

DEPARTMENT OF LABOR**Employment and Training Administration****Publication of Unemployment Insurance Program Letters (UIPLs): UIPL 09-08—Immediate Deposit and Withdrawal Standards—Intercept of Refunds of Erroneous Employer Contributions; and UIPL 14-08—Treatment of Fees Collected by State Child Support Agencies**

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration interprets Federal law requirements pertaining to unemployment compensation (UC). These interpretations are issued in Unemployment Insurance Program Letters (UIPLs) to the State Workforce Agencies. The UIPLs described below are published in the **Federal Register** in order to inform the public.

UIPL 09-08—Immediate Deposit and Withdrawal Standards—Intercept of Refunds of Erroneous Employer Contributions

Recently, the question has arisen whether refunds of erroneously paid employer contributions may be intercepted to pay liabilities the employer owes the state rather than directly refunding the employer. Many state laws currently permit intercept of state income tax refunds or lottery winnings to pay other liabilities owed the state. This UIPL is issued to inform states of the Department's interpretation of Federal law requirements.

States are permitted to intercept the refund rather than directly refund it to the taxpayer.

UIPL 14-08—Treatment of Fees Collected by State Child Support Agencies

States have long been required to deduct and withhold certain child support obligations from UC. In 2005, Section 7310 of the Deficit Reduction Act amended Federal law to mandate that state child support agencies impose an annual fee of \$25 for collecting child support obligations under certain circumstances. In response to this mandate, some states have chosen to amend their laws and regulations. This UIPL is issued to assist the states in assuring that any such amendments are consistent with Federal UC law.

Signed in Washington, DC, this 2nd day of June, 2008.

Brent R. Orrell,

Acting Assistant Secretary, Employment and Training Administration.

Appendices**Appendix A**

January 29, 2008

Advisory: Unemployment Insurance Program Letter No. 9-08.

To: State Workforce Agencies.

From: Douglas F. Small, Deputy Assistant Secretary.

Subject: Immediate Deposit and Withdrawal Standards—Intercept of Refunds of Erroneous Employer Contributions.

1. *Purpose.* To provide guidance regarding the Department of Labor's (Department's) interpretation of Federal law regarding the intercept of refunds of erroneous employer contributions to offset other employer liabilities to the state.

2. *References.* Sections 3304(a)(4), and 3306(h) of the Federal Unemployment Tax Act (FUTA); Section 303(a)(5), of the Social Security Act (SSA); Unemployment Insurance Program Letter (UIPL) No. 45-89.

3. *Background.* Section 3304(a)(4), FUTA, requires, as a condition of employers in a state receiving credit against the Federal unemployment tax, that:

all money withdrawn from the unemployment fund of the State shall be used solely in the payment of unemployment compensation, exclusive of expenses of administration, and for *refunds of sums erroneously paid into such fund* * * * [Emphasis added.]

The same withdrawal standard is found in Section 303(a)(5), SSA, as a condition for a state to receive administrative grants.

Recently, the question has arisen whether refunds of erroneously paid employer contributions may be intercepted to pay liabilities the employer owes the state rather than directly refunded to the employer. Many state laws currently permit intercept of state income tax refunds or lottery winnings to pay other liabilities owed the state. This UIPL is issued to inform states of the Department's interpretation of Federal law requirements.

4. *Intercept of Refunds.* Federal law authorizes the state unemployment compensation (UC) agency to "refund" the amounts erroneously paid by employers into the state unemployment fund. Federal law does not specify that the refund must be made directly to the employer. As a result, the state UC agency may intercept the refund and

apply it to obligations the employer may owe the state.

The Department notes that permitting the UC program to participate in state-wide intercept programs may enhance the UC fund if the funds intercepted by the state through other sources are permitted to be used to satisfy past due employer contributions to the unemployment fund.

Unlike refunds of amounts erroneously paid by employers, Federal law requires the payment of compensation to the individual whose unemployment is being compensated. Section 3306(h), FUTA, defines compensation to mean "cash benefits payable to individuals with respect to their unemployment." (Emphasis added.) As explained in UIPL 45-89, under the withdrawal standard:

all unemployment compensation must be paid directly, as a matter of right, to the individual whose unemployment is being compensated, except for some narrowly limited statutory exceptions. * * * To deduct compensation to pay debts, or to otherwise provide for payment to someone other than the claimant personally, would defeat the intent and purpose of the program.

Thus, Federal law requires a state to limit withdrawals from its unemployment fund to compensation paid directly to the individual. However, there are a number of statutory exceptions, including one permitting withdrawals to pay refunds of sums erroneously paid into the fund. This exception for refunds does not require direct payment.

5. *Action.* State administrators should distribute this advisory to appropriate staff.

6. *Inquiries.* Questions should be addressed to your Regional Office.

Appendix B

March 12, 2008

Advisory: Unemployment Insurance Program Letter No. 14-08.

To: State Workforce Agencies.

From: Brent R. Orrell, Acting Assistant Secretary.

Subject: Treatment of Fees Collected by State Child Support Agencies.

1. *Purpose.* To provide guidance regarding the application of Federal unemployment compensation (UC) law to the mandatory collection of fees related to child support collection.

2. *References.* Sections 3304(a)(4) and 3306(h) of the Federal Unemployment Tax Act (FUTA); Sections 303(e)(2), 454(6)(B)(ii), and 457(a)(3) of the Social Security Act (SSA); Unemployment Insurance Program Letter (UIPL) No. 45-89; and Section 7310 of the Deficit Reduction Act of 2005 (DRA), Public Law 109-171.

3. *Background.* States have long been required to deduct and withhold certain child support obligations from UC. (See Section 303(e)(2), SSA, and UIPL No. 45–89.) In 2005, Section 7310 of the DRA amended Federal law to mandate that state child support agencies impose an annual fee of \$25 for collecting child support obligations under certain circumstances. In response to this mandate, some states have chosen to amend their laws and regulations. This UIPL is issued to assist the states in assuring that any such amendments are consistent with Federal UC law.

4. *Federal Law.* Section 3304(a)(4), FUTA, requires, as a condition for employers in a state to receive credit against the Federal tax, that state law provide that—

All money withdrawn from the unemployment fund of the State shall be used solely in the payment of unemployment compensation, exclusive of expenses of administration, and for refunds of sums erroneously paid into such fund. * * *

Section 303(a)(5), SSA, provides a similar requirement as a condition for a state to receive administrative grants. These provisions, known as the “withdrawal standard,” mean that money may only be withdrawn from the unemployment fund for payment of “compensation,” with certain specified exceptions. Section 3306(h), FUTA, defines “compensation” as “cash benefits payable to individuals with respect to their unemployment.” One exception to the withdrawal standard is found in Section 303(e)(2)(A), SSA, which requires a state UC agency to “deduct and withhold from any [UC] otherwise payable to an individual * * *” amounts to pay “child support obligations” pursuant to part D of Title IV of the SSA.

Section 7310 of the DRA added Section 454(6)(B)(ii) to the SSA, pertaining to state plans for child support, to require that, for each case where the custodial parent “has never received” Temporary Assistance for Needy Families, the state child support agency is to “impose an annual fee of \$25 for each case in which services are furnished, which shall be retained by the State *from support collected*, * * * paid by the individual applying for the services, recovered from the absent parent, or paid by the State out of its own funds. * * *” (Emphasis added.) The amendment also added Section 457(a)(3), SSA, to provide that “the State shall distribute to the family the portion of the amount so collected that remains *after withholding any fee*. * * *” (Emphasis added.) The DRA did not amend Federal UC law.

5. *Interpretation.* Exceptions to the withdrawal standard are narrowly construed. Section 3 of UIPL No. 45–89 explained “that deductions may be made only when authorized by Federal law.” Paragraph 4.b of the UIPL added that, with specified exceptions, state law must provide that UC benefit payments “be exempt from levy, execution, attachment, order for the payment of attorneys fees or court costs, or any other remedy for the collection of public or private debts, prior to receipt by the claimant.” Therefore, absent an explicit statutory authorization, states may not deduct and withhold a processing fee from UC. Since the DRA did not amend Federal UC law, states may not deduct and withhold a processing fee from a claimant’s UC when deducting child support.

The DRA did, however, amend Federal law to provide that “collected” child support obligations may be used to pay the mandatory fee. As a result, after the full amount of the child support obligation has been deducted from a claimant’s UC and sent to the state child support agency, the child support agency may, consistent with Section 7310, DRA, withhold the processing fee before sending the balance of the child support collected to the child support recipient.

States are reminded that, when crafting legislation or regulations to implement the provisions of the DRA, care should be taken to ensure the requirements of the withdrawal standard, as interpreted in this UIPL, are met. In short, a state law or regulation may not authorize the payment of the child support fee directly from UC, but it may authorize the payment of the fee from child support collected by the state child support agency consistent with Section 303(e)(2), SSA.

6. *Action Required.* State administrators are requested to review existing state law provisions and agency practices involving the child support intercept program to ensure consistency with Federal UC law requirements.

[FR Doc. E8–12810 Filed 6–6–08; 8:45 am]

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MILLENNIUM CHALLENGE CORPORATION

[MCC FR 08–06]

Notice of the June 17, 2008 Millennium Challenge Corporation Board of Directors Meeting; Sunshine Act Meeting

AGENCY: Millennium Challenge Corporation.

TIME AND DATE: 10 a.m. to 12 p.m., Tuesday, June 17, 2008.

PLACE: Department of State, 2201 C Street, NW., Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Information on the meeting may be obtained from Suzi M. Morris via e-mail at Board@mcc.gov or by telephone at (202) 521–3600.

STATUS: Meeting will be closed to the public.

MATTERS TO BE CONSIDERED: The Board of Directors (the “Board”) of the Millennium Challenge Corporation (“MCC”) will hold a meeting to discuss and consider country-specific compact development issues and compact implementation issues affecting a number of MCC’s countries; and certain administrative matters.

The agenda items are expected to involve the discussion of classified information and the meeting will be closed to the public.

Dated: June 5, 2008.

William G. Anderson, Jr.,

*Vice President and General Counsel,
Millennium Challenge Corporation.*

[FR Doc. 08–1335 Filed 6–5–08; 12:53 pm]

BILLING CODE 9211–03–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request extension of a currently approved information collection used by individuals applying for a research card which is needed to use original archival records in a National Archives and Records Administration facility. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.