

1980's Solvency Laws

Background: In the 1980's, a high number of borrowing states led Congress to enact three major pieces of legislation: (1) the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) provided some fiscal relief to states; (2) the Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248) increase unemployment taxes; and (3) the Social Security Amendments of 1983 (P.L. 98-21) provided financial incentives for States to correct their fiscal imbalances. In response to these laws, significant State UI law changes occurred that temporarily corrected the fiscal imbalances faced by most states. Below are explanations of the changes made by the three laws with regard to trust fund solvency.

P.L. 97-35, approved August 13, 1981 (HR 3982), Omnibus Budget Reconciliation Act of 1981

Creates the FUTA Credit Reduction Cap: For any taxable year beginning with 1981, provides a cap on credit reductions at the higher of 0.6 or the rate for the State's rate for the prior year if certain requirements are met. See handout on FUTA Credit Reductions for explanation of requirements. The cap was made permanent under the Social Security Amendments of 1983.

Interest on Loans: Makes interest payable on loans made after 1982.

P.L. 97-248, approved September 3, 1982 (HR 4961), Tax Equity and Fiscal Responsibility Act of 1982(TEFRA)

Increases the FUTA Taxable Wage Base: Increases the FUTA wage base of individual annual earnings paid by an employer from \$6,000 to \$7,000. This requires each State, for its employers to qualify for FUTA tax credit on \$7,000, to have a taxable wage base of at least that amount. (Effective date: January 1, 1983)

Increases the FUTA Tax Rate: Increases gross FUTA tax from 3.5 to 6.2 percent. This includes a permanent tax of 0.6 percent plus a temporary 0.2 percent that continues in effect until all general revenue advances to the Federal Extended Unemployment Compensation Account (EUCA) have been repaid. The offset credit for State employers increases to 5.4 percent, so that the net Federal tax rate remains at 0.8 percent until the EUCA account has repaid all general revenue advances; at such time it drops to 0.6 percent. State experience rating schedules are required to have a maximum rate of at least 5.4 percent.

FUTA Credit Reduction Waiver: Permits States to make repayments on loans from State trust fund accounts in lieu of further reductions in credit against the gross FUTA tax if certain requirements are met (called waiver). See handout on FUTA Credit Reductions for explanation of requirements.

Eliminates Additional FUTA Credit Reduction: Eliminates, for qualified State, an additional credit reduction based on State's previous 5-year cost rate that began in the fifth year a State was subject to annual reductions in credit against FUTA because of outstanding loans. Applies to a debtor State in any tax year beginning after December 31, 1982, in which the State has taken no action during the 12-month period ending on September 30 which reduced the solvency of the State trust fund. (Effective: for tax years beginning after December 31, 1982).

P.L. 98-21, approved April 20, 1983 (HR 1900), Social Security Amendments of 1983

Interest Deferral: Interest can be deferred (for interest accrued in FY's 1983, 1984, 1985) and paid off in four installments of 25 percent increments in future years under the following conditions:

- o No reduction in a State's tax effort or trust fund solvency, and either the State has reduced benefits and increased taxes by at least 25% or for FY 1982;
- o State UI tax revenues equal at least 2 percent of total wages of covered employers.

Interest Delay: Interest can be delayed up to 9 months if the State's TUR in any calendar year after 1982 is 13.5% or higher. Changes the date for payment of interest from the first day of the next fiscal year to before the first day of the next fiscal year.

Reduced Interest: A discounted interest rate (1 percent less than the rate that would otherwise apply) is available to a State whose tax-increase/benefit-reduction is greater than that required for the deferred interest.

Partial Cap Credit Reductions: Certain special lower credit reductions are authorized for tax years 1983, 1984, and 1985 liabilities for States who failed to qualify for the requirements for the total cap but who met at least 2 of the 4 requirements for the cap.

Redefines Average Employer Contribution Rate: to include all of a State's taxable wages, rather than only the Federal taxable wage, in determining a State's average tax rate, in order to more accurately reflect a State's tax effort, and the fact that many States have wage bases above the Federal base. (Effective for taxable years beginning with 1983).