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DIRECTIVE: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 15-84

TO : ALL EMPLOYMENT SECURITY AGENCIES

FROM : BERT LEWIS *Bert Lewis*
Administrator
for Regional Management

SUBJECT : Experience Rating--Identification of the Standard Rate and its Application to a Single Schedule of Contribution Rates Applicable to a Single Taxable Wage Base with Respect to a Single Period of Time

1. Purpose. To announce DOL positions on identifying the standard rate for experience rating under State laws in 1985 and thereafter, and on applying contribution rates under a single schedule of rates to a single taxable wage base for a given period, such as a tax year.

2. References. Sections 3302, 3303(a)(1), and 3303(c)(8), FUTA; and UIPLs 29-83 and 30-83.

3. Background. Effective with respect to wages paid for employment in 1985 and thereafter, the gross Federal tax assessed under Section 3301 of the Federal Unemployment Tax Act (FUTA) will be increased to 6.2 percent of taxable wages, currently \$7,000. Total allowable credits against that tax will be doubled from the present 2.7 to 5.4 percent of the Federal taxable wage base. To assure that employers of a State who are subject to the Federal tax will qualify for the full allowable credits, SESAs should seek amendments to their States' experience rating plans as described in UIPL 30-83 consistent with the principles of experience rating described in UIPL 29-83.

A major objective of experience rating is the equitable allocation of the costs of compensable unemployment among employers of a State subject to experience rating. To that end, employers to whom higher amounts of compensable unemployment are attributable under the State law should be assigned computed rates of contributions higher than those assigned to employers to whom lower amounts of compensable unemployment are so attributable.

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DISTRIBUTION

To assure that the contribution rate of an employer subject to experience rating reflects the employer's experience with the risk of unemployment in relation to the experience of other employers subject to experience rating under the same State law, the factor (or group of factors treated as a single factor) measuring experience must be applied uniformly during the same period. To transform the computations of experience into rates reflecting differential and relative experience, the computations must be applied to a single schedule of rates for the same period, such as a rate year. For rates to lead to the payment of contributions reflecting differential and relative experience, contribution rates must be applied to a single taxable wage base during the same period.

If, for example, computations of two employers' experience under a reserve ratio experience rating plan resulted in identical ratios, but those ratios were applied to two different rate schedules, the two different rates thus assigned would be the equivalent of assigning rates based on different experience. If, in another example, identical rates of two employers were applied to two different taxable wage bases, the amount of contributions payable by each would be the equivalent of different contribution rates. Either example would distort the experience of one employer in relation to the experience of the other, resulting in differential rates not based on the employers' relative experience.

4. Identification of Standard Rate. Section 3303(c)(8), FUTA, defines the term "standard rate" as "the rate on the basis of which variations therefrom are computed." The term "computed" in this context means a rate computed on the basis of an employer's experience with his workers' risk of unemployment. The computation must reflect the measure of experience under the provisions of a State's experience rating plan approved under Section 3303(a)(1), FUTA. The variations may be downward or both downward and upward. Section 3303(c)(8), FUTA, also defines the term "reduced rate" as "a rate of contributions lower than the standard rate applicable under the State law."

There may be only a single standard rate applicable during a given period, such as a tax year. Since the reduced rates to which Section 3303(a)(1), FUTA, applies are rates lower than the standard rate, it is essential to identify the standard rate in a State's schedule of contribution rates. For this purpose, the standard rate in 1985 and thereafter will be 5.4 percent only if the applicable rate schedule reflecting variable experience contains such a rate as a computed rate

that is realistically assignable to an employer on the basis of computed experience (which means that it is possible for some employer to receive this rate) and the schedule contains lower rates (or lower and higher rates) computed on the basis of each employer's own experience. In the absence of a computed rate of 5.4 percent in the applicable schedule, the standard rate will be the highest rate in the applicable schedule computed on the basis of experience. The foregoing criteria for identifying the standard rate will assure that employers will qualify for the largest measure of credits allowable under the Federal law as provided in Section 3302, FUTA.

It is anticipated that States will implement the increase in the Federal tax credit deriving from the new FUTA tax rate by revising or redesigning their rate structures in such fashion as to more effectively relate higher rates to employer experience which has reflected higher benefit costs. Under current laws, the maximum rates assigned to employers with high benefit costs have frequently borne little effective relationship to the aggregate total costs of benefit payments to their former employees. Doubling the Federal tax credit, and thus the required State standard rate from 2.7 to 5.4 percent permits the States to rectify this condition by stretching out the range of rates in a State, thus increasing rates of employers with high benefit costs, and enabling the State to maintain, or where appropriate, even reduce earned rates for employers with stable employment and corresponding low benefit costs. It is important that such steps be taken to assure assignment of rates that have a realistic relationship to an employer's experience as measured under the State's experience rating system so that the basic purposes of experience rating are achieved, i.e., a fair allocation of current benefit costs and stabilization of employment.

The Standard rate or a higher rate must also be applied to employers who do not qualify for a computed rate, except for a new or newly covered employer who may be assigned a reduced rate (not less than 1.0 percent) as authorized by clause (ii) of Section 3303(a).

5. Single Taxable Wage Base. Employer contribution rates under an experience rating plan must be applied to a single taxable wage base during the same period, such as a tax year. The use of multiple taxable wage bases during the same period

would produce distortions of the measurement of employers' experience resulting in differential rates not based on the relative experience of different employers. Furthermore, the amounts of contributions payable would not reflect the measurement of experience by the same factor during the same period, as required by the Federal law.

6. Action Required. Administrators should take timely action to assure that their State laws are amended as needed so that employers subject to experience rating will qualify for full allowable credits against the gross Federal unemployment tax. For clarity, if the State law currently designates a rate lower than 5.4 percent as the standard rate, it should be amended to designate a computed rate of 5.4 percent or, in the absence of such a computed rate, a higher computed rate as the standard rate.

7. Inquiries. Direct questions to the appropriate regional office.