, all employers will be required to pay 2009 FUTA taxes at an effective rate of 1.10% on their employment in Michigan.

Value

Through proactive analysis and understanding of state trust fund solvency issues, employers can minimize risk and more effectively *budget for potential increases in tax cost*. In the event of an impending merger, acquisition, reorganization, or divestiture additional employment tax planning and compliance issues should be examined.

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¹ Source: United States Department of Labor