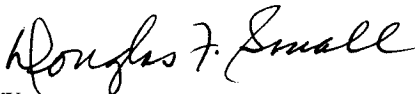


Employment and Training Administration Advisory System U.S. Department of Labor Washington, D.C. 20210	CLASSIFICATION UC Incentive Payments
	CORRESPONDENCE SYMBOL DL
	DATE February 26, 2009

ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 14-09

TO: STATE WORKFORCE AGENCIES

FROM: DOUGLAS F. SMALL 
Deputy Assistant Secretary

SUBJECT: Special Transfers for Unemployment Compensation Modernization and Administration and Relief from Interest on Advances

1. Purpose. To advise states of amendments to Federal law providing for unemployment compensation (UC) modernization incentive payments to states, a special administrative transfer to states, relief from interest on advances to state unemployment funds, and the partial suspension of Federal income tax on UC.

2. References. The Assistance for Unemployed Workers and Struggling Families Act, Title II of Division B of Public Law No. 111-5, enacted February 17, 2009; Section 1007 of Public Law 111-5; the Social Security Act (SSA); the Federal Unemployment Tax Act (FUTA); Unemployment Insurance Program Letter (UIPL) No. 39-97; and Training and Employment Guidance Letter (TEGL) No. 18-01.

3. Background. Public Law 111-5 made the following changes affecting the UC program:

- Extended the Emergency UC program, commonly known as EUC08.
- Created a new federally-funded program which temporarily increases UC benefits by \$25 a week.
- Temporarily modified provisions in the permanent federal-state extended benefits program.
- Provided for two special distributions from the Unemployment Trust Fund (UTF) to the states.

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- For states receiving advances to pay benefits under Title XII, SSA, waived interest due on these advances for a specified period.
- Suspended the Federal income tax on the first \$2,400 paid in UC for tax year 2009.

The first three items are addressed in separate UIPLs. This UIPL addresses the special distributions, the provisions affecting Title XII loans, and the taxation of UC benefits.

In general, the first special distribution relates to UC “modernization incentive payments.” The total amount available for all states is \$7 billion. To obtain its share, the state must make an application to the Department of Labor demonstrating that its UC law contains certain benefit eligibility provisions. Attachment I discusses eligibility for these incentive payments and the application and approval process. Attachments II and III discuss these matters in greater detail. The last date on which an incentive distribution may be made is September 30, 2011, so applications must be received no later than August 22, 2011.

The second distribution is a “special transfer” of \$500 million to the states’ accounts in the UTF to be used for certain administrative purposes. This administrative transfer is made regardless of whether the state qualifies for a modernization incentive payment. States do not need to apply to receive these amounts. Attachment IV discusses this administrative transfer and the permissible uses of the amounts transferred. Attachment VII contains the amounts distributed under this administrative transfer and each state’s potential share under the modernization incentive payments.

Attachment V discusses the provisions related to suspension of interest on advances and the partial suspension of Federal income tax on UC. Attachment VI sets forth the text of the amendments discussed in this UIPL.

4. Action. State administrators should distribute this advisory to appropriate staff.
5. Inquiries. Questions should be addressed to your Regional Office.
6. Attachments.

Attachment I – Modernization Incentive Payments – Overview

Attachment II – Modernization Incentive Payments – Base Period Provision – Questions and Answers

Attachment III – Modernization Incentive Payments – Other Eligibility Provisions – Questions and Answers

Attachment IV – Special Administrative Transfers – Questions and Answers

Attachment V – Suspensions – Interest on Advances and Federal Taxation of UC

Attachment VI – Text of Sections 2003 and 2004 of Public Law 111-5

Attachment VII – UC Modernization Distributions – Amounts

**Special Administrative Transfers
Questions and Answers**

IV-1. Question: How was Federal law amended to authorize the special administrative transfer?

Answer: Section 2003(a) of Public Law 111-5 added a new subsection (g) to Section 903, SSA, to make a special administrative transfer to all states totaling \$500,000,000 within 30 days of the date of enactment, which was February 17, 2009. A state need take no action to receive its share of the distribution.

IV-2. Question: How is my state's share of the special administrative transfer determined?

Answer: It is calculated in the same manner as a "Reed Act" distribution. This means each state's share is based on its proportionate share of FUTA taxable wages multiplied by the \$500,000,000 authorized by the amendments. For purposes of computing each state's proportionate share, the Secretary of Labor will use the taxable wages that would have been used for calculating any Reed Act distribution occurring on October 1, 2008. As provided by the SSA, data for tax year 2007 is used for determining each state's share.

IV-3. Question: What are the permissible uses of the administrative transfer?

Answer: The administrative transfer may be used only for—

- Implementing and administering the provisions of state law that qualify the state for the incentive payments;
- Improved outreach to individuals who might be eligible by virtue of these provisions;
- The improvement of UC benefit and tax operations, including responding to increased demand for UC; and
- Staff-assisted reemployment services for UC claimants.

IV-4. Question: Must my state legislature appropriate these special administrative transfers?

Answer: Federal law does not require such an appropriation. (This is unlike the incentive payments discussed in Attachment I, which must be appropriated by the state legislature before they can be used for administrative purposes.) However, nothing prohibits a state legislature from appropriating such money or from attaching more specific or limiting conditions to the use of such money.

IV-5. Question: Do I need to amend my state's UC law?

Answer: Most state UC laws contain permanent provisions regarding the use of moneys transferred under Section 903, SSA. These provisions usually mirror the requirements of Section 903(c)(2), SSA, pertaining to “traditional” Reed Act distributions, including a provision that the moneys be used for the payment of UC unless appropriated by the legislative body of the state for the administration of the state’s UC law or the state’s system of public employment offices.

The special administrative transfer is not, however, available for the payment of UC and its administrative uses are more limited. As a result, if the state’s UC law permits a broader use, the state must either (1) amend its UC law to reflect the more limited use of the special administrative transfer, or (2) interpret its UC law consistent with the limited uses specified in Section 903(g), SSA. States exploring the latter option may be able to base their interpretation on state UC law provisions that require interpretations of state UC law in a manner consistent with Federal law.

Attachment II to UIPL 39-97 contains draft language for state Reed Act provisions, which many states used to create their permanent provisions. For these states, we recommend the following language be added:

(6) Notwithstanding paragraph (1), moneys credited with respect to the special transfer made under section 903(g), SSA, may be used solely for the purposes specified in such section and are not subject to appropriation by the legislature. [Emphasis added.]

States should modify this language to accord with state usage and to assure correct state law citations. The emphasized language is necessary only if the state chooses to avoid the appropriation process for the special administrative transfer. As an alternative to this approach, states may also consider a broader amendment that automatically authorizes the state law to take into account any Federal law limitations on use not contained in state law.

IV-6. Question: My state has an advance under Title XII, SSA, so that it can continue to pay benefits. Does this affect my administrative transfer?

Answer: No. Eligibility for the transfer does not depend upon a state having no outstanding advance. Therefore, the entire amount of the special administrative transfer for a state will be transferred to the state’s account in the UTF, notwithstanding any advance.

UC Modernization Distributions – Amounts

<u>State</u>	<u>\$500 M Admin</u>	<u>\$7.0 Billion</u>	<u>1/3 Share</u>	<u>2/3 Share</u>
	<u>Distribution</u>	<u>Distribution</u>		
AK	\$1,115,660	\$15,619,234	\$5,206,411	\$10,412,823
AL	\$7,176,668	\$100,473,351	\$33,491,117	\$66,982,234
AR	\$4,283,524	\$59,969,332	\$19,989,777	\$39,979,555
AZ	\$10,721,206	\$150,096,885	\$50,032,295	\$100,064,590
CA	\$59,905,736	\$838,680,283	\$279,560,094	\$559,120,189
CO	\$9,104,983	\$127,469,762	\$42,489,921	\$84,979,841
CT	\$6,272,238	\$87,811,338	\$29,270,446	\$58,540,892
DC	\$1,973,784	\$27,632,982	\$9,210,994	\$18,421,988
DE	\$1,562,028	\$21,868,398	\$7,289,466	\$14,578,932
FL	\$31,733,965	\$444,275,516	\$148,091,839	\$296,183,677
GA	\$15,734,725	\$220,286,144	\$73,428,715	\$146,857,429
HI	\$2,180,480	\$30,526,725	\$10,175,575	\$20,351,150
IA	\$5,058,171	\$70,814,387	\$23,604,796	\$47,209,591
ID	\$2,304,345	\$32,260,831	\$10,753,610	\$21,507,221
IL	\$21,510,763	\$301,150,687	\$100,383,562	\$200,767,125
IN	\$10,607,023	\$148,498,323	\$49,499,441	\$98,998,882
KS	\$4,926,439	\$68,970,143	\$22,990,048	\$45,980,095
KY	\$6,441,139	\$90,175,943	\$30,058,648	\$60,117,295
LA	\$7,027,524	\$98,385,331	\$32,795,110	\$65,590,221
MA	\$11,620,239	\$162,683,341	\$54,227,780	\$108,455,561
MD	\$9,053,580	\$126,750,124	\$42,250,041	\$84,500,083
ME	\$2,016,519	\$28,231,263	\$9,410,421	\$18,820,842
MI	\$14,877,327	\$208,282,572	\$69,427,524	\$138,855,048
MN	\$9,290,259	\$130,063,620	\$43,354,540	\$86,709,080
MO	\$9,522,006	\$133,308,082	\$44,436,027	\$88,872,055
MS	\$4,009,761	\$56,136,656	\$18,712,219	\$37,424,437
MT	\$1,394,697	\$19,525,764	\$6,508,588	\$13,017,176
NC	\$14,647,397	\$205,063,552	\$68,354,517	\$136,709,035
ND	\$1,039,443	\$14,552,205	\$4,850,735	\$9,701,470
NE	\$3,116,126	\$43,625,769	\$14,541,923	\$29,083,846
NH	\$2,242,944	\$31,401,220	\$10,467,073	\$20,934,147
NJ	\$14,773,097	\$206,823,364	\$68,941,121	\$137,882,243
NM	\$2,787,327	\$39,022,582	\$13,007,527	\$26,015,055
NV	\$5,495,529	\$76,937,412	\$25,645,804	\$51,291,608
NY	\$29,481,579	\$412,742,107	\$137,580,702	\$275,161,405
OH	\$18,893,471	\$264,508,588	\$88,169,529	\$176,339,059
OK	\$5,420,463	\$75,886,483	\$25,295,494	\$50,590,989
OR	\$6,112,474	\$85,574,641	\$28,524,880	\$57,049,761
PA	\$19,521,393	\$273,299,496	\$91,099,832	\$182,199,664
PR	\$2,946,268	\$41,247,756	\$13,749,252	\$27,498,504
RI	\$1,675,756	\$23,460,578	\$7,820,193	\$15,640,385
SC	\$6,961,392	\$97,459,490	\$32,486,497	\$64,972,993
SD	\$1,260,545	\$17,647,634	\$5,882,545	\$11,765,089
TN	\$10,129,145	\$141,808,031	\$47,269,344	\$94,538,687
TX	\$39,690,810	\$555,671,344	\$185,223,781	\$370,447,563
UT	\$4,356,943	\$60,997,206	\$20,332,402	\$40,664,804
VA	\$13,460,932	\$188,453,049	\$62,817,683	\$125,635,366
VI	\$143,065	\$2,002,911	\$667,637	\$1,335,274
VT	\$994,136	\$13,917,898	\$4,639,299	\$9,278,599
WA	\$10,470,988	\$146,593,828	\$48,864,609	\$97,729,219
WI	\$9,566,720	\$133,934,079	\$44,644,693	\$89,289,386
WV	\$2,369,759	\$33,176,630	\$11,058,877	\$22,117,753
WY	\$1,017,509	\$14,245,130	\$4,748,377	\$9,496,753
US	\$500,000,000	\$7,000,000,000	\$2,333,333,331	\$4,666,666,669