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Payroll update for 2013-2014

2 May 2014



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working world

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Today's agenda

- ▶ Rates and limits
- ▶ FICA on severance
- ▶ Expiring provisions and what to do now
- ▶ Let's review the Additional Medicare tax
- ▶ Reporting change in responsible party to the IRS
- ▶ 2010 HIRE Act – IRS notices and refund deadline
- ▶ Same-sex partner benefits in wake of Supreme Court ruling
- ▶ Affordable Care Act – what to know about 2015
- ▶ Unemployment insurance – new laws mean a new approach
- ▶ Legislative outlook
- ▶ State tax goes retro
- ▶ Pay card controversy – seven things employers should do

2014 rates and limits

Category	2014 limit
Social Security wage base	\$117,000/year
Employee pretax contributions to qualified retirement plan	\$17,500/year
Qualified parking	\$250/month
Commuter highway vehicle/transit pass	\$130/month
Adoption assistance	\$ 13,190/adoption
Health FSA employee pretax	\$2,500/year
Luxury car/truck definition	\$16,000/\$17,300
Business cents per mile	\$0.560
Relocation cents per mile	\$0.235

Health Savings Account (HSA) limits

Limit type	2014	2015
Contribution		
Self	\$3,300	\$3,350
Family	\$6,550	\$6,650
Out-of-pocket		
Self	\$6,350	\$6,450
Family	\$12,700	\$12,900
Deductible (HDHP) *		
Self	\$1,250	\$1,300

Frequent errors are made in the reporting and taxation of HSA employer and employee contributions.

For more information read our blog at:
<http://payrollperspectives.blog.ey.com/2013/08/02/the-abcs-of-fsa-hsa-and-hra/>

* HDHP = high deductible health plan

FICA on severance? Supreme Court decides



The two sides of the severance pay debate

The government's position

- ▶ Severance pay is excluded from Social Security and Medicare wages if:
 - ▶ It is paid as a result of a plant closing or reduction in force to involuntarily terminated employees
 - ▶ It is paid as part in connection with supplemental unemployment benefit plan (SUB) in regular installments (e.g., not in a lump sum)

The *Quality Stores*' position

- ▶ Severance pay is excluded from Social Security and Medicare wages if:
 - ▶ It is paid as a result of a plant closing or reduction in force to involuntarily terminated employees
 - ▶ It is paid as part of, or separate from a SUB plan (e.g., regular installments or in a lump sum)

At stake in the Supreme Court decision were protective claims representing billions of dollars of FICA refunds to employers and employees for previous tax years.

FICA on severance

The 12-year journey through the courts

- ▶ **2002:** Court of Federal Claims rules in favor of CSX that lump-sum severance pay is exempt from FICA [*CSX Corp. v. United States*, 52 Fed. Cl. 208 (Fed. Cl. 2002)]
- ▶ **2008:** US Court of Appeals reverses the CSX decision, and CSX does not request Supreme Court review [*CSX Corp. v. United States*, 518 F. 3d 1328 (Fed. Cir. 2008)]
- ▶ **2010:** Sixth Circuit Court rules in favor of Quality Stores based on CSX argument [*United States v. Quality Stores, Inc. (In re Quality Stores Inc.)*, 693 F. 3d 605 (6th Cir. Mich 2012)]
- ▶ **2013:** Government requests Supreme Court review of Quality Stores case, and Supreme Court agrees to hear the case [*United States v. Quality Stores, Inc.*, 134 S. Ct. 49 (U.S. 2013)]
- ▶ **2014:** Supreme Court decides Quality Stores case in favor of the government, saying that lump-sum severance pay is subject to FICA unless it meets the IRS criteria for supplemental unemployment benefits [*United States v. Quality Stores, Inc.*, 572 U. S. (2014), U.S. LEXIS 2213 (U.S. March 25, 2014)]



The Supreme Court's ruling

Next steps

- ▶ Expect denial of claims by IRS

Employers that filed protective FICA refund claims pursuant to CSX and Quality Stores should expect to receive letters from the IRS indicating their claims have been denied based on the Court's decision
- ▶ There's an opportunity to revisit SUB arrangements.

Employers that routinely pay severance benefits or expect to pay such benefits in the future as a result of shutdowns, downsizing or seasonal employment may be able to realize substantial FICA savings by structuring these payments under a SUB plan that meets the requirements of Rev. Rul. 90-72

“The severance payments issued by Quality Stores were made to employees terminated against their will, were varied based on job seniority and time served, and were not linked to the receipt of state unemployment benefits.

Accordingly, under FICA's broad definition, these severance payments constitute taxable wages.”

- Justice Kennedy, March 25, 2014

The severance pay story isn't over

Severance pay planning considerations

Employers should keep in mind that there are several areas where severance planning can cut down on unnecessary costs and/or facilitate a continuing connection with separated workers. Here are just a few.

- ▶ Consider supplemental unemployment benefit (SUB) plans
- ▶ Properly report severance and salary continuation payments to state employment agencies
- ▶ Properly exclude severance and similar payments from wages covered by state unemployment insurance where allowed by law
- ▶ Take advantage of state work share programs

Read all about it!

Read more of our insights about *Quality Stores* and severance here:

[http://www.ey.com/Publication/vwLUAssets/EY_Severance_pay_after_Quality_Stores/\\$FILE/EY-Severance-pay-planning-post-Quality-Stores.pdf](http://www.ey.com/Publication/vwLUAssets/EY_Severance_pay_after_Quality_Stores/$FILE/EY-Severance-pay-planning-post-Quality-Stores.pdf)

Expiring provisions: What they mean in 2014



What is an extender?

- ▶ An “extender” is a legislative item that Congress has set to expire or “sunset” and frequently applies to tax breaks or tax credits
- ▶ There are several extenders that affect employers
- ▶ Some of these extenders expired in 2013 and have not been renewed

Work opportunity
tax credit (WOTC)

Transit and parking
benefit parity

Other wage and
tax credits

Proposals so far on WOTC and transit benefits

President's FY 2015 budget

- Make the WOTC permanent effective in 2014

Senate

- Extend WOTC 2014-2015
- Extend transit parity 2014-2015

House (discussions)

- Allow these extenders to lapse, OR
- Make them permanent

Notice that the Senate and the President propose retroactive reinstatement, similar to what occurred in 2013 for tax year 2012

Steps to consider during this hiatus

WOTC

Continue to certify eligible employees with the appropriate state workforce agency during the hiatus

Certification is made by filing the [Form 8850](#), *Pre-Screening Notice and Certification Request for the Work Opportunity Credit*

Transit benefits

Consider allowing employees to contribute the monthly gap of \$120 (\$250 less \$130) on an after-tax basis.

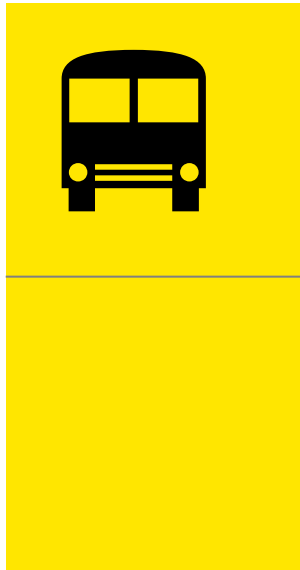
Read all about it!

Read more of our insights about the tax extenders here:

<http://payrollperspectivesblog.ey.com/2014/01/29/many-employment-tax-laws-expired-so-what-to-do-now/>

State cautionary note on transit benefits

- ▶ State and local income tax jurisdictions may not couple with the Internal Revenue Code (IRC) on transit benefits



- **Example 1:** For California income tax purposes, there is no monthly limit on the amount of transit benefits excluded from wages; however, they must be connected with a ride share or public transportation program
- **Example 2:** For Massachusetts income tax purposes, only \$125 per month is excluded from taxable wages

New Medicare taxes began in 2013



Two Medicare surcharge taxes apply

Additional Medicare tax of 0.9%

- ▶ Applies to earned income (wages)
- ▶ Employers withhold on wages in excess of \$200,000
- ▶ There is no employer contribution
- ▶ This tax is in addition to the 1.45% Medicare tax employees already pay (and that employers match)

Net investment income tax (NIIT) of 3.8% (*not a payroll tax*)

- ▶ Applies to unearned income in these categories:
 - ▶ Interest, dividends, rents and annuities not derived in the ordinary course of a trade or business
 - ▶ Trade or business income from passive activities or from trading in financial instruments or commodities
 - ▶ Net gains from the disposition of property not used in a trade or business

Both the 0.9% additional Medicare tax and the NIIT apply to covered earnings in excess of \$125,000 for married filing separately, \$200,000 for single filers and \$250,000 for joint filers

6 key Additional Medicare Tax facts

1

IRS information resources concerning the Additional Medicare Tax are available [here](#).

2

You can't withhold more or less than 0.9% on wages in excess of \$200,000.

3

You can't refund excess Additional Medicare Tax withholding for the prior year.

4

You aren't automatically required to pay withholding shortages to the IRS. (Use Form 4669 to eliminate liability)

5

Additional Medicare Tax paid on behalf of employees is taxable.

6

When employees repay prior-year wages, you can't refund the Additional Medicare Tax you withheld.

Medicare tax employee considerations

- ▶ Employees are liable to pay to the IRS additional Medicare tax not withheld by employers and the NIIT of 3.8% on unearned income
- ▶ The difference in the two Medicare tax rates may highlight questions about those benefits included in wages and those that are not
 - ▶ Additional Medicare tax of 0.9% applies to nonqualified deferred compensation based on the same FICA timing rules that apply to Social Security tax and the 1.45% Medicare tax
 - ▶ Some investment-type income, such as restricted stock awards, are subject to the 0.9% additional Medicare tax at time of vesting, but income derived after vesting is excluded from wages/ordinary income, and subsequent capital gain income may be subject to the 3.8% NIIT

Read more about the Additional Medicare here:

[http://www.ey.com/Publication/vwLUAssets/EY-Top-10-Form-W-4-questions-for-2014/\\$FILE/EY-Top-10-Form-W-4-questions-for-2014.pdf](http://www.ey.com/Publication/vwLUAssets/EY-Top-10-Form-W-4-questions-for-2014/$FILE/EY-Top-10-Form-W-4-questions-for-2014.pdf)

Employer Medicare tax considerations

Employee communications

- ▶ Remind employees that what you withhold could be too high or too low; Form W-4 can be revised accordingly

Recordkeeping

- ▶ Consider capturing the additional Medicare tax withheld in Form W-2, box 14
- ▶ Also consider showing Medicare and additional Medicare tax (show “Med surcharge” withholding on the employee pay stub)

Gross-up and wage repayments

- ▶ Include the additional Medicare tax in gross-up calculations and consider the budgetary impact
- ▶ Consider revising wage repayment agreements to include the fact that the employer cannot refund withholding of the additional Medicare tax in subsequent calendar year

IRS requires responsible party information in 2014



IRS requires reporting of change in responsible party (as part of EIN application updates)

- ▶ In TD 9617 the IRS requires any person or entity assigned an Employer Identification Number (EIN) to provide updated responsible party information
- ▶ The IRS has now released revised Form 8822-B, *Change of Address or Responsible Party—Business*, for this purpose
- ▶ Beginning 1 January 2014, any person or entity with an EIN is required to file Form 8822-B, boxes 8a through 9b, to report any changes to the identity of their responsible party

Form 8822-B

Change of Address or Responsible Party



- ▶ Form 8822-B must be filed within 60 days of a change in the identity of the entity's responsible party information
- ▶ If the change in the identity of the entity's responsible party occurred before 2014, and the entity had not previously notified the IRS of the change, Form 8822-B was required to be filed before 1 March 2014, reporting only the most recent change

Who is a responsible party?

Business type	Responsible party is the...
Corporation	Principal officer
Partnership	General partner
Disregarded entity	Owner (if the disregarded entity is owned by a corporation, enter corporation's name and EIN)
Trust	Grantor, owner, or trustor

No penalties, but risk just the same

- ▶ The Form's instructions state that while the Form 8822-B is mandatory, there are no penalties
- ▶ However, if the entity fails to provide the identity of the responsible party, and that party fails to receive a notice of deficiency or demand for tax, penalties and interest will accrue notwithstanding the failure to receive these IRS documents
 - ▶ There is no point to providing information on Form 8822-B that won't hold up under an IRS review of the facts and circumstances
 - ▶ Completing Form 8822-B helps corporate officers in ensuring that they timely receive notice of potential IRS collection actions against them

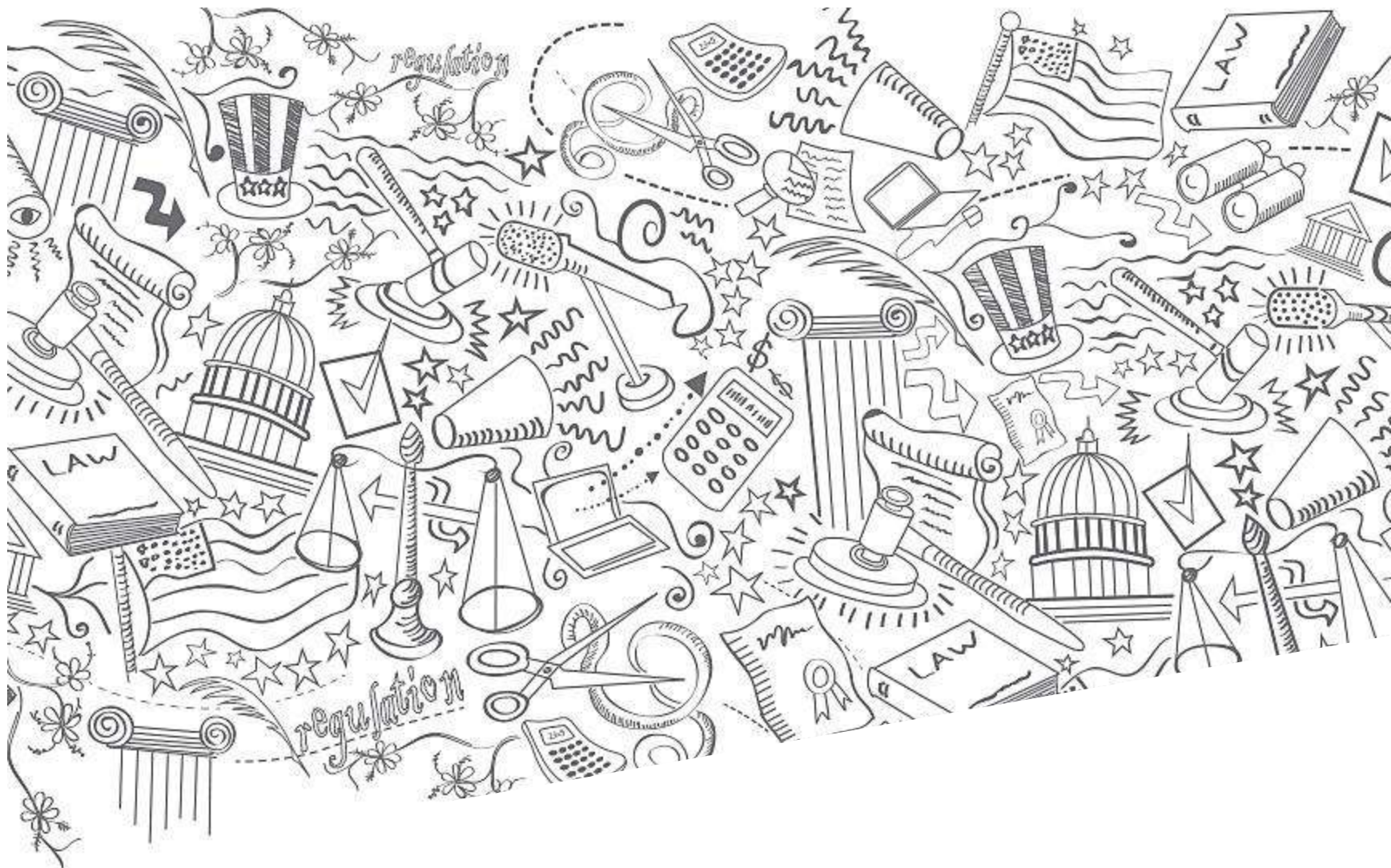
Remember when ...



...we had employment tax stimulus?

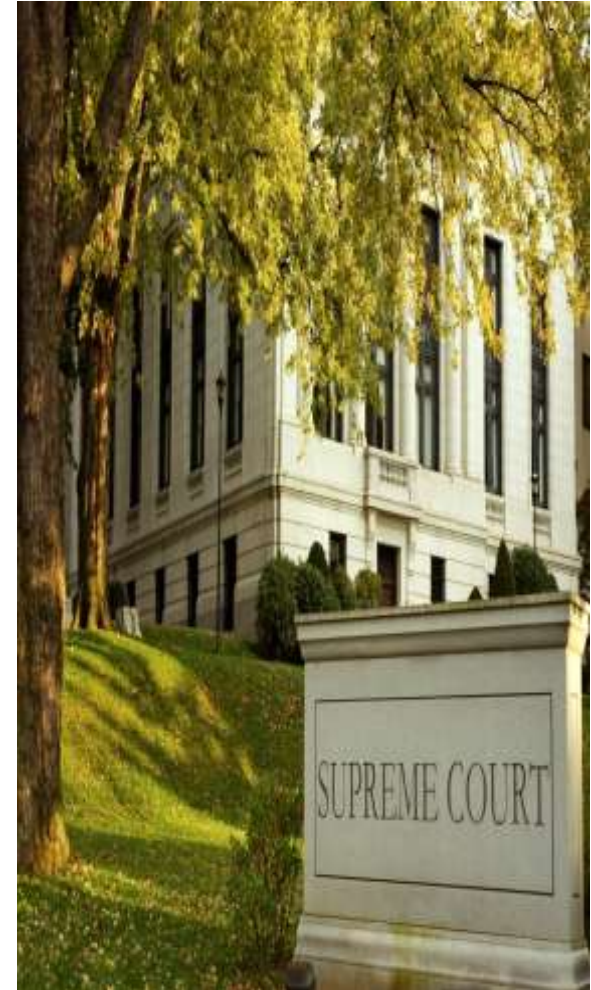
- ▶ The HIRE Act of 2010
 - ▶ Provided employers with a exclusion from the 6.2% Social Security tax on wages paid to the long-term unemployed
 - ▶ The credit applied only for tax year 2010 and was claimed on the second-through fourth-quarter Forms 941
 - ▶ The wages on which the credit was claimed were required to be reported on Form W-2, box 12, Code CC
- ▶ The deadline for claiming the credit was 15 April 2014
- ▶ IRS is now sending 2013 tax collection notices to certain employers whether or not they reported on Form W-2, Code CC
 - ▶ Copies of 2013 Forms W-2 demonstrating the amounts were properly reported must be submitted to the IRS to remedy the assessment
 - ▶ These tax notices are not clear that the HIRE Act credit is the amount in dispute

Same-gender spousal benefits in wake of *Windsor*



Court rules for equal tax treatment of same-gender married couples

- ▶ Section 3 of the Defense of Marriage Act (DOMA), enacted on 21 September 1996, provides that, for purposes of interpreting federal laws, including the IRC, the term “spouse” means only a “person of the opposite sex who is a husband or wife” within a “legal union between one man and one woman”
- ▶ In *United States v. Windsor*, the US Supreme Court ruled that disregarding a same-gender spouse lawfully married under state law violates the Fifth Amendment rights of the same-sex spouse



Effective dates for employees married before date of *Windsor* decision

Description	Mandatory effective date	Authority
Social Security/ Medicare (FICA) and federal unemployment tax (FUTA)	16 September 2013	<i>Revenue Ruling 2013-17</i> ; Notice 2013-61
Flexible spending account (health, dependent care, adoption) – Reimburse same-gender spouse’s expenses	The beginning of the cafeteria plan year that includes the date of the <i>Windsor</i> decision	<i>Notice 2014-1</i>
Cafeteria plans – plan amendments concerning change in election	last day of the first plan year beginning after 16 December 2013	<i>Notice 2014-1</i>
Cafeteria plans – pretax contribution is permitted for spousal health	16 December 2013	<i>Notice 2014-1</i>



Employers or employees may elect to claim FICA or FUTA refunds for the statute of limitations (for tax year 2010, by 15 April 2014)

Effective dates for employees married before date of *Windsor* decision

Description	Mandatory effective date	Authority
Qualified retirement plans for governmental entities – Operational requirements	Before the close of the first regular legislative session of the legislative body with the authority to amend the plan that ends after 31 December 2014	<i>Notice 2014-19</i>
Qualified retirement plans for nongovernmental entities – Operational requirements	16 June 2013; 16 September 2013	<i>Revenue Ruling 2013-17;</i> <i>Notice 2014-19</i>

Fringe benefits where retroactive refunds of FICA may apply



IRC Section	Applicable fringe benefit(s)
106	Health and accident benefits including employee pretax contributions under a Section 125 plan, health savings accounts, health reimbursement arrangements and long-term care
117(d)	Qualified scholarships
119	Meals and lodging for employer's convenience
129	Dependent care assistance
132	No-additional-cost services and qualified employee discounts

Is a marriage license valid for a same-gender spouse?

If same-gender couples are married in these states, they are married for **FEDERAL** purposes no matter where in the US they live or work

State of celebration
California
Connecticut
District of Columbia
Delaware
Hawaii
Illinois
Iowa
Maine
Maryland
Michigan*

State of celebration
Minnesota
New Hampshire
New Jersey
New Mexico
New York
Rhode Island
Utah*
Vermont
Washington

This list has no direct relevance for state tax purposes

* Marriage licenses no longer issued here, but those already issued are valid for federal purposes

These states issue only civil union or domestic partnership licenses valid for state income tax purposes

If same-gender couples hold a civil union or registered domestic partner license from these states, their partner's fringe benefits may be tax free in a few states, but they are always taxable for federal purposes

State of celebration
Colorado <i>(civil union-CV)</i>
Nevada <i>(registered domestic partner-RDP)</i>
Oregon <i>(registered domestic partner-RDP)</i>



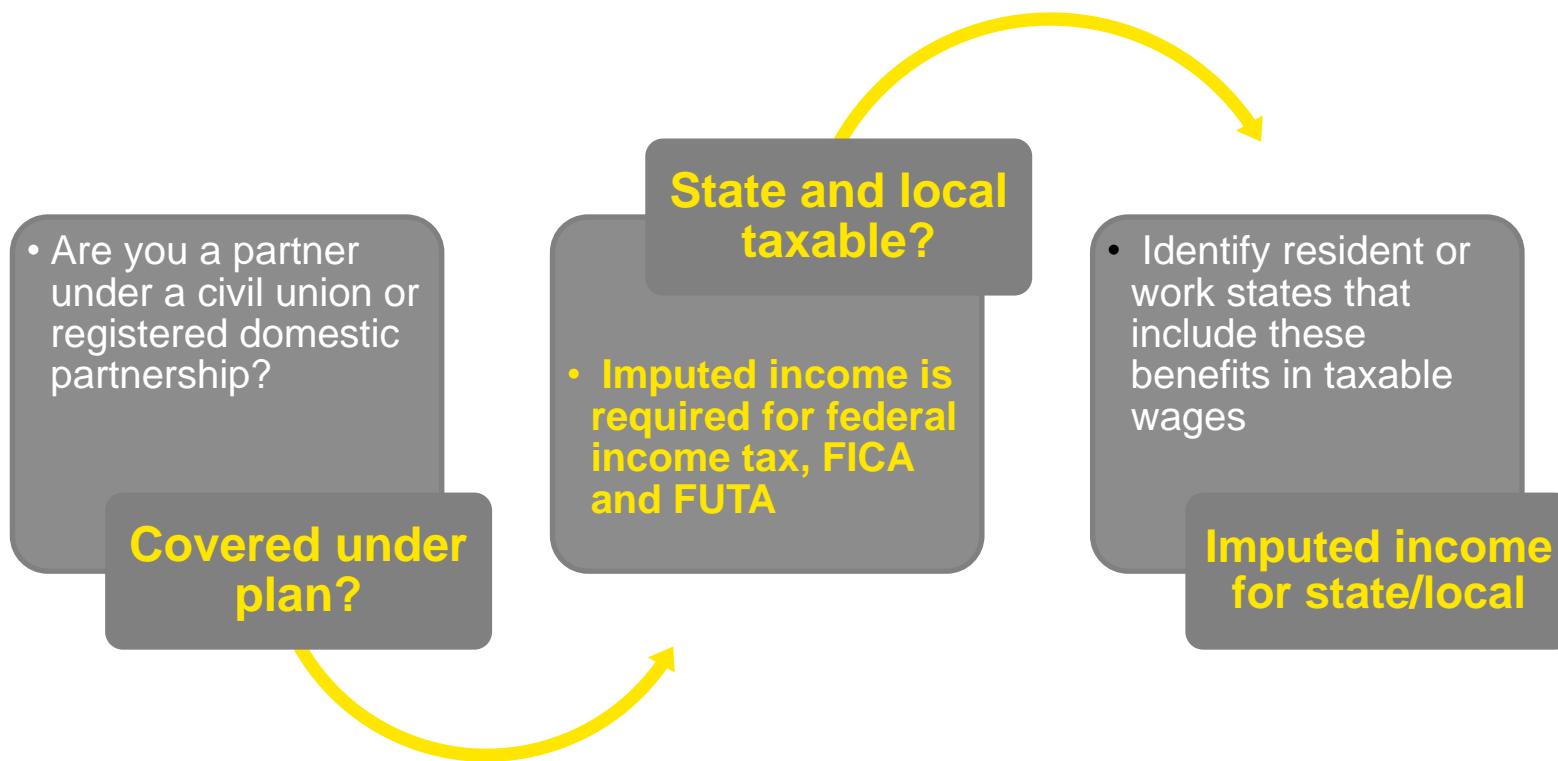
Civil partnership laws should be verified with competent legal advisors. For external (not EY verified) reference source on CV and RDP laws go to: <http://www.ncsl.org/research/human-services/civil-unions-and-domestic-partnership-statutes.aspx>

Benefit enrollment considerations – same-gender spouse



Verifying the validity of marriage licenses and dependency claims should apply to all employees, and not just same-gender couples. Audits are generally conducted on a periodic basis

Benefit enrollment considerations – civil union/registered domestic partner



Employment tax considerations

Same-gender spousal benefits

- Pay code →
- After tax deduction code

Federal taxes never apply

Civil union/Registered domestic partner benefits

- Pay code →
- After tax deduction code

Federal tax always applies

Non-registered domestic partner benefits

- Pay code →
- After tax deduction code

Federal and state tax always applies

Case in point – Colorado

Civil union licenses permitted in 2013

- ▶ Civil unions rather than marriage licenses may be issued to same-gender couples
- ▶ Civil union partners may not file state income tax returns as married, unless they are married for federal income tax purposes
- ▶ Same-sex marriages from other states qualify as married for state income tax purposes
- ▶ Same-sex partner benefits follows federal tax treatment (taxable to civil union partners)

Determining the tax treatment of same-sex partner benefits is complex and variable at the state level

State payroll tax analysis

- ▶ Some states have taken a unique position on fringe benefits
 - ▶ **Example:**
 - ▶ Wisconsin says that if a health savings account (HSA) allows reimbursements to a same-sex spouse, all contributions (employer and employee pre-tax contributions) are included in wages subject to state income and unemployment insurance tax
- ▶ The states fall into three categories
 - ▶ Follow federal
 - ▶ All inclusive
 - ▶ Restricted
 - ▶ Other (Vermont)

State tax rules fall into several categories

State tax includes income and unemployment insurance

Spousal benefits are not taxable, but civil union and registered domestic partner benefits are

- **Follows federal**

Spouse, civil union and registered domestic partner benefits are not taxable

- **All inclusive**

Spouse, civil union and registered domestic partner benefits are taxable

- **Restricted**

For the state tax rules that apply, contact your Ernst & Young LLP employment tax representative

Let's practice our understanding

- ▶ Employee is married in Maryland and lives and works in Ohio. Same-gender spousal benefits are taxable in Ohio.
 - ▶ What is the federal tax treatment of his same-gender spousal benefits?
 - ▶ What is the Ohio income and unemployment insurance tax treatment of his same-gender spousal benefits?

Let's practice our understanding : Answers

- ▶ Employee is married in Maryland and lives and works in Ohio. Ohio does not recognize same-gender spouses as married persons except for death certificates
 - ▶ What is the federal tax treatment of his same-gender spousal benefits?

The benefits are NOT federally taxable because the employee was married in Maryland

- ▶ What is the Ohio income and unemployment insurance tax treatment of his same-gender spousal benefits?

The benefits ARE Ohio taxable

Have you completed these steps?



Health insurance and the Affordable Care Act (ACA)



Employer excise tax begins in 2015

Employers are not required by the ACA to offer health care coverage to employees

- ▶ However, large employers may be subject to an excise tax if at least one full-time employee whose household income is between 100% and 400% of the federal poverty level receives a premium tax credit (PTC) for Marketplace exchange coverage and an employer either:

Fails to offer coverage to full-time employees and their dependents (IRC §4980H(a))

or

Offers coverage to full-time employees that does not meet the law's affordability or minimum value standards (IRC §4980H(b))

Calculation of coverage excise tax

Tax for no coverage *IRC §4980H(a)*

- ▶ If a large employer does not offer coverage to its full-time employees and their dependents, employers face a tax of:
 - ▶ $\$2,000 \times$ the total number of full-time employees (FTEs) if at least one FTE is receiving a premium assistance tax credit

Tax for unaffordable coverage *IRC §4980H(b)*

- ▶ If a large employer offers coverage to their FTEs and their dependents, but the coverage is unaffordable to certain employees or does not provide minimum value, employers face a tax of:
 - ▶ The lesser of $\$3,000 \times$ the number of FTEs receiving a premium assistance tax credit or $\$2,000 \times$ the total number of FTEs

Employers that do not offer coverage may subtract the first 30 workers when calculating their liability for taxes under IRC §4980H(a). Taxes under 4980H(b) are capped not to exceed an employer's potential tax under §4980H(a).

New information reporting triggers in 2015

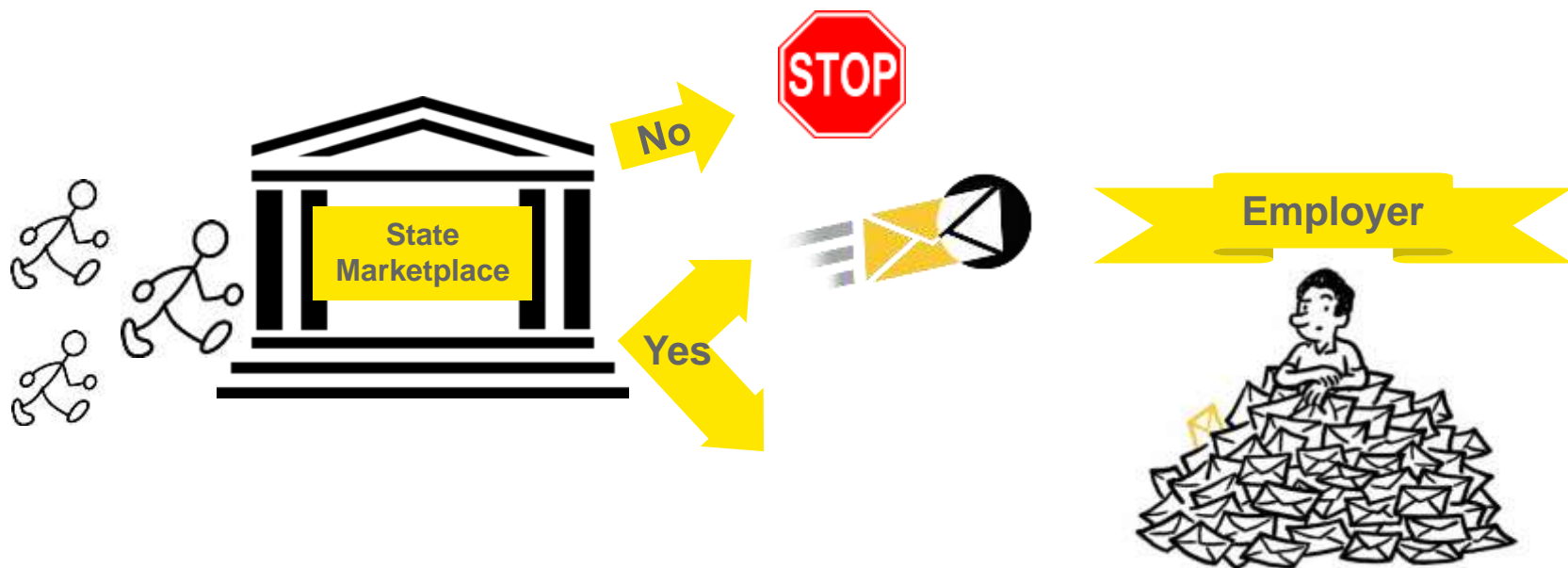
Form 1095-C (employee statement) Form 1094-C (employer transmittal)	Insurance providers (IRC §6055)	Employers (IRC §6056)
Purpose	Provide report to individuals and IRS with evidence of minimum essential coverage to administer individual mandate	Provide report to IRS and individuals with evidence of offer of coverage to administer employer mandate and premium tax credit
Reporting by	Insurance providers, government agencies, multiemployer plans, employers that sponsor self-insured plans	Large employers subject to ACA
Information reported	<ul style="list-style-type: none"> ▶ Employer- and employee-specific data such as name, address, TIN for individuals covered ▶ Months during which individual is enrolled in minimum essential coverage 	<ul style="list-style-type: none"> ▶ Employer identifying information ▶ Identifying information for all full time employees ▶ Plan data including employee cost, time offered, etc. on a month-by-month basis

Information reporting due dates

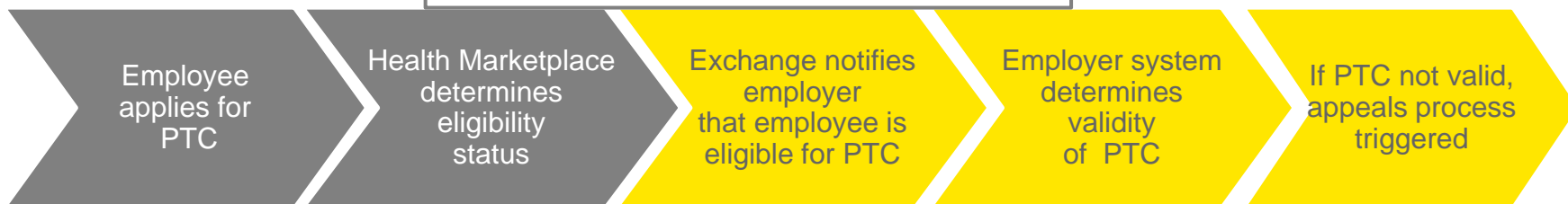
- ▶ For coverage offered in 2015, information returns must be provided to individuals by 1 February 2016, and to the IRS by 31 March 2016
- ▶ The same penalties applicable to Forms W-2 apply
 - ▶ \$100 per return with maximum of \$1.5 million
 - ▶ Reasonable cause waiver available
 - ▶ Good faith compliance in 2015 for accuracy penalty

Health Marketplace notification starts in 2015

Process overview



Workflow stream



Unemployment insurance



Unemployment insurance basics

FUTA	Federal unemployment insurance
UI	Unemployment insurance
SUI	State unemployment insurance
Title XII ("12")	Refers to Social Security Act provision that makes provisions for granting federal loans to states for the payment of UI benefits

Unemployment insurance basics

FUTA

Employers pay 6% on employee wages up to \$7,000 in the year

A maximum FUTA credit of 5.4% applies, for a net FUTA rate of 0.6%

FUTA credit reduction

Applies to all employers in those states not compliant with federal law or that have outstanding federal loan balances (under Title XII) for two consecutive years. Additional FUTA payments are used to pay down state federal loan balance

Also applies to individual employers that don't timely and fully pay their SUI

FUTA credit reduction

How it works

- ▶ If a state with an outstanding federal loan balance on 1 January of two consecutive years fails to repay the entire loan amount by 10 November of the second year, employers in that state are subject to a FUTA credit reduction of 0.3%
- ▶ The credit reduction increases by an additional 0.3% each year (special computation of the credit reduction in subsequent years)
- ▶ A loss in the FUTA credit in the first year results in a net FUTA rate of 0.9% (0.6% + 0.3%). In the second year it is 1.2% (0.6% + 0.6%). In the third year it is 1.5% (0.6% + 0.9%) and so on

Unemployment insurance basics

2.7% add on

Depending on the state's average rate, starts in year 3 of the loan. For years 3 and 4, the 2.7 add-on is the only additional add-on to the normal FUTA credit reduction. In year 5 of the loan and continuing, the BCR add-on takes priority. If the state requests by July 1, and receives, waiver of the BCR, the 2.7 add-on triggers on again

Applied in Virgin Islands in 2012 and 2013. Delaware is potentially subject in 2014

Benefit Cost Reduction (BCR)

Further reduction in FUTA credit if state has outstanding loan balance for five consecutive years. States may by July 1 apply for a waiver of the BCR. If BCR waiver is granted, the 2.7 add-on triggers on and may apply for the calendar year. A waiver of the 2.7 add-on is not allowed; but it is rarely in effect

Triggered in Indiana and South Carolina in 2013 (12 additional states trigger in 2014)

How do your work states rate?

Jobless rate

The national jobless rate dropped from 7.8% to 6.7% between December 2012 and April 2014

2014 highest 10

State	Jobless rate as of March 2014	Ranking
Puerto Rico	14.7% (↑)	53
Virgin Islands	13.0% (↓)	52
Rhode Island	8.7% (↓)	51
Nevada	8.5% (↓)	50
Illinois	8.4% (↓)	49
California	8.1% (↓)	48
Kentucky	7.9%	47
Mississippi	7.6% (↓)	46
District of Columbia	7.5% (↓)	44
Michigan	7.5% (↓)	44

2014 lowest 10

State	Jobless rate as of March 2014	Ranking
North Dakota	2.6% (↓)	1
Vermont (18)	3.4% (↓)	2
Nebraska	3.7%	3
South Dakota	3.7% (↓)	3
Wyoming	4.0% (↓)	5
Utah	4.1% (↓)	6
Hawaii	4.5% (↓)	7
Iowa	4.5% (↓)	7
Louisiana	4.5% (↓)	7
New Hampshire	4.5% (↓)	7

States have seen improvements in their jobless rates except Alabama, New Mexico and Puerto Rico where unemployment increased; and in Kentucky, Missouri and Nebraska where there was no change.

How do your work states rate?

Maximum weekly benefits

Based on 2012 and 2013 comparison of data from the U.S. Department of Labor

State	Max. benefit	State	Max. benefit	State	Max. benefit
Alabama	\$265	Kentucky	\$415	Ohio (↑)	\$557
Alaska	\$442	Louisiana	\$247	Oklahoma (↑)	\$386
Arizona	\$240	Maine (↑)	\$558	Oregon (↑)	\$524
Arkansas (↓)	\$451	Maryland	\$430	Pennsylvania	\$581
		Massachusetts (↑)	\$1,101	Puerto Rico	\$133
California	\$450	Michigan	\$362	Rhode Island	\$707
Colorado (↑)	\$513	Minnesota (↑)	\$610	South Carolina	\$333
Connecticut (↑)	\$666	Mississippi	\$235	South Dakota (↑)	\$326
Delaware	\$330	Missouri	\$320	Tennessee	\$325
District of Columbia	\$359	Montana (↑)	\$446	Texas (↑)	\$440
Florida	\$275	Nebraska (↑)	\$362	Utah (↑)	\$479
Georgia	\$330	Nevada (↑)	\$402	Vermont	\$425
Hawaii (↑)	\$534	New Hampshire	\$427	Virgin Islands (↓)	\$491
Idaho (↑)	\$357	New Jersey (↑)	\$624	Virginia	\$378
Illinois (↑)	\$562	New Mexico (↑)	\$457	Washington (↑)	\$604
Indiana	\$390	New York	\$405	West Virginia	\$424
Iowa (↑)	\$486	North Carolina (↑)	\$535	Wisconsin	\$363
Kansas (↑)	\$456	North Dakota (↑)	\$516	Wyoming (↑)	\$459

Lowest

Highest

(↑) (↓) Increase or decrease from 2012

FUTA credit reduction states

State	First year of loan	2013 FUTA credit reduction	Net 2013 FUTA rate	Projected 2014 FUTA credit reduction	Projected 2014 BCR add-on *	Projected potential 2014 net FUTA rate
Arkansas	2009	0.9%	1.5%	1.2%	0.5%	2.3%
California	2009	0.9%	1.5%	1.2%	1.5%	3.3%
Connecticut	2009	0.9%	1.5%	1.2%	0.5%	2.3%
Delaware	2010	0.6%	1.2%	0.9%	0.0%	1.5%
Georgia	2009	0.9%	1.5%	1.2%	0.6%	2.4%
Indiana	2008	1.2%	1.8%	1.5%	1.2%	3.3%
Kentucky	2009	0.9%	1.5%	1.2%	1.0%	2.8%
Missouri	2009	0.9%	1.5%	1.2%	0.4%	2.2%

2.7% add on triggers but is unlikely

* BCR estimates were provided by the US Department of Labor

FUTA credit reduction states

State	First year of loan	2013 FUTA credit reduction	Net 2013 FUTA rate	Projected 2014 FUTA credit reduction	Projected 2014 BCR add-on	Projected potential 2014 net FUTA rate
New Jersey	2009	0.9%	1.5%	1.2%	N/A	1.8%
New York	2009	0.9%	1.5%	1.2%	0.7%	2.5%
North Carolina	2009	0.9%	1.5%	1.2%	0.5%	2.3%
Ohio	2009	0.9%	1.5%	1.2%	1.4%	3.2%
Rhode Island	2009	0.9%	1.5%	1.2%	1.0%	2.8%
South Carolina	2008	<i>Waiver obtained</i>	0.6%	1.5%	0.5%	2.6%
Virgin Islands	2009	1.2%	1.8%	1.2%	1.6%	3.4%
Wisconsin	2009	0.9%	1.5%	1.2%	0.1%	1.9%

Did you know?

Arkansas, Delaware, Georgia, Missouri, New Jersey, Rhode Island and Wisconsin officials have indicated plans to pay off their long-term federal UI loans prior to November 10, 2014, potentially returning the 2014 net FUTA rate to 0.6% in these states

States with employer interest/bond assessments as of 1 April 10 2014

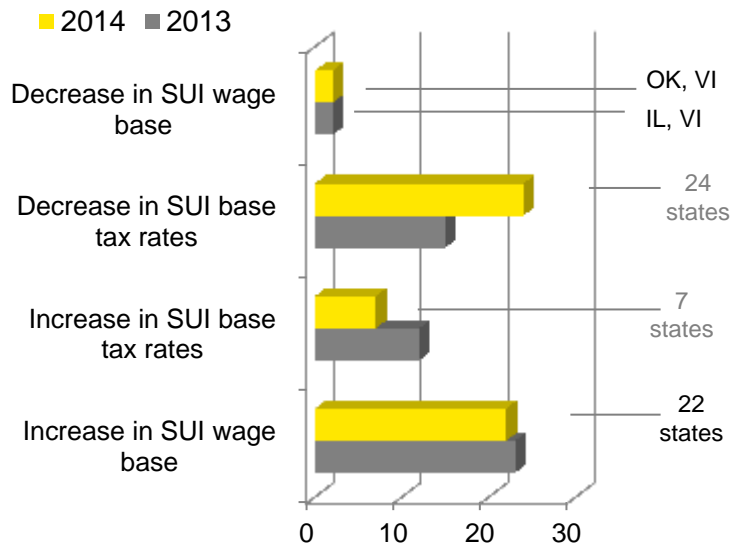
State	Type of debt
Arkansas	Title XII
Colorado	Bonds
Connecticut	Title XII
Illinois (included in total SUI rate)	Bonds
Indiana (included in total SUI rate)	Title XII
Kansas (paid by negative-balance employers)	Loan from state fund
Kentucky (surcharge applies in 2014)	Title XII
Michigan (included in total SUI rate)	Bonds
Missouri	Title XII
Nevada	Bonds
New Jersey (may not apply to 2014)	Title XII
New York	Title XII
Pennsylvania	Bonds
Rhode Island (sunsets in 2015 if loan paid in full)	Title XII
South Carolina	Title XII
Virgin Islands	Title XII
Wisconsin (not in effect for 2013-2014)	Title XII

Some states paid their FUTA loan balance by selling bonds

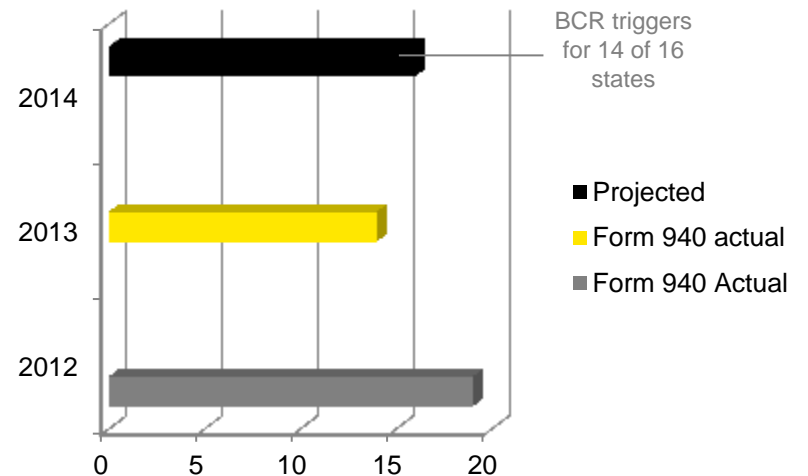
For 2014, 16 states charge employers for trust fund debt financing

2014 state unemployment insurance cost trends

Wage base and base tax rates 2013 v. 2014



FUTA credit reduction states 2012 through 2014

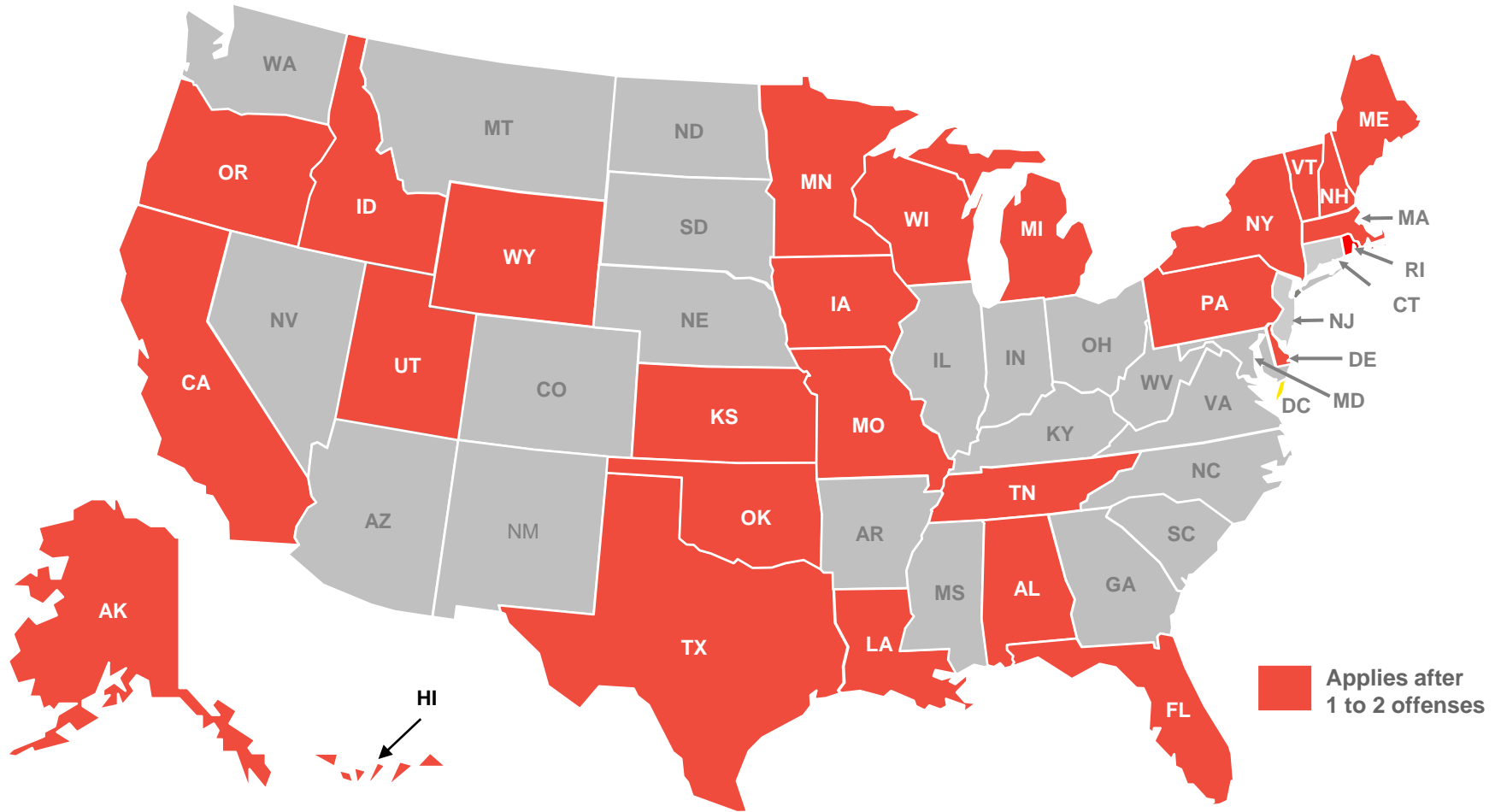


State unemployment insurance costs are showing a slight downward trend, but federal loan balances continue to linger in 31% of states. In 2014, 16 states charge employers an interest or bond assessment surcharge, unchanged from 2013

UI integrity – Responding to UI claim notices

- ▶ Under the federal Trade Adjustment Assistance Extension Act of 2011, an employer's account is required to be charged for unemployment insurance overpayments that are caused by:
 - ▶ An employer's (or an agent of the employer's) pattern of failure to respond timely or adequately to a state's request for employee separation information
- ▶ All states were required to adopt the provision by 22 October 2013
- ▶ States may adopt a stricter standard than "pattern of failure":
 - ▶ Under Iowa's UI integrity provision, the charging provision applies the first time a UI benefit overpayment occurs and the employer did not adequately and timely respond to the state's request for information
 - ▶ Under New York's UI integrity provision, an employer can be forgiven for the first such failure if good cause can be shown

UI Integrity Act —state enforcement



Legislative outlook



Federal proposed legislation

▶ President's FY 2015 proposals

Proposed federal law	Potential effect on employers
Accelerated filing due date <i>(New!)</i>	The deadline for filing Forms W-2 and 1099 (except Form 1099-B) would be set at January 31, whether filed on paper or electronically. Form 1099-B would be required to be filed with the IRS by February 15. The due dates for the payee statements would remain the same.
Truncation of the Social Security Number	IRC §6051 would be revised giving Treasury and the IRS authority to allow for the reporting of only the last four digits of the Social Security Number (SSN) on Forms W-2 and similar wage and tax statements, thereby allowing for similar truncation currently allowed on other information statements (e.g., Form 1099).
Information returns <i>(New!)</i>	The IRS would be given the authority to reduce the threshold at which electronic filing of information returns is required to fewer than 250 (e.g., Forms 1042-S, 1099, 1098, 1096, 5498, 8805, and 8966).

Federal proposed legislation

▶ President's FY 2015 proposals

Proposed federal law	Potential effect on employers
Reinstate and make permanent the 0.2% temporary surtax	Increases the FUTA tax rate from 6% to 6.2% beginning 1 January 2015
Suspend FUTA interest payments and FUTA credit reduction for 2014 and 2015	Provides substantial relief to employers that have workers in states with an outstanding federal loan (as of April 2014, 16 states are at risk of incurring federal UI loan interest charges)
Increase FUTA wage base to \$15,000 in 2017 and reduce net FUTA rate to 0.37%. Adjust the FUTA wage base annually based on the average wage	Would increase state UI tax in the 32 states that currently have a taxable wage base of less than \$15,000

Did you know?

South Dakota's wage base is set to increase to \$15,000 in 2015.

Federal proposed legislation

► President's FY 2015 proposals

Proposed federal law	Potential effect on employers
Work Opportunity Tax Credit (WOTC)	The WOTC would be made permanent effective after 31 December 2013.
WOTC — Veterans (<i>New!</i>)	The definition of qualified veterans for purposes of WOTC would be revised to include disabled veterans who use G.I. Bill benefits to attend a qualified educational institution or training program within one year of being discharged or released from active duty and are hired within six months of ending attendance at the qualified educational institution or training program. Qualified first-year wages of up to \$12,000 paid to such individuals would be eligible for the WOTC.

Read more about the President's FY 2015 budget proposals here:

[http://www.ey.com/Publication/vwLUAssets/EY-An_Employers_Guide_to_the_Presidents_FY_2015_budget/\\$FILE/EY-Employers-guide-to-Presidents-FY-2015-budget.pdf](http://www.ey.com/Publication/vwLUAssets/EY-An_Employers_Guide_to_the_Presidents_FY_2015_budget/$FILE/EY-Employers-guide-to-Presidents-FY-2015-budget.pdf)

State income tax withholding goes retro



2014 was a record year for retroactivity in state payroll tax laws

- ▶ As of 3 July 2013, seven states enacted income tax withholding changes that were retroactive to 1 January 2013
 - ▶ In contrast, just three states in the same period enacted tax rate cuts for 2014 and future years
- ▶ The trend continues in 2014 as states pass retroactive changes in income and unemployment insurance tax rules

Read all about it!

For a recap of the income tax rate and table changes for 2014 see our report here:

[http://www.ey.com/Publication/vwLUAssets/EY-US_Employment_Tax_Rates_and_Limits_for_2014/\\$FILE/EY-Payroll-Perspectives-November.pdf](http://www.ey.com/Publication/vwLUAssets/EY-US_Employment_Tax_Rates_and_Limits_for_2014/$FILE/EY-Payroll-Perspectives-November.pdf)

The Minnesota income tax shuffle

Enacted in 2013

**Effective
1 January 2013**

- ▶ Transit benefits in excess of \$125 per month are taxable
- ▶ Adoption assistance and educational assistance of up to \$5,250 are included in taxable wages

Enacted in 2014

**Effective
1 January 2013***

- ▶ Transit benefits in excess of \$130 per month (and up to federal limit) is no longer taxable
- ▶ Educational assistance of up to \$5,250 and adoption assistance of up to \$13,190 per year is no longer taxable

* Forms W-2c for 2013 are not required as coupling adjustment are automated when taxpayers file their state returns.

Three-step strategy for coping with income tax withholding changes

1 Monitor state developments through the year	2 Track developments against payroll system updates	3 Create employee communication template for state/local tax changes
<ul style="list-style-type: none">▶ Subscribe to an employment tax news service▶ It is best to have more than one source for news (don't just rely on your software or employment tax service provider)	<ul style="list-style-type: none">▶ Tracking should include effective date of state/local change, date update provided for payroll system and date the update was installed (payroll period ending date)	<ul style="list-style-type: none">▶ State or locality name▶ Nature of the change▶ Effective date of the change▶ Payroll check date that change will first appear▶ Link to the state/local Form W-4 where applicable▶ Get corporate counsel approval of template where required by company policy

The pay card controversy



It started with *The New York Times*, NBC and CBS

▶ **NBC stated:**

- ▶ Employees are forced to accept pay cards
- ▶ Fees eat up \$30 per month of workers' wages
- ▶ Employees don't receive pay statements, thereby allowing employers to hide wage theft
- ▶ Employer kickbacks amount to a return of the "old-time company store"

▶ **And then:**

- ▶ New York Attorney General started investigating employer pay card policies
- ▶ Consumer Financial Protection Bureau issued a bulletin (12 September 2013) warning employers against using only payroll cards to pay workers
 - ▶ The agency said that by law workers must be able to choose how they receive their wages, and if they choose to be paid with payroll cards, they are entitled to protections such as disclosure of fees and free withdrawal of their pay each pay day

7 leading employer pay card practices

1. Comply with the law
2. Offer options
3. Don't be pushy
4. Carefully choose the card issuer
5. Provide information to employees
6. Be mindful of card terms and conditions
7. Make it easy for employees to change their payment method



Read our pay card report at <http://payrollperspectivesblog.ey.com/category/direct-deposit/>

Comments? Questions?



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