

IMPORTANT FOR ALL EMPLOYERS: FUTA PAYROLL TAX

July 5, 2011

Beginning July 1, the 0.2% federal unemployment tax (FUTA) surtax is no longer in effect. The surtax was part of the 6.2% gross unemployment tax rate that employers pay on the first \$7,000 of wages paid annually to each employee (6% permanent tax rate, 0.2% temporary surtax). The surtax had been in effect in every year since 1976, when it was enacted by Congress on a temporary basis. The FUTA tax rate, before consideration of state unemployment tax credits, is 6.0%, *effective July 1, 2011*.

So what does this mean for employers? As the IRS noted on its June 2 payroll industry conference call employers need to separately track FUTA taxable wages paid before July 1, and FUTA taxable wages paid after June 30, since the FUTA tax rates are different during those two periods. Employers whose FUTA tax is more than \$500 for the calendar year need to make quarterly FUTA deposits. The next quarterly payment is due on July 31, but that payment is based on taxable wages earned through June 30, so it will be computed using the 6.2% FUTA tax rate. However, the payment after that is due on Oct. 31, 2011, and it may be computed using the 6.0% FUTA tax rate if legislation is not enacted to retroactively reinstate the FUTA surtax beginning July 1, 2011. On an IRS conference call, Shelley Dockstader, National Account Manager in IRS Electronic Tax Administration, said that the IRS would have some mechanism in place under which an employer would not be assessed deposit penalties if it computed its unemployment tax deposits at a 6.0% rate, and legislation was enacted after that date to retroactively reinstate the surtax (see RIA Payroll Guide Newsletter 05/27/2011).

The IRS is working on revising Form 940, *Employer's Annual Federal Unemployment (FUTA) Tax Return*, to take into account the elimination of the surtax. That return must be filed in January 2012.

There have been mixed signals from Washington on whether legislation will be introduced to retroactively reinstate the surtax.