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Payroll Perspectives

EY
Building a better working world

Featured stories

- Certified Payroll Professionals (CPPs) celebrate 30 years
- 2015 unemployment insurance cost trends

Contents

For our payroll essential publications visit our website:

http://www.ey.com/US/en/Services/Tax/State-and-Local-Tax/Employment-tax-year-end-planning-essentials---Year-end-checklist

or use the search term "EY year-end checklist"

From the editor

Debby Salam, CPP
Editor-in-chief
Payroll Perspectives from EY

2015 marks the 30th anniversary of the Certified Payroll Professional (CPP) program, and we are celebrating this milestone by taking a look at where we have been and where we are headed in the future. Read this special anniversary issue of *Payroll Perspectives* for a look at the timelines and trends that have shaped payroll careers and take away 10 tips for your future success.

In this issue we also provide a warm-up for year-end by highlighting key trends in 2015 unemployment insurance tax costs. Our infographics will give you a snapshot of the trends in wage bases, tax rates and additional costs borne by employers for trust fund debt. For more details, we invite you to watch our *Webcast Minutes* and download our freshly updated *Guide to unemployment insurance in 2015*. As always, you can obtain current key unemployment insurance facts for the states you are doing business in by visiting uifactfinder.ey.com.

We hope that you enjoy this issue of *Payroll Perspectives* and that you take a few minutes to celebrate the remarkable evolution of the payroll profession.

Warmly,

Debby

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Here are three ways to learn more about unemployment insurance:

- Watch our *Webcast Minutes* for 2015 highlights
- Get the facts about FUTA credit reductions, factors that determine your state unemployment insurance costs, how to manage claims, and 2015 facts and figures in our *Guide to Unemployment Insurance in 2015*

- Look up key UI details for the states where you are doing business at: uifactfinder.ey.com

Professional payroll certification celebrates 30 years — where do we go from here?

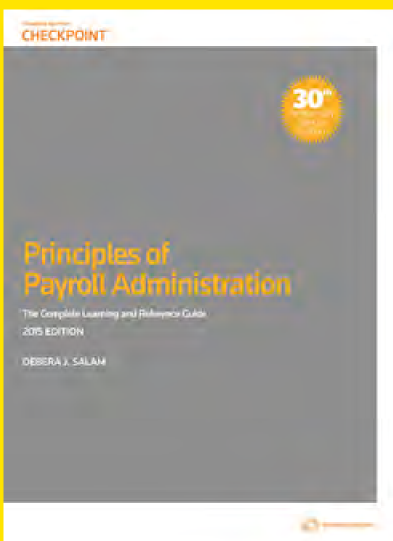
By Debera Salam, CPP

Original CPP study guide also celebrates 30 years

To assist payroll professionals across the US in preparing for the 1985 CPP exam, volunteers of the Houston Chapter American Payroll Association wrote and distributed the first study guide, *Principles of Payroll Administration*, now published by Thomson Reuters.

In celebration of 30 years of payroll certification, this anniversary edition *Principles of Payroll Administration* is available at 15% off.

To take advantage of the 15% discount, call +1 800 950 1216 and use the promo code "30 years."



In today's challenging environment of regulatory compliance and technological innovation, it's difficult to conceive of a time that businesses relied only on prior employment history to recruit qualified payroll professionals. But that was the case until 30 years ago, when the Certified Payroll Professional (CPP) program was first introduced.

Much has changed since 1985. IRS Form W-2 reporting instructions have expanded from 1 to 32 pages. Employee health insurance, once involving only one flexible spending account option, has evolved to include Medical Savings, Health Savings and Health Reimbursement Accounts; health continuation benefits are now mandated under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA); and, under the Affordable Care Act, a complex system of national health care was born dependent on employer-provided medical insurance and the filing of up to five new information returns.

Today, certification for payroll professionals through the CPP or the alternative Fundamental Payroll Certification (FPC) provides businesses with a much-needed level of assurance that staff and recruits have demonstrated an acceptable level of technical competence and are keeping pace with change through continuing education.

As we celebrate the 30th anniversary of the CPP program, we reflect on have far we've come and what's on the horizon.

Where three decades have brought us

More so than other areas of businesses, the payroll framework is quickly impacted by shifts in politics, economics and technology — a situation exacerbated in these last 30 years as employer responsibilities have steadily broadened in such areas as immigration, employment law, wage garnishment and governmental reporting.

For instance, extensive welfare reform under the Clinton Administration in 1996 resulted in mandatory national new-hire reporting and the intended increase in wage garnishments for child support.

Similarly, changing public opinion concerning same-gender marriage led to the creation and dissolution of Section 3 of the Defense of Marriage of Act of 1996, leaving employers to cope with a cascade of federal and state law changes. (See the 30-year timeline on page 4.)

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Budget pressures as well as a long-standing divide in the US Congress have served to galvanize state and local governments. As compared to 1985, it is remarkable how much the burden linked to non-federal jurisdictions has increased for employers. For businesses that operate in multiple jurisdictions, they must devote significantly larger investments in resources to monitor for local changes and accommodate variations in compliance requirements. The shift in the local compliance burden has markedly increased in the last two years by a successful grassroots movement to increase the minimum wage and give workers access to paid leave, retirement savings accounts and other benefits.

Most noteworthy in these last 30 years is the rapid evolution of technology. In 1985, only 8.2% of households had access to personal computers, as compared to 83.8% today. Payroll departments in 1985 largely depended on paper for everything from gathering government requirements to filing returns. A typewriter was standard equipment in payroll departments; today, it's the laptop. Electronic filing of Forms W-2 wasn't available until 1998; now, it's the only method of filing allowed by the Social Security Administration. Governmental forms and publications, once mailed to employers, are now largely available on the internet.

No doubt, advances in technology have brought vital efficiency to the payroll function, making it capable of meeting extraordinary external and internal demands. Thanks in part to a trend toward payroll outsourcing, the industry as a whole has demonstrated time and again that it can quickly implement complex last-minute change (e.g., the COBRA premium assistance credit and the employee Social Security tax credit).

Unfortunately, as payroll systems exceed expectations, expectations increase. Limited capabilities in past decades restricted the demands of lawmakers and internal stakeholders, and implementation windows were generous. Policymakers now seem limited only by imagination, and effective dates are all too frequently retroactive.

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Professional payroll certification celebrates 30 years – where do we go from here?

30 years in payroll
1985-2015

- **2015** ACA information reporting and employer penalties in effect
- **2014** ACA Health Marketplace opens
- **2012** Employee Social Security tax credit expires end of this year
- **2011** 21 jurisdictions face FUTA credit reduction. Employees get Social Security tax credit.
- **2010** Affordable Care Act (ACA) and Hire Act Credit enacted
- **2009** COBRA premium assistance credit enacted.
- **2008** Financial markets collapse
- **2006** W-2 magnetic media reporting no longer allowed
- **2004** Nonqualified deferred compensation plan restrictions under IRC §409A
- **2003** Health Savings Accounts (HSAs) established by law
- **2002** Sarbanes Oxley Act enacted
- **2000** Internet reporting of W-2 available
- **1998** W-2s filed electronically have extended due date of March 31
- **1996** National new hire reporting mandated. Defense of Marriage Act (DOMA) enacted.
- **1995** IRS requires EFT
- **1994** Medicare wage base is removed
- **1993** Family and Medical Leave Act enacted
- **1990** Medicare wage base increases to $125,000. Americans with Disabilities Act (ADA) enacted.
- **1989** 1-banking day rule for 941 deposits
- **1988** IV-D wage withholding for child support
- **1985-1986** 15 jurisdictions face FUTA credit reduction. W-2 magnetic media reporting mandated. Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) and Immigration Reform and Control (IRCA) Acts enacted.

Where are we headed?

The past can be a window to the future, and a look at key trends in these last 30 years gives us some important insights into challenges that may lie ahead. (See our summary of key trends below.)

Income tax reform

As we enter the 2016 election year, our national debt will become more of a focus. As a percentage of gross domestic product, it is expected to increase in 2015 to over 100%, up from just 32.6% in 1980. A bump in individual tax rates has not as yet been favored as a means for balancing the budget. In fact, between 1985 and 2015, the highest federal income tax rate increased just slightly, from 37.0% to 39.6%.

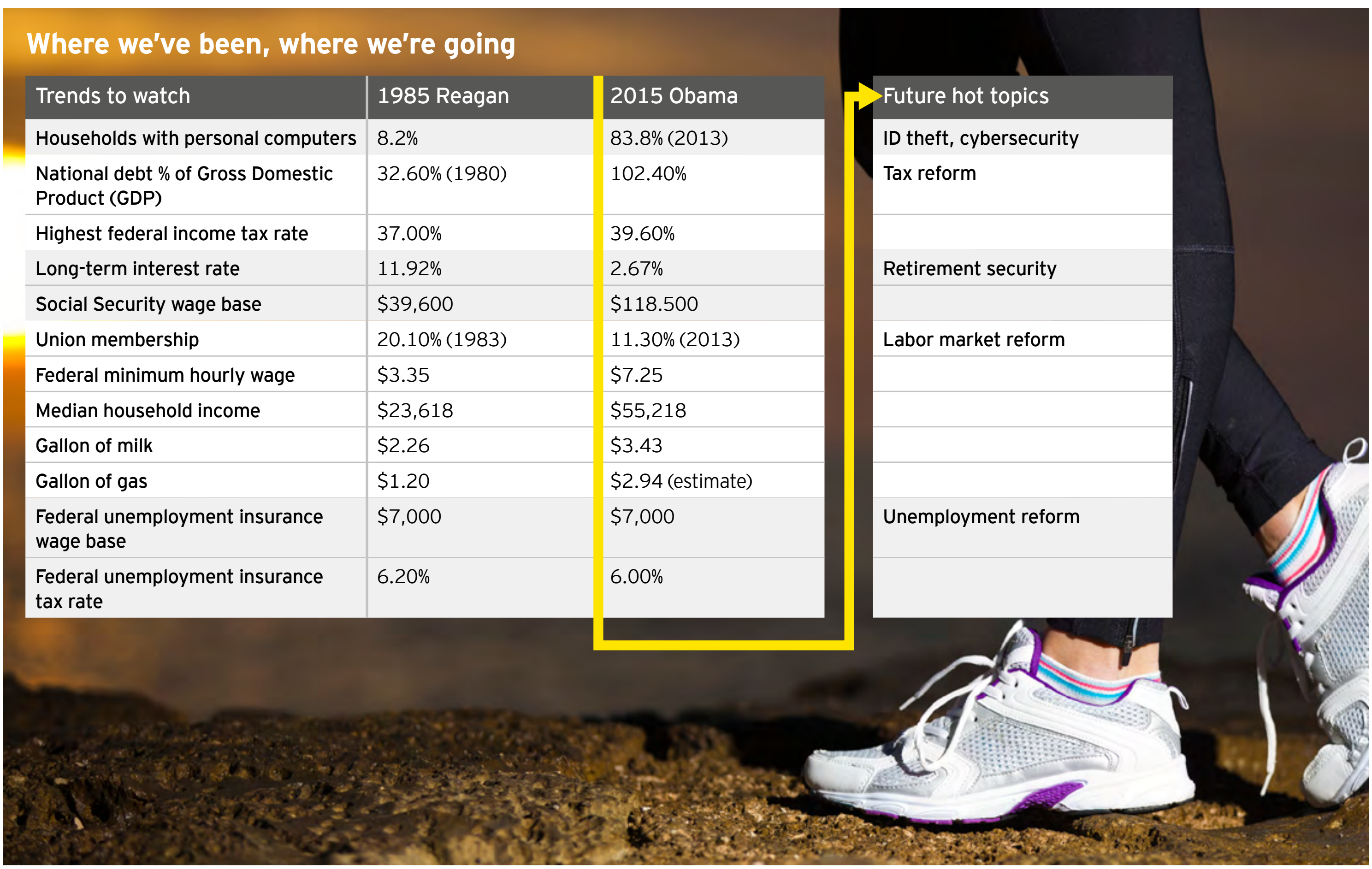
As serious steps are taken to reduce the deficit, Congress likely may favor expanding the taxable wage base by reducing or eliminating certain tax-free employee benefits.

In 2014, House Ways and Means Committee Chairman Dave Camp (R-MI) released a draft plan for tax reform that would disallow the current deferral of federal income tax on nonqualified deferred compensation and eliminate some tax-free benefits (e.g., achievement awards, educational assistance, medical savings accounts and qualified moving expense reimbursements), while others (e.g., employer-provided housing, transit benefits, qualified retirement benefits and health benefits provided to the highly paid) would be scaled back.

Although they differ in approach, both Chairman Camp (who has since retired) and President Barack Obama have proposed a reduction in the amount that employees can contribute on a pretax basis to qualified retirement plans, while mandating that employers make a Roth after-tax savings plan available.

Our special report on the House Ways and Means Committee's 2014 proposal for tax reform is available here.

Our special report on President Obama's fiscal year 2016 proposed budget is here.



Where we've been, where we're going

Trends to watch	1985 Reagan	2015 Obama	Future hot topics
Households with personal computers	8.2%	83.8% (2013)	ID theft, cybersecurity
National debt % of Gross Domestic Product (GDP)	32.60% (1980)	102.40%	Tax reform
Highest federal income tax rate	37.00%	39.60%	
Long-term interest rate	11.92%	2.67%	Retirement security
Social Security wage base	$39,600	$118.500	
Union membership	20.10% (1983)	11.30% (2013)	Labor market reform
Federal minimum hourly wage	$3.35	$7.25	
Median household income	$23,618	$55,218	
Gallon of milk	$2.26	$3.43	
Gallon of gas	$1.20	$2.94 (estimate)	
Federal unemployment insurance wage base	$7,000	$7,000	Unemployment reform
Federal unemployment insurance tax rate	6.20%	6.00%	

Professional payroll certification celebrates 30 years — where do we go from here?

Continued

Retirement security

In 1985, an employee's maximum contribution for both Social Security and Medicare (FICA) was $2,791.80. Now, it's $7,347.00 or more, depending on total annual wages and net investment income. Despite an increase in FICA contributions for top wage earners of more than 163% over the last 30 years, the Medicare trust fund is expected to become insolvent in 2030, followed by the Social Security trust fund in 2034. (*The 2015 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds*, July 22, 2015.)

Tax increases alone are not likely to be relied on as a means for ensuring the long-term solvency of these trust funds. Instead, further increases in the retirement age, a cut in benefits or both are likely, in tandem with increases in the contribution levels.

In the meantime, efforts are ongoing to communicate that Social Security is merely a supplement to retirement income. With long-term interest rates down over 77% from 1985 (11.92% in 1985 vs. 2.67% in 2015), another integral part of public preparedness is an all-out push by the current Administration and some state lawmakers to encourage individual retirement savings.

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This year, the Obama Administration announced that, because Congress failed to pass federal legislation mandating employer participation in 401(k) or other retirement savings plans, such as the U.S. Department of Treasury's myRA, it has directed the U.S. Department of Labor, by the 2015 year-end, to publish a proposed rule clarifying how states can move forward, including with respect to requirements for employees to be automatically enrolled and for employers to offer coverage.

According to a White House Fact Sheet, at least 20 states are considering legislation similar to that enacted by states such as California, Illinois and Oregon.

Labor market reform

Median household income between 1985 and 2015 grew 133%, while the federal minimum wage increased just 116% during the same period. Union membership has also declined substantially these last 30 years (20.10% in 1983 compared to just 11.30% in 2013). At the same time, FICA taxes now take a larger bite out of take-home pay, in particular for those who earn more than $39,600 in wages.

Attempts to increase the federal minimum wage above the $7.25 set in 2009 having failed, the push to "raise the wage" has shifted to state and local governments, with noticeable success. According to the National Conference of State Legislators, as of July 1, 2015, 29 states and the District of Columbia have a minimum wage that exceeds federal, up from 23 in 2014. It is likely that the only federal change in private-sector wages under the Obama Administration will come from modified overtime regulations that would raise the annual minimum compensation for exempt employees from $23,660 to a proposed $50,440.

State and local labor efforts have been successful in securing other workplace benefits as well. Paid leave laws have thus far been enacted in California, Connecticut, Massachusetts and Oregon. Municipalities have also enacted paid leave laws, sometimes in conflict with state leave law (e.g., Emeryville, California).

Last year, the District of Columbia and New York City passed ordinances mandating that employers provide transit benefits to their employees, a requirement previously imposed only by San Francisco.

As previously mentioned, more states require employers to offer employees the ability to make contributions to a qualified retirement plan through payroll deduction.

At least for the near future, local policy will play a leading role in the future direction of employee compensation and workplace practices.

Unemployment insurance reform

The current system of unemployment insurance requires states to maintain adequate trust funds for paying benefits to employees who are terminated through no fault of their own. In keeping with this requirement, federal law regulates minimum state standards, including the wage base on which employer contributions are paid. Yet despite a 116% increase in the federal minimum wage in the last 30 years, the federal unemployment insurance (FUTA) wage base has remained constant at $7,000.

When state trust funds fail to maintain reserves during high unemployment, the result is increased employer costs, such as the FUTA credit reduction that applied in numerous states in 1985 and again starting in 2009.

While only four jurisdictions (Arizona, California, Florida and Puerto Rico) have a wage base of $7,000 in 2015, less than half of them impose automatic adjustments for inflation.

The Administration is proposing to address the solvency of state unemployment insurance (UI) trust funds by raising the FUTA wage base from $7,000 to $40,000 upon the law's enactment and indexing it each year thereafter based on wage growth. This is a substantial increase from the bump to $15,000 proposed in previous budgets. If enacted, a rise in the FUTA wage base to $40,000 would trigger UI increases in all states, except Hawaii and Washington, with a current wage base below $40,000.

New in this year's budget, the Administration also proposed that, beginning in 2017, states impose a minimum tax rate on employers that is equivalent to roughly $70 per employee.

If the job market doesn't improve substantially, it seems inevitable that federal legislation will, to some degree, force states to maintain a wage base more reasonably tied to workers' earnings and to maintain trust fund reserves that are better able to weather recessionary periods.

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ID theft and cybersecurity

Technological advancement has its drawbacks, particularly as identity thieves gain increased access to sensitive employee information. Taxing authorities have been the hardest hit by identify theft, losing significant revenue each year to tax refund fraud. Increasingly, states are accelerating the employer due date for filing Forms W-2 in an effort to detect fraudulent returns. In 2015 alone, five states (Alabama, Connecticut, Indiana, North Carolina and Utah) changed the Form W-2 filing due date to January 31.

Federal legislation is also under consideration to move the Form W-2 filing due date to January 31 for all filers (currently, the last day of February for paper filers and March 31 for electronic filers). The IRS and federal lawmakers are also considering other preventive steps involving the employee copy of the Form W-2, including truncating the Social Security Number, as well as providing an IRS-assigned confirmation number (similar to the system currently enforced by the Puerto Rico Department of Revenue).

Employers must be vigilant in safeguarding employee data, keeping in mind that every external access point, including third-party portals and remote employee access, poses a potential risk. Internal control procedures are increasingly focused on data security protocols. Accordingly, resources should be available for routinely evaluating and testing security systems.

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10 steps for the journey ahead

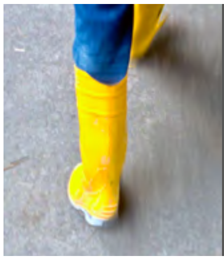
In addition to demonstrating your technical competence by obtaining and maintaining your CPP or FPC certification, we think these 10 steps will keep your payroll career on track in the years ahead.

Keep track of internal and external trends and consider how they impact company policies and practices.

Review payroll system tax information (rates and limits) including settings for earnings and deduction codes at least once a year.

Stay connected to at least two independent sources for timely news about payroll rule changes.

Know where your employees are traveling and working and the payroll rules that apply.



Approach with healthy skepticism policies and practices that have the appearance of denying workers their lawful rights.

Have trusted third-party tax and labor advisors on hand and know when to use them.

Be an advocate for protecting and safeguarding sensitive information and monitor for employment tax fraud.

Stay engaged with your third-party service providers and carefully review their work products.

Keep on top of your game by mastering new subjects and sharing what you have learned.

You're not alone!

Stay connected with colleagues. Listen to their ideas and share your own.

2015–16 federal per diem rates under the high-low substantiation method

In Notice 2015-63, the IRS released the per diem reimbursement rates that will apply effective October 1, 2015 (or, optionally, January 1, 2016). The per diem reimbursement rate for high-cost areas increases from $259 to $275 and from $172 to $185 for low-cost areas. There were also a number of changes to the areas that qualify as high cost.

Description	High-cost area	Low-cost area
Lodging, meals and incidentals	$275 (was $259)	$185 (was $172)
Lodging only	$207 (was $194)	$128 (was $120)
Meals and incidentals only	$68 (was $65)	$57 (was $52)
Incidental expenses only*	$5	$5

*Rate applies only when a meal expense allowance is not provided.

The special meals and incidental expenses (M&IE) rates for taxpayers in the transportation industry are $63 for any locality of travel in the continental United States (CONUS) and $68 for any locality of travel outside the continental United States (OCONUS). (See Rev. Proc. 2011-47.)

Note that costs for transportation between places of lodging or business and places where meals are taken, and the mailing cost of filing travel vouchers and paying employer-sponsored charge card billings, are no longer included in incidental expenses.

The per diem rates for each locality of travel in CONUS can be found at www.gsa.gov. Per diem rates for OCONUS travel are available on the U.S. Department of Defense website. Foreign per diem rates can be found on the U.S. Department of State website.

For more information, click here.

High-cost localities of travel under the high-low substantiation method (effective October 1, 2015)

Changes from last year are shown in yellow

Key city	County/other defined location
~~Arizona~~	
~~Sedona (March 1–May 31)~~	~~City limits of Sedona~~
California	
Mammoth Lakes (Dec.1–Feb.29)	Mono
Monterey (July 1–Aug. 31)	Monterey
Napa (Oct. 1–30; May 1–Sept. 30)	Napa
San Francisco	San Francisco
San Mateo/Foster City/Belmont	San Mateo
Santa Barbara	Santa Barbara
~~Santa Cruz (June 1–Aug. 31)~~	~~Santa Cruz~~
Santa Monica	City limits of Santa Monica
Sunnyvale/Palo Alto/San Jose	Santa Clara
Colorado	
Aspen (Dec. 1–March 31; June 1–Aug. 31)	Pitkin
Denver/Aurora	Denver, Adams, Arapahoe and Jefferson
Grand Lake (Dec. 1–March 31)	Grand
Silverthorne/Breckenridge (Dec. 1–March 31)	Summit
Steamboat Springs (Dec. 1–March 31)	Routt
Telluride (Dec. 1–March 31; June 1–Aug. 31)	San Miguel
Vail (Dec. 1–March 31 and July 1–Aug. 31)	Eagle
District of Columbia	
Washington, DC	Also the cities of Alexandra, Falls Church and Fairfax and the counties of Arlington and Fairfax in Virginia, and the counties of Montgomery and Prince George's in Maryland (see also Maryland and Virginia)

2015–16 federal per diem rates under the high-low substantiation method

Continued

Key city	County/other defined location
Florida	
Boca Raton/Delray Beach/Jupiter (Jan. 1–April 30)	Palm Beach and Hendry
Fort Lauderdale (Jan. 1–May 31)	Broward
Fort Walton Beach/DeFuniak Springs (June 1–July 31)	Okaloosa and Walton
Key West	Monroe
Miami (Dec. 1–March 31)	Miami-Dade
Naples (Jan. 1–April 30)	Collier
Illinois	
Chicago (Oct. 1–Nov. 30; March 1–Sept. 30)	Cook and Lake
~~**Louisiana**~~	
~~New Orleans (Oct. 1–June 30)~~	~~Orleans, St. Bernard, Jefferson and Plaquemine parishes~~
Maine	
Bar Harbor (July 1–Aug. 31)	Hancock
Maryland	
~~Baltimore City (Oct. 1–Nov. 30; March 1–Sept. 30)~~	~~Baltimore City~~
~~Cambridge/St. Michaels (June 1–Aug. 31)~~	~~Dorchester and Talbot~~
Ocean City (June 1–Aug. 31)	Worcester
Washington, DC, metro area	Montgomery and Prince George's
Massachusetts	
Boston/Cambridge	Suffolk, City of Cambridge
Falmouth (July 1–Aug. 31)	City limits of Falmouth
Martha's Vineyard June 1–Sept. 30	Dukes
Nantucket (Oct. 1–Dec. 31; June 1–Sept. 30)	Nantucket
Michigan	
Traverse City/Leland (July 1–Aug. 31	Grand Traverse/Leelanau
~~**Montana**~~	
~~Glendive/Sidney~~	~~Dawson and Richland~~
~~**New Hampshire**~~	
~~Conway (July 1–Aug. 31)~~	~~Carroll~~

Key city	County/other defined location
New York	
~~Glens Falls (July 1–Aug. 31)~~	~~Warren~~
Lake Placid (July 1–Aug. 31)	Essex
New York City	Bronx, Kings, New York, Queens, Richmond
Saratoga Springs/Schenectady (July 1–Aug. 31)	Saratoga and Schenectady
~~Tarrytown/White Plains/New Rochelle~~	~~Westchester~~
~~**North Carolina**~~	
~~Kill Devil (June 1–Aug. 31)~~	~~Dare~~
~~**North Dakota**~~	
~~Williston~~	~~Williams, Mountrail and McKenzie~~
Pennsylvania	
Hershey (June 1–Aug.31)	Hershey
Philadelphia (Oct. 1–Nov. 30; March 1–June 30; Sept. 1–Sept. 30)	Philadelphia
Rhode Island	
Jamestown, Middletown and Newport (June 1–Aug. 31)	Newport
South Carolina	
Charleston (Oct. 1–Nov. 30; March 1–Sept. 30)	Charleston, Berkeley and Dorchester
Texas	
Midland	Midland
Utah	
Park City (Dec. 1–March 31)	Summit
Virginia	
Virginia Beach (June 1–Aug. 31)	City of Virginia Beach
Wallops Island (July 1–Aug. 31)	Accomack
Washington, DC, metro area	Cities of Alexandria, Fairfax and Falls Church; counties of Arlington and Fairfax
Washington	
Seattle	King
Wyoming	
Jackson/Pinedale (June 1–Sept. 30)	Teton and Sublette

2015 state unemployment insurance highlights

The national unemployment rate for May 2015 was 5.5%, comparing favorably to the March 2014 rate of 6.7% and a significant improvement from the April 2010 rate of 9.9%, when the number of states with outstanding federal UI (Title XII) loans had reached its peak. Unfortunately, the slight improvement in this year's jobless numbers had no effect on the overall direction of state UI costs.

2015

Five best and worst jobless rates in US jurisdictions*

Worst		
Nevada	7.0%	(↑)
West Virginia	7.2%	(↑)
District of Columbia	7.3%	–
Puerto Rico	12.4%	(↓)
Virgin Islands	12.4%	(↓)

Best		
Nebraska	2.6%	(↓)
North Dakota	3.1%	(↑)
Utah	3.5%	–
Vermont	3.6%	(↓)
Iowa	3.8%	(↓)

*As of May 2015 and compared to March 2014.

While individual state unemployment insurance (SUI) costs vary by employer, the range of state UI rates for 2015 decreased in 21 states, slightly less than the 24 states that lowered their rates in 2014. The number of states that increased their base rates is slightly higher this year: nine states as compared to seven in 2014.

Arkansas continues to lead with the highest UI rate of 12.8% (down from 12.9% in 2014), and in Nebraska, a 0% rate continues to be possible.

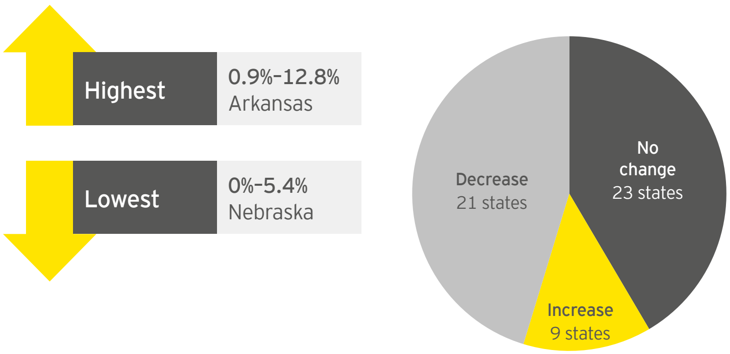
In most of the states that lowered their UI rates in 2015, any savings that employers realized were generally offset by annual inflationary increases in the wage base. In 2015, 24 states increased the UI wage base, compared to 22 in 2014.

Washington takes first place this year as having the highest wage base ($42,100), a record held in 2014 by Hawaii, with a wage base of $40,400.

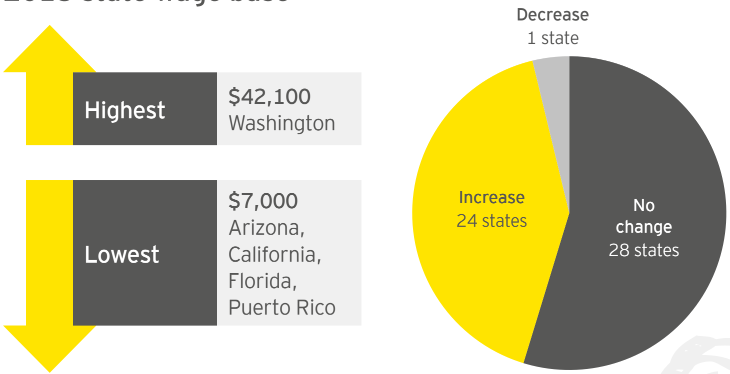
Remarkably, four jurisdictions continue to have the minimum wage base of $7,000 (Arizona, California, Florida and Puerto Rico).

In summary, 2015 state UI base tax costs are slightly higher than 2014 but an improvement over 2013.

2015 state base tax rates



2015 state wage base



State unemployment insurance costs show a slight upward trend in 2015 as compared to 2014, but an improvement over 2013.

2015 state unemployment insurance highlights

Continued

The cost of lingering debt

Employers are beginning to realize cost relief as states gradually pay off UI trust debts they incurred during the periods of high unemployment following the Great Recession.

In 2015, it is estimated that that just five jurisdictions (California, Kentucky, Indiana, Ohio and the Virgin Islands) will be subject to the FUTA credit reduction. The FUTA credit reduction increases each year a state's federal loan balance remains unpaid. For 2015, this means that the normal FUTA tax rate of 0.6% could increase to as much as 3.7% (Virgin Islands) if the Benefit Cost Ratio (BCR) is not waived.

All but California anticipate repaying their federal UI loan next year, and if that is the case, California will hold the record as taking the longest to rebound from this most recent recession.

FUTA credit reduction states (2009–15)

First year of long-term loan	Year FUTA credit reduction applies	Number of jurisdictions subject to FUTA credit reduction on Form 940
2007	2009	1
2008	2010	3
2009	2011	21
No new long-term loans	2012	19
	2013	14
	2014	8
	2015 (estimate)	5

Whether a state uses federal loans or bonds to finance UI trust fund debt, employers generally bear some or all of the debt financing costs. Accordingly, employer surcharges can continue long after FUTA credit reductions have ended if a state used an alternative method of financing.

For 2015, state interest or bond assessments are paid by employers in 11 states, down from 16 states in 2014. These surcharges can increase UI costs significantly. In Colorado, for instance, the 2015 bond-principal charge is 25.2% of each experience-rated employer's base premium rate.

There are fewer states in 2015 subject to the FUTA tax surcharge; however, states overall have been slow to repay debts they incurred due to the 2008 markets' collapse. Employer unemployment insurance costs incrementally increase as loan balances and bonds continue to linger.

2015 FUTA rates over 0.6%

Projected

Highest — 3.7% Virgin Islands

Lowest — 2.1% New York

2015 state interest or bond assessment rates

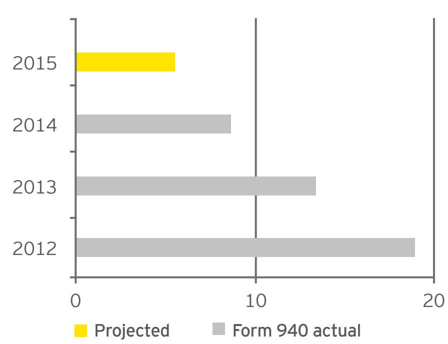
(11 states, down from 16 in 2014)

Highest — 25.2% of base rate Colorado

Lowest — 0.009% New York

States with outstanding FUTA loan balances

2012 to 2015



Alabama

Employees may not claim exemption from income tax withholding; revised Form A-4 due September 1

Effective September 1, 2015, recently enacted legislation eliminates the option for Alabama taxpayers to claim exemption from state income tax withholding. Consequently, the Alabama Department of Revenue removed Form A4-E from its website and required that employees who previously submitted Form A4-E to their employer submit Form A-4, *Employee's Withholding Exemption Certificate*, by September 1, 2015.

Employers are instructed to withhold Alabama state income tax, assuming zero exemptions for affected employees who didn't submit a Form A-4 by September 1, 2015. (*HB 42, Act 2015-504; telephone conversation, representative, Alabama Department of Revenue, August 19, 2015*.)

Employers should keep in mind that the Federal Form W-4 is not an acceptable substitute for Form A-4.

As we reported in the May 2015 issue of *Payroll Perspectives*, as part of his fiscal year 2016 budget proposal, Alabama Governor Robert Bentley proposed the elimination of the withholding exemption certificate. The move is expected to make up an estimated $12 million of the $700 million funding shortfall in the state's General Fund Budget deficit. At the time, the Governor remarked that in eliminating the Form A4-E, the state will recover funds it now loses to employees who claim an exemption from Alabama income tax withholding and then never file an Alabama income tax return.

Note that this law change does not affect the submission of Form A4-MS, *Nonresident Military Spouse Withholding Tax Exemption Certificate*, by military spouses to their employers, used only for employees claiming exemption from Alabama's income tax withholding requirements based on the conditions set forth under the Military Spouses Residency Relief Act. (*P.L. 111-97*.)

Alabama final regulations change due date for filing Forms W-2 and 1099

Changes to the Department's withholding tax return regulations that we reported as pending in the July 2015 issue of *Payroll Perspectives* are now incorporated in the revised withholding tax guide.

- **Forms W-2.** The changes include the requirement that employers and withholding agents file their Forms W-2 electronically if they are required to file and pay monthly or quarterly withholding taxes electronically.
- **Form 1099.** Forms 1099 showing income tax was voluntarily withheld must be submitted to the Department by January 31 with Form A-3. (*Ala. Rules 810-3-74-.01; 810-3-75-.03; 810-3-75-.04*.)
- **Third-party sick payers.** Another filing due date also changed to January 31 is the listing supplied to the Department that allocates the income tax withheld on behalf of employers to the appropriate withholding tax accounts. This listing is required of third-party payers, such as insurance companies, making sick payments to an employer's employees. (*Ala. Rules 810-3-75-.05*.)

2015 due date for filing Forms W-2 and 1099

As we reported in the May 2015 issue of *Payroll Perspectives*, the due date for filing calendar year 2015 Forms W-2, Form A-3 annual reconciliations and Forms 1099 with the Department is January 31, 2016, accelerated from the February 28 deadline for previous years.

Arizona

Tax recovery program began September 1

The Arizona Department of Revenue will conduct a tax recovery program from September 1 to October 31, 2015 (tax recovery program period). Because October 31 falls on a Saturday, however, the Department has announced that tax recovery program applications postmarked and paid in full by Monday, November 2, 2015, will be deemed filed timely. In exchange for paying the tax due, the program allows the director of the Department to abate or waive all of the civil penalties and interest for tax liabilities that have been or could be assessed for any tax period during the applicable liability period without requiring the taxpayer to show reasonable cause or the absence of willful neglect. (*Ariz. Laws 2015, SB 1471, signed by the Governor March 12, 2015*.)

Amnesty program requirements

Eligible taxpayers must submit tax recovery program returns and the tax recovery program application and pay the full amount of tax due during the tax recovery program period. For taxes due on an annual basis, the tax recovery program applies to any tax period ending before January 1, 2014. For all other taxpayers, the tax recovery program applies to any tax period ending before February 1, 2015. Taxes covered by the tax recovery program include income tax (corporate, individual and fiduciary), transaction privilege (sales) tax and use tax (state and county only). According to guidance issued by the Department, it does not apply to the luxury, withholding, property, bingo or estate taxes.

Taxpayers that receive amnesty under the tax recovery program must waive any right to refund or credit for the total amount of the tax liability for each tax year included in the application. A tax recovery program application is an express and absolute waiver of all administrative and judicial rights of appeal available at the time that have not run or otherwise expired as of the application date. If, however, the Department audits a taxpayer for any period subject to the tax recovery program, the taxpayer may contest any deficiency determined by the audit.

The Department's website contains additional information on the tax recovery program, including instructions on where to send the tax recovery program application.

Eligible taxpayers

Amnesty applies to in-state and out-of-state businesses and resident and nonresident individuals owing past-due taxes, including taxpayers that:

- Have an existing liability for tax due and received a billing or tax notice from the Department
- Failed to file a tax return that was due during the periods covered under the tax recovery program or report all income or all tax and associated interest and penalties that were due
- Claimed incorrect credits or deductions
- Misrepresented or omitted any tax due

Taxpayers currently under an audit that has not become final are eligible to participate in the tax recovery program.

Disqualifications

Taxpayers will not be eligible to participate in the tax recovery program if they:

- Are a party to any criminal investigation, criminal administrative proceeding or criminal litigation pending on January 1, 2015, in any US or Arizona court for failure to file or pay, or for fraud related to any tax imposed by Arizona law and required to be collected by the Department
- Have been the subject of a past tax-related criminal investigation, indictment or prosecution if the investigation, indictment or prosecution resulted in a conviction, a guilty plea or a no-contest plea
- Have been convicted of a crime relating to any period or assessment of a tax that is the basis of the penalty or interest related to which recovery is sought
- Are a party to a closing agreement with the Department for the tax periods included in the taxpayer's tax recovery program application
- Submit a tax recovery program application that does not include any amount of unpaid tax

Ernst & Young LLP insights

Eligible employers and their employees may want to consider participating in the amnesty program to have otherwise applicable penalties, interest and other costs waived for the tax period for which amnesty is granted.

Taxpayers should also consider Arizona's voluntary disclosure program and compare which program, amnesty or voluntary disclosure would be more beneficial.

For more information about the risks of noncompliance with state income tax withholding and reporting requirements, visit ey.com/US/getonboard.

California

San Francisco Payroll Expense Tax is increased for 2015

The Office of the Controller, City and County of San Francisco announced that for tax year 2015 the Payroll Expense Tax Rate is 1.162%, an increase from the rate of 1.125% that applied for installment payments due in quarters one through three of 2015. (*City and County of San Francisco, Treasury and Tax Collector website*.)

Background

San Francisco is the only California locality that imposes a tax on payroll. The tax applies to payroll expenses attributable to services provided within the city limits.

Payroll expense is defined as compensation paid to individuals including salaries, wages, bonuses, commissions or property issued or transferred in exchange for the performance of services (including but not limited to stock options). Under Proposition Q, enacted in 2008, the term was expanded to include all pass-through compensation for services paid to, on behalf of, or for the benefit of owners of a pass-through entity. (*San Francisco Bus. & Tax Reg. Code Section 902.1(d).*)

The term "pass-through entity" generally includes a trust, partnership, corporation as described in Subchapter S of the Internal Revenue Code, limited liability company, limited liability partnership, professional corporation, and other person or entity (other than a disregarded entity for federal income tax purposes). (San Francisco Bus. & Tax Reg. Code Section 902.21(d).)

Beginning January 1, 2014, a new Gross Receipts Tax (GRT) is phased in over five years, and the Payroll Expense Tax is phased out in proportion to the GRT phase-in.

After 2018, businesses will be liable for 100% of the GRT, which generally will be imposed on "gross receipts" of "persons" engaged in business in the city. During the five-year phase-in period, taxpayers will be expected to pay both the Payroll Expense Tax and GRT.

California's Secure Choice Retirement Savings plan on track for final approval this year

California's State Treasurer estimates that the state's Secure Choice Retirement Savings Program, created in 2012 under SB 1234 (Chapter 734), will have completed steps by the end of this year sufficient to seek legislative approval for its implementation. (*California Secure Choice Retirement Savings Investment Board website*.)

Once implemented, employers with five or more employees that do not offer an employer-sponsored retirement plan or automatic enrollment Individual Retirement Arrangement (IRA) will be required to provide a payroll deduction option for employees electing to participate in the state's program.

Other states that have more recently enacted similar legislation will launch their programs in 2017 (Illinois, effective June 1, 2017; Oregon, effective July 1, 2017), provided their plans have the same favorable tax status as an IRA and create no adverse interaction with the Employee Retirement Income Security Act of 1974 (ERISA).

Requirements for legislative approval to implement

The California Secure Choice Retirement Savings Trust is authorized to receive, invest and distribute contributions of participating employees. The trust will be administered by a nine-member board chaired by the California State Treasurer.

The California Legislature will authorize implementation of the program only if it is determined that it will:

- Receive the same favorable tax treatment as an individual retirement account or individual retirement annuity (IRA) plan
- Be exempt from ERISA
- Be self-sustaining

Employer participation

Employees of eligible employers that do not offer retirement savings plans will be automatically enrolled in California's Secure Choice Retirement Savings Program and must choose to opt out.

Employers with five or more employees that do not offer an employer-sponsored retirement plan or an automatic enrollment payroll deduction IRA will be required to provide a payroll deduction arrangement whereby employees can participate in the California Secure Choice Retirement Savings Program.

The law provides the following employer safeguards:

- Employers will not be liable for an employee's decision to opt in or out of the program.
- Employers are not liable for the investment decisions of participating employees.
- Employers are not the fiduciary of the program and bear no responsibility for the administration, investment or investment performance of the program.
- Employers are not liable for the program's design, investment returns and benefits paid to participating employees.

Ernst & Young LLP insights

This year, Illinois and Oregon adopted legislation authorizing implementation of state retirement savings that mandates employer participation under certain circumstances. Like California, their implementation is contingent on the U.S. Department of Labor first confirming that these plans don't create adverse income tax consequences or interactions with ERISA. (*See* EY Payroll Newsflash, *Vol. 16, 077, March 16, 2015*.)

The Obama Administration announced that due to the failure of Congress to implement federal legislation mandating employer participation in 401(k) or other retirement savings plans, such as myRA, it has directed the U.S. Department of Labor to publish a proposed rule by year's end clarifying how states can move forward, including with respect to requirements for employees to be automatically enrolled and for employers to offer coverage.

According to a White House Fact Sheet, at least 20 states are considering legislation similar to that enacted by California, Illinois and Oregon.

California will require all employers file and pay electronically starting in 2018

California Governor Jerry Brown has signed into law a bill that will require all employers to file payroll tax returns electronically starting in 2018. (*AB 1245, signed by the governor on August 17, 2015*.)

The current threshold for mandatory electronic filing is 250 or more employees.

As we reported in the September 2015 issue of *Payroll Perspectives*, effective January 1, 2017, California employers of 10 or more employees are required to submit quarterly payroll tax returns and pay the associated payroll taxes electronically over the California Employment Development Department website.

Requirements and penalties starting in 2018

The bill requires all employers to file and pay electronically effective January 1, 2018.

Penalties will apply to employers with fewer than 250 employees that fail to file and pay electronically after January 1, 2019.

Employers will be allowed to apply for a one-year hardship waiver from the requirement to file and pay electronically.

For a state-by-state summary of the electronic filing requirements for unemployment insurance and Forms W-2, see our special report.

Colorado

SUI taxable wage base to increase for 2016; no bond interest assessment for 2016

The Colorado state unemployment insurance (SUI) taxable wage base will increase to $12,200 for calendar year 2016, up from $11,800 for 2015. A Colorado Department of Labor & Employment representative also confirms that there will be no UI bond assessment for 2016. (*Telephone conversation, September 2015*.)

As we previously reported, the Department anticipates that Colorado employers will not pay an UI bond interest assessment for the remainder of the bond repayment period, expected to be completed in 2017. Employers will, however, continue to pay the bond principal surcharge that is added to each employer's SUI tax rate until the bonds are retired.

The 2016 SUI tax rate schedule and bond principal surcharge are anticipated to be finalized by mid-October 2015, and the tax rate notices will be mailed to employers in late November 2015.

For more information on SUI taxes in Colorado, see the Department's website.

Connecticut

Employers should caution employees about their 2015 income tax withholding

As we reported in the September 2015 issue of *Payroll Perspectives*, the Connecticut Department of Revenue Services issued revised income tax withholding tables reflecting the 2015 law that retroactively increased the personal income tax rates effective January 1, 2015. Employers were instructed to implement the income tax withholding changes no later than August 31, 2015. (*FY 2016–17 Budget Act (PA 15-244)*.)

For the revised withholding tables, go here. For the revised withholding calculation method, go here.

The Department has now clarified that the revised 2015 income tax withholding tables do not account for additional income tax liabilities employees may have incurred from January 1, 2015, to August 31, 2015, nor are employers required to catch up withholding for this period. (*SN 2015(7), August 24, 2015*.)

As a result, the Department instructs employees to refer to Informational Publication 2015 (7.1), *Is My Connecticut Withholding Correct?*, to estimate their 2015 Connecticut income tax liability, and if their withholding will not be sufficient, do one of the following:

- Ask the employer to withhold additional income tax by completing a new Form CT-W4, *Employee's Withholding Certificate*
- Make estimated payments electronically using the Taxpayer Service Center (TSC) or by using Form CT-1040ES, *2015 Estimated Connecticut Income Tax Payment Coupon for Individuals*

Ernst & Young LLP insights

To avoid employee inquiries and misunderstandings during the 2015 tax filing season, employers should consider communicating this information to their employees as soon as possible.

Illinois

Department of Employment Security issuing credits to employers that filed late SUI returns

The Illinois Department of Employment Security announced that it has begun issuing $16 million in credits to nearly 13,000 employers that experienced difficulties in transitioning to the monthly wage reporting requirements under the 2012 Medicaid reform law and Department rulemaking. (*News release, August 28, 2015*.)

On August 14, 2015, the Department issued credits equaling $1.5 million to approximately 4,000 impacted employers and will issue credits equaling $14.5 million to the remaining number of employers by the end of the fourth quarter 2015. The credits include associated interest charges. Refunds will be issued only if the credits cannot be applied to state unemployment insurance (SUI) liabilities by January 31, 2016, under a rule agreed upon by the business and labor communities.

As we reported in the September 2015 issue of *Payroll Perspectives*, the Department previously announced that it would waive monthly UI reporting penalties and interest for employers that had trouble complying with the monthly wage reporting requirement or were confused with the requirement's implementation schedule. The Department agreed to waive up to the first two quarters' worth of penalties, along with any related interest, for late monthly reports, as long as the employer timely submitted quarterly reports.

For more information, contact the Department's Employer Hotline at +1 800 247 4984.

Iowa

SUI tax rate schedule to increase in 2016

The Iowa Department of Workforce Development announced that state unemployment insurance (SUI) tax rates will increase because the 2016 SUI rates will be based on Rate Schedule 6, a move from Rate Schedule 7 for 2015. According to the Department, though the schedule will move one column over to higher rates, Rate Schedule 6 represents a significant recovery from 2010 through 2012, when record UI benefit payouts triggered Tables 3 and 4. (*News release, Iowa Department of Workforce Development, September 4, 2015*.)

Employer SUI tax rates for 2016 will range from 0.0% to 8.0%, an increase of up to 1.5%, depending on the bracket on Rate Schedule 6 where the employer's benefit ratio falls. The 2016 new employer rate for non-construction employers will remain at 1.0%.

2016 SUI taxable wage base

As we reported in the August 2015 issue of *Payroll Perspectives*, the SUI taxable wage base will be $28,300 for calendar year 2015, up from $27,300 for 2015.

Status of Iowa's UI trust fund

Iowa's trust fund balance as of July 31, 2015, was $921,027,723, up from $863,196,486 at the same time last year. Iowa did not have to borrow from the federal government during the economic downturn.

The Department typically issues the following year's tax rate notices to employers in mid-November.

Ernst & Young LLP insights

According to the Department's news release from September 4, 2015, the move from Rate Schedule 7 to Rate Schedule 6 will cause the estimated average tax rate to increase from 1.24% to 1.57% for 2016.

However, the new employer non-construction rate will continue at 1.0% in 2016, the lowest permitted by federal law.

Iowa Workforce Development Director Beth Townsend stated that "while the change to the unemployment tax rate is less than favorable, Iowa's unemployment tax rate is among the lowest in the nation, due to the strength of our trust fund. That, coupled with sound fiscal management, prevented Iowa from having to borrow federal funds during the most recent recession. We still have a large number of zero-rated employers and new, non-construction employers continue to pay 1.0%, one of the lowest tax rates in the country."

Missouri

2016 SUI tax rates and wage base unchanged; take advantage of opportunity to reduce your rate

The 2016 Missouri state unemployment insurance (SUI) employer tax rates will continue to range from 0.0% to 7.80%, including a maximum 30% contribution rate adjustment due to the condition of the state's UI trust fund balance. Maximum-rated employers may have a surcharge added to their tax rate (see below).

As we reported in the September 2015 issue of *Payroll Perspectives*, the SUI taxable wage base will remain at $13,000 for calendar year 2016.

New employers will continue to pay at 3.51% for 2016, with the exception of construction employers, who will pay at 4.362% (down from 4.622% for 2015), and taxpaying nonprofit organizations, who will continue to pay at 1.3%. (See the Department's website.)

Mailing date of 2016 rate notice

The Missouri Division of Employment Security plans to mail 2016 tax rate notices to employers on or about November 13, 2015. (*2016 Voluntary payment information and worksheet; Missouri Division of Employment Security website*.)

Maximum rate surcharge

Employers that remain at the maximum SUI tax rate for two consecutive years have a 0.25% surcharge added to their tax rate. If the employer remains at the maximum rate for subsequent years, an additional 0.25% surcharge will be added for each year until the cumulative surcharge equals 1.0%. Should the employer continue at the maximum rate after the 1.0% surcharge is reached, an additional 0.5% surcharge will be added. The total surcharge assessed to any employer will not exceed 1.5%. (*RSMO Section 288.120*.)

Note that there is also a workshare participant exception. The maximum 2016 employer SUI rate for employers participating in the state's workshare program will be higher than the maximum for other employers.

Statutory elections available to reduce 2016 SUI tax rates

Experience-rated employers may reduce their 2016 SUI tax rates in two ways:

1. **Voluntary contributions**

   Experience-rated employers may make a voluntary contribution to reduce their assigned SUI tax rate. The voluntary payment increases the amount of the employer's reserve account and thereby may reduce the employer's state unemployment tax rate. Not all voluntary contributions are advantageous, and the advantages of a voluntary contribution may be amplified by anticipated increases in an employer's workforce. The voluntary payment must be postmarked on or before January 15, 2016, to affect the 2016 SUI rate. A voluntary payment worksheet is included with the employer's SUI tax rate notice or may be found here.

2. **Joint accounts**

   By forming a joint account, the unemployment experience ratings of two or more Missouri employers are combined to obtain a single SUI tax rate. The members of a joint account with favorable employment history can share their unemployment insurance reserves with other members of the joint account, effectuating an overall reduction in state unemployment taxes. In a large corporate organization, not all members need to be included in the joint account election. Instead, entities may be included in the joint rate group based on the overall desired SUI tax rate results. Newly formed joint accounts must participate in the joint account for a minimum of two calendar years (withdrawal from a joint account may be made in writing by December 31 of the second year). To achieve the benefit of a joint account election, the Division must receive an application before April 1, 2016, to be applicable for the 2016 tax year. The joint account application may be found here.

   - No corporate restructuring necessary

     The joint account election offers an above-the-line tax benefit that does not require a change in the corporate structure. Each entity continues to file separate SUI returns after the joint account is established. Whether the joint account option will reduce unemployment tax liability depends on the state unemployment experience of the companies within the joint account and the minimum number of years that the companies are "locked in" to the election. For this reason, a careful analysis of a company's specific unemployment facts is vital to determine whether to pursue the joint account election.

     Joint accounts and voluntary contributions may mitigate some of the anticipated tax increases due to the current economic conditions. Employers may combine a joint account election and voluntary contribution for an increased overall benefit.

2015 FUTA credit reduction

As we previously reported, Missouri repaid its outstanding federal unemployment insurance (UI) loan balance during the last week of May 2014. As a result, Missouri employers saw their net FUTA tax rate for 2014 return to the normal 0.6%, rather than increase to at least 1.8%. As there is no outstanding loan balance for 2015, employers generally will again pay at the minimum FUTA tax rate of 0.6%.

Missouri unemployment insurance account numbers to change in 2016

According to a Missouri Division of Employment Security representative, as the result of a future update to the Division's unemployment tax reporting system, employer state unemployment insurance (SUI) account numbers are anticipated to change in mid-2016. (*Email response to inquiry*.)

The account numbers will change from 14 digits to 10 digits and will be in the following format: **-*****-*-**.

The Division plans to notify employers of their new SUI account numbers well in advance of the change.

For more information, contact the Division's Unemployment State Tax Automated Reporting System (USTAR) help desk at +1 573 751 1995 or send an email to mo-ustar.helpdesk@labor.mo.gov.

Ernst & Young LLP insights

Employers will need to be certain that they update their Missouri account number for internal purposes (e.g., accounts payable and general ledger) and for other reporting purposes.

Montana

2016 state unemployment insurance taxable wage to rise; avoid higher rates by submitting SUI taxes on time

According to a Montana Department of Labor & Industry representative, the state unemployment insurance (SUI) taxable wage base for calendar year 2016 will increase to $30,500, up from $29,500 in 2015.

The taxable wage base for calendar year 2016 is 80% of the 2014 average annual wage in Montana. (*Email response to inquiry, program manager, UI Contributions Bureau, Montana Department of Labor & Industry, September 2015*.)

Information on the calendar year 2016 employer SUI tax rate schedule is not available at this time but should be released by mid-December 2015.

Avoid a higher SUI rate for 2016

Failure to file all quarterly SUI tax returns or pay all SUI taxes can result in the assignment of a "penalty" tax rate for calendar year 2016, rather than a rate based on experience.

An employer with outstanding SUI returns or taxes when 2016 SUI tax rates are calculated in December 2015 will be assigned a rate that is 50% higher than the employer's experience rate. Although the Department will typically allow employers to resolve all delinquencies by mid-January of the tax year and avoid the penalty rate (for example, delinquent employers were allowed until January 16, 2015, to submit delinquencies and avoid a penalty rate for 2015), proactively making sure that all reports and taxes have been submitted will result in assignment of a proper tax rate that includes all taxes paid for the computation period.

If you have questions about any delinquencies, call the Department at +1 406 444 3834.

For more information on Montana SUI taxes, go here.

North Carolina

Bill could suspend 20% SUI surtax, saving employers millions in 2016

North Carolina Governor Pat McCrory has approved SB 15, which is expected to suspend the 20% surtax added to employer's state unemployment insurance (SUI) tax rates for calendar year 2016, resulting in an estimated $240 million savings. (*News release, governor's office, September 2015*.)

Under the law, the 20% surtax is suspended for the calendar year if the state's trust fund balance equals or exceeds $1 billion on the prior August 1. The trust fund balance as of July 31, 2015, at $735,437,493, did not meet the $1 billion mark, but the balance is expected to hit the targeted amount by December 31, 2015. (The trust fund balance as of August 31, 2015, was $998,474,862.)

SB 15 provides that the surtax would not apply to calendar year 2016 if the amount in the UI trust fund as of March 1, 2016, equaled or exceeded $1 billion.

The proceeds from the 20% surtax are deposited into the Unemployment Insurance Reserve Fund for the purpose of paying interest payments due on federal advances. The balance in the reserve fund may not exceed $50 million or the amount of interest paid the previous September on federal advances. When the amount in the reserve fund exceeds the cap, the excess must be transferred to the state's UI trust fund.

How the surtax works

Since the surtax is reflected in the tax rates shown on the rate notices typically issued in each November, the question would be whether the Division will issue the 2016 notices as normal in November 2015 and issue revised rate notices in March 2016; wait until March 2016 to release the rate notices; or issue the tax rate notices as usual and reflect the reduced rates on the first quarter 2016 UI tax return.

We will issue an update if and when the surtax is eliminated and the Department has determined its implementation steps.

Ohio

Mandatory electronic filing of Forms W-2 for all employers proposed

The Ohio Department of Taxation has proposed that all employers file Forms W-2 and 1099-R electronically. (*Proposed change to Ohio Administrative Code rule 5703-7-19*.)

As with the requirement to file and pay withholding taxes and returns electronically, employers unable to comply with the Form W-2/1099 electronic filing rule may request permission from the Department to be excused from the requirement. The current opt-out request form is available here.

As we previously reported, the Department ruled last year that employers must electronically file withholding tax and school district withholding tax returns and pay the corresponding tax electronically.

Last year's electronic filing mandate did not include Forms W-2 and 1099.

Under current requirements, only employers with 250 or more Forms W-2 and issuers of 250 or more Forms 1099-R for the year are required to submit these forms to the Department.

The W-2/1099 data must be submitted on CD-ROM, as the Department is not currently equipped for receiving these returns electronically. Smaller employers are not required to submit Forms W-2/1099 but may voluntarily file on CD-ROM. Paper forms may not be submitted.

As a result, only those taxpayers with 250 or more calendar year Forms W-2/1099-R are currently required to file this data along with Form IT-3, *Transmittal of Wage and Tax Statement*, on CD-ROM. Employers are, however, required to electronically file Form IT-941, *Employer's Annual Reconciliation of Income Tax Withheld*.

Ernst & Young LLP insights

We have asked the Department to clarify if the rule change will affect all employers or only those filing 250 or more Forms W-2/1099.

It is also yet unclear if the Department plans for the change to take effect with the 2015 tax year (filed in 2016) or in 2016 (filed in 2017).

According to the Business Impact Analysis released with the proposed rule, the Department plans to implement the new Form W-2 electronic filing mandate six months after the effective date of the revised rule, allowing time to issue a tax alert and provide notice in other ways to affected businesses. This could put the effective date past the February 29, 2016, due date for the 2015 Forms W-2. The proposed rule, however, shows an effective date of January 1, 2016.

Oklahoma

2016 SUI wage base is up, new employer rate to decrease, and SUI tax rate schedule to remain unchanged

According to representatives of the Oklahoma Employment Security Commission's employer tax section, the 2016 state unemployment insurance (SUI) tax rate schedule is anticipated to remain the same as in effect for calendar year 2015, with tax rates ranging from 0.1% to 5.5%.

Due to the continued strength of the UI trust fund, SUI tax rates will again not be based on a conditional factor. (*Telephone conversation and email response, September 2015*.)

The state unemployment insurance (SUI) taxable wage base will increase for calendar year 2016 to $17,500, up from $17,000 for 2015.

The new employer rate for 2016 will drop to 1.5%, down from 2.2% for 2015. (*Telephone conversation, September 2015*.)

Mailing of 2016 rate notices

Tax rate notices for 2016 are scheduled to be issued during the last week of September.

For more information, contact the Commission at +1 405 557 7222 or see the Commission's website here.

Pennsylvania

Pittsburgh enacts law requiring paid sick leave

Under a recently enacted local ordinance, employers with one or more employees in Pittsburgh, Pennsylvania, will be required to provide paid sick leave to their employees. (*Paid Sick Days Act, Pittsburgh Code, Title VI, Article 1, §626*.)

US government employers as well as any Pennsylvania offices, departments, agencies, authorities, institutions or other bodies of the state (including the legislature and the judiciary) are exempt from the requirement.

Also exempt from the requirement are independent contractors of the employer, state and federal employees, any member of a construction union covered by a collective bargaining unit, and seasonal employees.

Employers will be required to provide notice to employees concerning the paid leave law and to maintain certain records demonstrating their compliance with the law.

Paid leave requirements

Effective within 90 days of published regulations, employers with 15 or more employees will be required to provide up to 40 hours of paid sick leave per year (24 hours for employees with fewer than 15 employees). Employees accrue a minimum of 1 hour of paid sick leave for every 35 hours worked within Pittsburgh (up to the maximum of 40/24 hours per year), unless the employer's policy is more generous.

Philadelphia also requires paid sick leave

As we reported in the June 2015 issue of *Payroll Perspectives*, under Philadelphia's Promoting Healthy Families and Workplaces Ordinance, and effective May 13, 2015, employers of 10 or more employees are required to allow employees to accrue a minimum of 1 hour of sick leave for every 40 hours worked in Philadelphia, up to 40 hours of sick leave in a calendar year (unless the employer's policy is more generous).

Amid concerns about the burden on employers should Pennsylvania's more than 2,500 units of local government follow the lead of Philadelphia, legislation was introduced this year (SB 333) to prohibit Pennsylvania localities from imposing local leave ordinances.

Pennsylvania Governor Tom Wolf has indicated his intent to veto the legislation should it clear the state legislature.

South Carolina

Employers reminded they must transition to new electronic reporting system effective September 1, 2015

The South Carolina Department of Revenue announced the launch of a new electronic reporting and payment system, MyDORWAY.

Businesses previously using the Department's electronic services eWithholding, eSales and ePay for withholding tax were required to transition over to the new system on September 1, 2015. (*ReveNews e-newsletter*.)

MyDORWAY is the Department's new taxpayer portal, offering one convenient place to register a business, file tax returns, make payments and view related correspondence. The Department began offering this service in September 2015 for employer withholding tax, sales and use tax, and other miscellaneous taxes and fees.

New services will be added each year with online filing and paying available for all major taxes in 2018.

With the launch of MyDORWAY, eWithholding and eSales will no longer be accessible. EPay will no longer support sales or withholding payments but will remain available for other taxes until the three-year implementation of MyDORWAY is complete.

By law, a business must pay electronically if $15,000 or more is owed in any one filing period for withholding tax or if the business makes 24 or more payments within a one-year period.

August 21, 2015, was the last date to make payments through the old eWithholding, eSales and ePay systems.

For more information, go here.

Tennessee

Fiscal year 2016 SUI tax rates decreased; taxable wage base unchanged for 2015

Fiscal year 2016 state unemployment insurance (SUI) tax rate notices were mailed to employers with a mailing date of August 26, 2015.

New employers in the Mining & Extraction (NAICS 21) industry will pay at 2.7% for the first time in many years (down from 5.0% for fiscal year 2015).

New employers continue to pay at 2.7% for fiscal year 2015, except for the following industries:

- Construction (NAICS 23): 6.5% (down from 7.0% for FY 2015)
- Manufacturing (NAICS 33): 5.0% (down from 5.5% for FY 2015)

Experience-rated tax rates for the third and fourth quarters 2015 to decrease

As we reported in the September 2015 issue of *Payroll Perspectives*, the rate schedule used to determine Tennessee SUI tax rates decreased starting July 1, 2015, due to an SUI trust fund balance that exceeded $850 million as of June 30, 2015.

This caused the SUI tax rate schedule to move from Premium Rate Table 5, with SUI rates ranging from 0.15% to 10.0%, to the lowest possible — Premium Rate Table 6, with SUI rates ranging from 0.01% to 10.0%.

2015 SUI taxable wage base to continue at $9,000

As we previously reported, Tennessee UI law provides that if the UI trust fund balance on June 30 or December 31 of any year is above $900 million, but less than $1 billion on June 30 or December 31 of any year, the taxable wage base is $8,000.

The law is not clear as to whether the taxable wage base changes only on January 1 of the following year (or midyear) and whether the June 30 or December 31 figure triggers the change. The trust fund balance stood at $926,647,940 as of June 30, 2015.

According to a senior official at the Tennessee Department of Labor and Workforce Development, after requesting guidance on interpreting the applicable section of the UI law, it has been determined that the taxable wage base will remain at $9,000 for the remainder of calendar year 2015. (*Tenn. Code Ann. §50-7-403(j); §50-7-213(e).*)

2016 SUI wage base could go down

Legislation passed in mid-2009 retroactively to January 1, 2009, increased the SUI taxable wage base to $9,000. (*HB 2324/SB 2315, signed by the governor on June 25, 2009*.)

The trust fund balance stood at $926,647,940 as of June 30, 2015. A decrease to $8,000 for 2016 could be possible if the Department uses the trust fund balance as of June 30, 2015, or if the trust fund balance continues to exceed $900 million as of December 31, 2015. Typically the trust fund balance decreases over the third and fourth quarters of the year due to lessening employer contributions as the taxable wage base is met.

SUI tax rates may change again in January 2015

The balance of Tennessee's unemployment trust fund on June 30 and December 31 of any year determines which one of six Premium Rate Tables will be used to assign nongovernmental employers their premium rates for the following two calendar quarters.

The Form LB-0482, *Notice of Employer's Premium Rate*, is sent to employers in late August each year, showing the employer's experience as of the previous December 31, the employer's reserve ratio that will be in effect for the third and fourth quarters of the calendar year in which the notice is received, the first and second quarters of the following calendar year, and the employer's premium rate for the third and fourth quarters of the current year.

If there is a rate change effective January 1 of the following year due to a change in the Premium Rate Table (as occurred for the first and second quarters 2015), employers will receive a notice in January informing them of the change and providing them with their rate for the first two quarters of the new calendar year.

For more information on unemployment taxes in Tennessee, see the Department's website.

Vermont

Calendar year 2016 SUI taxable wage base to increase

According to a senior representative of the Vermont Department of Labor, the state unemployment insurance (SUI) taxable wage base will increase to $16,800 for calendar year 2016, up from $16,400 for calendar year 2015. (*Email response to inquiry, September 2015*.)

Under legislation passed in 2010, the SUI taxable wage base is indexed to increases in the state annual average wage. The law provides further that when the state's trust fund balance increases to a level that allows Rate Schedule III to be in effect, the SUI taxable wage base will decrease by $2,000 (after indexing) for the following year and decrease by another $2,000 when Rate Schedule I is in effect. (*SB 290, signed by the governor on May 24, 2010*.)

As we reported in the August 2015 issue of *Payroll Perspectives*, the fiscal year 2016 SUI rate notices that were mailed to employers on June 23, 2015, continue to be based on Tax Rate Schedule V with rates ranging from 1.3% to 8.4%. Those rates were effective July 1, 2015.

For more information, contact the Department at +1 802 828 4344.

Ernst & Young LLP insights

Vermont is one of four states where annual rate assignments take effect on July 1, rather than January 1. The other states with a July 1 rate effective date are New Hampshire, New Jersey and Tennessee.

The SUI wage base generally applies as of January 1, unless there is an unscheduled state law change.

For more state unemployment insurance facts, see the EY UI Fact Finder at uifactfinder.ey.com.

Wyoming

2016 state unemployment insurance taxable wage to increase

According to a Wyoming Department of Employment representative, the state unemployment insurance (SUI) taxable wage base for calendar year 2016 will increase to $25,500, up from $24,700 in 2015. (*Wyoming Department of Employment, telephone conversation, September 2015*.)

Information on the calendar year 2016 employer SUI tax rate factors is not available at this time but should be released by mid-December 2015.

For more information on Wyoming SUI taxes, go here.

Federal employment tax due dates for October 2015

Due date	Deposit or filing requirement
October 2	Semiweekly deposit due date for liabilities incurred September 26–29
October 7	Semiweekly deposit due date for liabilities incurred September 30
October 7	Semiweekly deposit due date for liabilities incurred October 1–2
October 9	Semiweekly deposit due date for liabilities incurred October 3–6
October 13	Form 4070 is due from employees who received $20 or more in tips in September.
October 15	If the monthly deposit rule applies, deposit the tax for payments made in September. Semiweekly deposit due date for liabilities incurred October 7–9
October 16	Semiweekly deposit due date for liabilities incurred October 10–13
October 21	Semiweekly deposit due date for liabilities incurred October 14–16
October 23	Semiweekly deposit due date for liabilities incurred October 17–20
October 28	Semiweekly deposit due date for liabilities incurred October 21–23
October 30	Semiweekly deposit due date for liabilities incurred October 24–27
November 2	File the third quarter 2015 Form 941; an extended due date of November 10 applies if all taxes were timely paid and in full. 2015 Form 941 liabilities of less than $2,500 must be paid with the third quarter 2015 Form 941. Deposit federal unemployment insurance (FUTA) tax through September 2015 of more than $500.
November 4	Semiweekly deposit due date for liabilities incurred October 28–30
November 6	Semiweekly deposit due date for liabilities incurred October 31–November 3

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