

The Relationship of New York State and Federal Unemployment Insurance Tax Reporting

The New York State Unemployment Insurance Program provides immediate, short-term financial protection for employers who become employees through no fault of their own. A fund was established to provide benefit payments to eligible claimants. This fund is paid for by employers through an unemployment insurance contribution on their payrolls.

The Federal Government also imposes an annual Unemployment Insurance tax on all employers liable under the provisions of Federal Unemployment Tax Act (FUTA). Monies from that tax are used to administer the unemployment insurance programs in the States. Local governments, Indian tribes and nonprofit employers who are exempt under Section 501 (c) (3) of the Internal Revenue Code are not liable for FUTA. However, Indian Tribes will become liable for FUTA if coverage is terminated for failure to make required payments to New York State.

The Federal Government allows a credit of up to 5.4% against payments due under FUTA when contributions are paid to the State. To get the full credit when filing Federal Form 940, an employer must pay the State contributions in full by January 31 (April 15th for employers of household employees) following the close of the year. If the State contribution is paid after January 31 (April 15th for employers of household employees), the credit is limited to 90% of the amount which would have been allowable as a credit had the State contribution been paid on time. Until the State contribution is paid, no credit may be taken against the Federal tax.

If the state has outstanding Federal loans to pay benefits, the amount of the allowable credit may be subject to reduction. Federal Form 940 will indicate if New York is a credit reduction state. Information regarding any reduction in the allowable credit is available on the IRS website www.irs.gov.

Some earnings may not be used by claimants to gain entitlement to unemployment insurance benefits but are taxable under FUTA. So that employers may obtain their FUTA credit, State law provides that employers subject to FUTA must pay New York State unemployment insurance contributions on those earnings.

They are:

1. Wages paid to daytime students who are in regular attendance in elementary or secondary schools (see reverse side for certain limited exclusions);
2. Dismissal or severance payments; and
3. The first six months of sick pay benefits including disability payments. This does not include occupationally related workers' compensation payments, which are not taxable under FUTA.

Employers have the option of reporting these payments to the State either on their *Quarterly Reports (form NYS- 45)* or *annually on an Annual Supplementary Contributions Report*, either form IA 7 or form IA 7A.

Employers who have a contribution rate in the year in which such payments are made equal to or less than the allowable FUTA credit for that year should use form IA 7, while those who have a contribution rate greater than the allowable FUTA credit in the year such payments are made should use form IA 7A. These reports are due on or before January 31 for wages paid during the prior calendar year.

Please note that these payments are reportable for New York purposes only if an employer liable under New York State Unemployment Insurance Law is also subject to FUTA.

Wages paid to students by local governments, Indian tribes and nonprofit employers are reportable as described on the reverse.

Additional information regarding FUTA may be obtained from the Internal Revenue Service. Check the United States Government listings in the telephone directory.

Questions regarding the filing of quarterly or annual New York State reports and requests for forms may be directed to the Employer Account Adjustment Section at the above address.

Students

Elementary and High School Students:

Students in regular attendance during the daytime in elementary and secondary schools who perform services for employers other than nonprofit organizations, governmental entities and Indian tribes are not covered for unemployment insurance benefit purposes even if they work only during summer or other vacation periods or on weekends. However, their earnings are subject to contributions if the employer is subject to FUTA, unless the services are performed for a summer camp as described below. Please see the reverse of this form for reporting such students for unemployment insurance contribution purposes.

Governmental entities, Indian tribes and nonprofit organizations are not subject to FUTA. However, the services of **all** students in their employ, except those working at a summer camp as described below, are covered for benefit purposes, and the student's earnings are subject to contributions and must be reported quarterly.

College Students:

Services performed by college students are generally covered for unemployment insurance contribution and benefit purposes. Their earnings are reported quarterly. The only exceptions are:

- A. Those who are in regular attendance in the educational institution that employs them, and their employment is incidental to their course of study; or
- B. Those who are attending nonprofit or public educational institutions and who are enrolled in certain work study programs for credit at such institutions.

The above exclusions also apply to elementary or secondary students.

Summer Camps:

If the following conditions are met, nonprofit, governmental, Indian tribe or other camps need not report or pay unemployment insurance contributions on the wages paid to secondary school students or college students, and those students cannot use their camp employment to gain entitlement to unemployment insurance benefits:

1. The camp meets the Public Health Law definition of a Children's Overnight Camp, a Summer Day Camp, or a Traveling Summer Day Camp (Section 1392).
2. The camp must not operate more than seven months during the current year and must not have operated for more than seven months in the previous year

- or -

the camp must have had average gross receipts for any six months in the preceding calendar year which were not more than thirty-three and one-third percent (33 1/3%) of its average gross receipts for the other six months of that year.

3. The student must work less than thirteen weeks in a year.
4. The student must be enrolled full-time at a secondary school or an institution of higher education or, if between terms, must have been enrolled full-time during the preceding term and there is reasonable assurance that the student will be enrolled full-time for the succeeding term.