

DEPARTMENT OF LABOR**Office of the Secretary****Senior Executive Service; Appointment of a Member to the Performance Review Board**

Title 5 U.S.C. 4314(c)(4) provides that Notice of the appointment of an individual to serve as a member of the Performance Review Board of the Senior Executive Service shall be published in the **Federal Register**.

The following individuals are hereby appointed to a three-year term on the Department's Performance Review Board: David C. Zeigler.

FOR FURTHER INFORMATION CONTACT: Mr. Larry K. Goodwin, Director of Human Resources, Room C5526, U.S. Department of Labor, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone: (202) 219-6551.

Signed at Washington, D.C., this 31st day of October, 1997.

Alexis M. Herman,
Secretary of Labor.

[FR Doc. 97-29369 Filed 11-5-97; 8:45 am]

BILLING CODE 4510-33-M

DEPARTMENT OF LABOR**Employment and Training Administration****Federal-State Unemployment Compensation Program: Certifications Under the Federal Unemployment Tax Act of 1997**

On October 31, 1997, the Secretary of Labor signed the annual certifications under the Federal Unemployment Tax Act, 26 U.S.C. 3301 *et seq.*, thereby enabling employers who make contributions to State unemployment funds to obtain certain credits for their liability for the Federal unemployment tax. By letter of the same date the certifications were transmitted to the Secretary of the Treasury. The letter and certifications are printed below.

Dated: November 3, 1997.

Raymond J. Uhalde,
Acting Assistant Secretary of Labor.

U.S. Department of Labor

Secretary of Labor

Washington, D.C.

October 31, 1997.

The Honorable Robert E. Rubin,
Secretary of the Treasury, Washington, D.C.
20220

Dear Secretary Rubin: Transmitted herewith are an original and one copy of the certifications of the States and their

unemployment compensation laws for the 12-month period ending on October 31, 1997. One is required with respect to normal Federal unemployment tax credit by Section 3304 of the Internal Revenue Code of 1986 (IRC), and the other is required with respect to additional tax credit by Section 3303 of the Code. Both certifications list all jurisdictions except the State of Washington. Washington is omitted from both certifications because we have not yet exhausted the administrative process regarding issues arising in that State under the requirements of Section 3304(a) of the IRC. These omissions, therefore, do not constitute final denials of certification. If these issues are resolved satisfactorily, I will forward to you the certifications with respect to Washington.

Sincerely,

Alexis M. Herman,
Enclosures

United States Department of Labor

Office of the Secretary

Washington, D.C.

Certification of State Unemployment Compensation Laws to the Secretary of the Treasury Pursuant to Section 3303(b)(1) of the Internal Revenue Code of 1986

In accordance with the provisions of paragraph (1) of Section 3303(b) of the Internal Revenue Code of 1986 (26 U.S.C. 3303(b)(1)), I hereby certify the unemployment compensation laws of the following named States, which heretofore have been certified pursuant to paragraph (3) of Section 3303(b) of the Code, to the Secretary of the Treasury for the 12-month period ending on October 31, 1997:

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire

New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Virgin Islands
West Virginia
Wisconsin
Wyoming

This certification is for the maximum additional credit allowable under Section 3302(b) of the Code.

Signed at Washington, D.C., on October 31, 1997.

Alexis M. Herman,
Secretary of Labor.

United States Department of Labor

Office of the Secretary

Washington, D.C.

Certification of States to the Secretary of the Treasury Pursuant to Section 3304 of the Internal Revenue Code of 1986

In accordance with the provisions of Section 3304(c) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(c)), I hereby certify the following named States to the Secretary of the Treasury for the 12-month period ending on October 31, 1997, in regard to the unemployment compensation laws of those States which heretofore have been approved under the Federal Unemployment Tax Act:

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine

Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Virgin Islands
West Virginia
Wisconsin
Wyoming

This certification is for the maximum normal credit allowable under Section 3302(a) of the Code.

Signed at Washington, DC, on October 31, 1997.

Alexis M. Herman,
Secretary of Labor.

[FR Doc. 97-29371 Filed 11-5-97; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program: Unemployment Insurance Program Letters Interpreting Federal Unemployment Insurance Law

The Employment and Training Administration interprets Federal law requirements pertaining to unemployment compensation (UC) as part of its role in the administration of the Federal-State UC program. These interpretations are issued in Unemployment Insurance Program Letters (UIPLs) to the State Employment Security Agencies. The UIPs described below are published in the **Federal Register** in order to inform the public.

UIPL 41-97

UIPL 40-79, dated August 3, 1979, set forth the Department of Labor's position

on whether Head Start agencies are "educational institutions" for purposes of the "between and within terms denial" provisions of Section 3304(a)(6)(A) of the Federal Unemployment Tax Act (FUTA). This section of FUTA has been amended since that time. As such, questions have been raised as to whether the treatment of Head Start services has changed as a result of the amendments. UIPL 41-97 reiterates the Department's position regarding Head Start agencies and provides specific discussion of the application of the between and within terms denial to Head Start program personnel.

UIPL 44-97

The Balanced Budget Act of 1997 (BBA) and the Taxpayer Relief Act of 1997 (TPRA), both enacted on August 6, 1997, made several changes affecting the UC program. UIPL 44-97 provides information on the amendments made by the BBA and the TPRA. This UIP also discusses whether States are required to amend their UC laws regarding disclosure of UC information, Reed Act transfers, and levy on payments of UC as a result of the amendments to these Acts.

Dated: October 31, 1997.

Raymond J. Uhalde,

Acting Assistant Secretary of Labor.

U.S. Department of Labor, Employment and
Training Administration, Washington,
D.C. 20210

Classification: UI

Correspondence Symbol: TEUL

Date: 09/30/97

Rescissions: None

Expiration Date: Continuing

Directive: Unemployment Insurance Program
Letter No. 41-97

To: All State Employment Security Agencies
From: Grace A. Kilbane, Director,

Unemployment Insurance Service
Subject: Application of Between and Within
Terms Denial to Head Start Program
Personnel

1. *Purpose.* To clarify the application of the between and within terms denial provisions of Section 3304(a)(6)(A) of the Federal Unemployment Tax Act (FUTA) to Head Start program personnel.

2. *References.* Section 3304(a)(6)(A), FUTA; P.L. 94-566; P.L. 95-19, *Draft Language and Commentary to Implement the Unemployment Compensation Amendments of 1976—P.L. 94-566* and Supplement 4, 1976 *Draft Legislation*, dated August 26, 1977; Unemployment Insurance Program Letter (UIPL) No. 40-79, dated August 3, 1979; UIP No. 41-83, dated September 13, 1983; UIP No. 30-85, dated July 12, 1985; UIP No. 15-92, dated January 27, 1992; and UIP No. 43-93, dated September 13, 1993.

3. *Background.* UIP No. 40-79 set forth the Department's position on whether Head Start agencies are "educational institutions"

for purposes of the "between and within terms denial" provisions required and/or allowed by Section 3304(a)(6)(A), FUTA. Subsequent amendments to the "between and within terms denial" provisions have raised questions about whether the treatment of Head Start services has changed. This UIP reiterates the Department's position and provides specific discussion of the amendments made following the issuance of UIP 40-79.

4. *Discussion.* Section 3304(a)(6)(A), FUTA, requires, as a condition for employers in a State to receive credit against the Federal unemployment tax, that the State law provide that unemployment compensation (UC) be payable based on services to which Section 3309(a)(1), FUTA, applies, in the same amount, on the same terms, and subject to the same conditions as UC payable on the basis of other service subject to State law. The major mandates of this Section are: (1) coverage of services performed for State and local governments and their instrumentalities and nonprofit organizations as defined under Section 3309(a)(1), FUTA; (2) equal treatment in the payment of UC to employees of such entities; and (3) denial of UC based on certain educational services performed for such entities between and within academic terms. These conditions are required for employers in a State to receive credit against the Federal unemployment tax. UIP No. 43-93 describes the optional and required denial provisions in clauses (i) through (vi) of Section 3304(a)(6)(A), FUTA. The six clauses are described below:

- Clause (i) requires, unless the specified conditions are met, the denial between two successive academic years or terms based on instructional, research, and principal administrative services performed for an educational institution.

- Clause (ii) permits, under specified conditions, the between years or terms denial based on all other (i.e., "nonprofessional") services performed for an educational institution, and retroactive payment based on those services, if no work is available in the second term, and the individuals have otherwise met the eligibility requirements.

- Clause (iii) requires the within terms denial of benefits during an established and customary vacation period or holiday recess based on all services performed for an educational institution.

- Clause (iv) requires the between and within terms denial of benefits based on all services performed in an educational institution while in the employ of an educational service agency (ESA).

- Clause (v) permits the State to implement the denial provisions of (i) through (iv) for services performed by governmental entities or nonprofit organizations if such services are provided to or on behalf of an educational institution.

- Clause (vi) permits the State to make the between and within terms denial provisions of clauses (iii) and (iv) optional based on the "nonprofessional" services described in clause (ii).

5. *Interpretation and Application.* The between and within terms denial provisions apply only to services performed (1) for an educational institution, (2) in an educational