



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

21.7.3

AUGUST 22, 2023

EFFECTIVE DATE

(10-01-2023)

PURPOSE

- (1) This transmits revised IRM 21.7.3, Business Tax Returns and Non-Master File Accounts, Unemployment Taxes.

MATERIAL CHANGES

- (1) This IRM was revised to reflect the following changes:

IRM Subsection	Description
21.7.3.4.10(2)	IPU 22U1113 issued 11-23-2022 IRM Updated table with 2022 credit reduction data
Exhibit 21.7.3-1	IPU 22U1113 issued 11-23-2022 Updated table with the 2022 state unemployment insurance taxable wage base

EFFECT ON OTHER DOCUMENTS

IRM 21.7.3 dated September 2, 2022 (effective October 1, 2022) is superseded. The following IRM Procedural Updates (IPU) have been incorporated into this IRM: 22U1113 issued Nov. 23, 2023.

AUDIENCE

Wage and Investment employees in Customer Account Service who resolve issues involving unemployment returns.

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Director, Accounts Management
Wage and Investment Division

21.7.3

Unemployment Taxes

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21.7.3.1
(08-23-2021)
Program Scope and Objectives

- (1) This section contains information on Business Master File (BMF) accounts related to the Federal Unemployment Tax Act (FUTA).
- (2) **Purpose:** The procedures in this IRM are a translation of a variety of legal and administrative authorities into practical guidance for the Customer Service Representatives and Tax Examining Assistants who work taxpayer inquiries (in-person, paper, and phone) and tax account issues regarding unemployment taxes.
- (3) **Audience:** The primary users of this IRM are Customer Service Representatives and Tax Examining Assistants who work unemployment tax program inquiries.
- (4) **Policy Owner:** The policy owner is the Director, Accounts Management, Wage and Investment Division.
- (5) **Program Owner:** The program owner is Wage and Investment, Accounts Management, Policy and Procedures BMF.
- (6) **Primary Stakeholders:** The primary stakeholders are Wage and Investment (W&I), Small Business Self Employed (SBSE), and Large Business and International (LB&I).
- (7) **Program Goals:** The BMF sites strive to maintain integrity, quality, and excellence in the service provided taxpayers by making every effort to achieve a high customer accuracy and efficiency rate. The unemployment tax program goals are included with other BMF inventory production goals published in the annual Accounts Management Program Letter.

21.7.3.1.1
(08-23-2021)
Background

- (1) The Federal Unemployment Tax Act (FUTA) provides for cooperation between states and the federal government in the establishment and administration of unemployment insurance. Unemployment insurance is a system which provides benefits for unemployed workers. Unemployment taxes, which are paid to federal and state governments by covered employers, subsidize state administered unemployment insurance programs and create a fund that is used to pay unemployment benefits to unemployed workers.
- (2) Employees in the Accounts Management (AM) and Field Assistance (FA) organizations respond to taxpayer inquiries (in-person, phone, and paper) as well as claims, certain applications, internal requests, and transcripts related to Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return.

21.7.3.1.2
(08-23-2021)
Authority

- (1) In addition to all official guidance on general tax matters, the administration of the unemployment tax discussed in this IRM is based primarily on tax law provisions found under U.S. Code, Title 26, Internal Revenue Code, Subtitle C, Chapter 23, Federal Unemployment Tax Act (Section 3301 through Section 3311), and related regulations, treasury decisions, revenue procedures, revenue rulings, notices, tax forms and instructions, and publications.
- (2) IRM 1.2.1.13, Servicewide Policies and Authorities, Policy Statements for Customer Account Services Activities, contains the Policy Statements which relate to Customer Account Services activities. The following are used by this program:
 - Policy Statement 21-1 (Formerly P-6-1) - Service commitment to Taxpayer Service Program

- Policy Statement 21-2 (Formerly P-6-10) - The public impact of clarity, consistency, and impartiality in dealing with tax problems must be given high priority
- Policy Statement 21-3 (Formerly P-6-12) - Timeliness and Quality of Taxpayer Correspondence
- Policy Statement 21-4 (Formerly P-6-13) - One-stop service defined
- Policy Statement 21-5 (Formerly P-6-40) - Assistance furnished to taxpayers in the correction of accounts

21.7.3.1.3
(08-23-2021)
**Roles and
Responsibilities**

- (1) The Director of Accounts Management has oversight responsibility for this IRM.
- (2) Accounts Management Policy and Procedures BMF (PPB) has responsibility for this IRM content which issues guidance to employees who assist taxpayers with resolving account issues and processing amended returns. These procedures include Internal Data Retrieval System (IDRS) input instructions. This IRM is published on an annual basis.
- (3) Site management officials are responsible for providing daily program support through quality review, training, timely communication of procedural changes within the program, and elevation of guidance gaps.
- (4) Employees working the program are responsible for following IRM guidance, completing assigned training, reviewing updates during read time, and reporting guidance gaps to management.

21.7.3.1.4
(08-23-2021)
**Program Management
and Review**

- (1) Program management and review is essential for achieving the program goals identified in the Accounts Management Program Letter. The program effectiveness is determined by employees successfully using IRM guidance to perform necessary account actions and duties. The unemployment tax inventory is combined with other BMF inventory streams and randomly selected for review. Centralized Evaluative Review (CER) and site managers set the review allocation, so the employee receives a balance of phone and paper reviews relative to an employee's work assignments.
- (2) The program monitoring and work reviews are performed for the following reasons:
 - To make an objective assessment of an employee's performance on an ongoing basis and to ensure that adequate information is available for mid-year and annual appraisals
 - To protect the rights of customers
 - To identify error trends and training needs
- (3) Centralized Evaluative Review (CER) conduct quality telephone reviews through Verint and correspondence reviews through the Correspondence Imaging Inventory (CII).
- (4) Site managers conduct the following types of reviews:
 - Inventory Management using the CCA 4243, IDRS Automated Age Listing (AAL) and CCA 4244, IDRS Multiple Case Control Listing. Aged listings are available on the Control-D/Web Access server, which has a login program control.
 - IDRS Security Reviews

- Performance reviews on effective case and call resolution according to IRM guidelines.
- Side-by-side non-evaluative reviews for skill development.
- Reviews of closed cases for both accuracy and productivity to determine if work is being closed in an efficient and effective manner.
- Workload reviews to assess whether the amount of time being spent is commensurate with the complexity and type of work.
- Reviews of cases currently in process to ensure that inventory is being closed according to received date and that cases are not necessarily suspended.

21.7.3.1.5
(08-23-2021)
Program Controls

- (1) The unemployment tax inventory is combined with other BMF inventory streams and subject to Accounts Management enterprise controls. This program is included with all BMF management reviews and operational reviews.
- (2) Accounts Management uses the Embedded Quality Review Program to review closed case work. The Quality Review process provides a method to monitor, measure, and improve the quality of work. Quality Review data is used to provide quality statistics for the IRS's Business Results portion of the Balanced Measures, and/or to identify trends, problem areas, training needs, and opportunities for improvement.
- (3) Centralized Quality Review System (CQRS) is operated by the Joint Operations Center (JOC) to provide independent quality review services for all product lines.
- (4) Local reviews are performed to focus attention on program that require improvement. The local quality reviews are performed by staffs reporting to the Quality Assurance Manager, Corrective and Preventative Action System Manager (CPAS), or other units that have quality assurance duties. Local quality reviews are also used for employee development and on-the-job instruction.
- (5) Quality Review data is used by management to provide a basis for measuring and improving program effectiveness by identifying:
 - Defect(s) resulting from site or systemic action(s) or inaction(s)
 - Driver(s) of customer accuracy
 - Reason(s) for defect occurrence
 - Defect trends
 - Recommendation(s) for corrective action
 - Training needs

21.7.3.1.6
(10-01-2019)
**Terms/Definitions/
Acronyms**

- (1) The ReferenceNet Legal and Tax Research Service page provides an *Acronym Database* to research acronyms found within this IRM.
- (2) All but the most common acronyms found in this IRM are spelled out when they are used for the first time in a subsection. The following table provides some common acronyms:

Acronym	Description
BMF	Business Master File

Acronym	Description
CCC	Computer Condition Code
CII	Correspondence Imaging Inventory
CSR	Customer Service Representative
EFT	Electronic Federal Transfer
EFTPS	Electronic Federal Tax Payment System
EUP	Employee User Portal
FCP	FUTA Case Processing
FTD	Federal Tax Deposit
FUTA	Federal Unemployment Tax Act
MeF	Modernized E-File
ROFTL	Record of Federal Tax Liability
TAS	Taxpayer Advocate Services

21.7.3.1.7
(08-23-2021)

Related Resources

- (1) IRM 21.2.2-2, Accounts Management Mandated IAT Tools
- (2) IRM 4.19.5, Certification of State Federal Unemployment Tax Act (FUTA) Credits
- (3) Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return
- (4) *Instructions for Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return*
- (5) Publication 15, Circular E, Employer's Tax Guide
- (6) Publication 51, Circular A, Agricultural Employer's Tax Guide
- (7) Accounts Management *Case Management Guidelines* Job Aid

21.7.3.2
(08-23-2021)

Unemployment Taxes Overview

- (1) The Federal Unemployment Tax Act (FUTA) provides for cooperation between states and the federal government in the establishment and administration of unemployment insurance. Unemployment insurance is a system which provides benefits for unemployed workers. Unemployment taxes, which are paid to federal and state governments by covered employers, subsidize state administered unemployment insurance programs and create a fund that is used to pay unemployment benefits to unemployed workers.
- (2) This IRM section contains instructions for adjusting Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return, tax accounts and requesting manual credit certification from state agencies. Only the first \$7,000 paid to each employee is subject to FUTA tax. The FUTA tax applies to payments such as:
 - Salaries
 - Wages

- Commissions
- Fees
- Bonuses
- Vacation allowances
- Amounts paid to temporary or part-time employees
- Value of goods, lodging, food, clothing, and other non-cash fringe benefits if not excludable per IRC 3306 (b)(13), IRC 3306 (b)(14), or IRC 3306 (b)(16)

- (3) When taxpayer contact meets the Taxpayer Advocate Service (TAS) criteria (see IRM 13.1.7, Taxpayer Advocate Service (TAS) Case Criteria) and we are unable to resolve the taxpayer's issue the same day, refer the taxpayer to TAS. The definition of "same day" is within 24 hours. "Same day" cases include cases you can completely resolve in 24 hours as well as cases in which you have taken steps within 24 hours to begin resolving the taxpayer's issue (see IRM 13.1.7.6, Same Day Resolution by Operations). Do not refer cases to TAS unless they meet TAS criteria or the taxpayer asks for TAS assistance. The Form 911, Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance Order), is used to forward cases to TAS. If a taxpayer prefers to contact TAS directly, provide the TAS toll-free number 877-777-4778.

Note: All IRS employees must be familiar with TAS criteria and the Taxpayer Bill of Rights (TBOR). For more information about TBOR, refer to Pub 1, Your Rights as a Taxpayer, and the *TAS Taxpayer Bill of Rights* link. The Taxpayer Bill of Rights (TBOR) lists rights that already existed in the tax code, putting them in simple language and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accord with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights.

21.7.3.3
(01-01-2005)
**Unemployment Taxes
Research**

- (1) This section provides research procedures for unemployment taxes.

21.7.3.3.1
(11-29-2017)
**Form 940 Filing
Requirements**

- (1) Form 940 is an annual return covering the period January 1 through December 31.
- a. It is due on or before January 31, following the close of the calendar year. If the employer deposits all Federal Unemployment Tax Act (FUTA) tax when due, the due date is extended until February 10, following the close of the calendar year.
 - b. The Master File Tax (MFT) is 10.
 - c. The tax class is 8. The tax class identifies amounts reported to the Treasury and transferred to various trust funds. The tax class is not used to input an adjustment.
- (2) Employers (other than agricultural or household employers) are liable to file if they meet either of the tests below:
- a. They paid wages of \$1,500 or more in any calendar quarter for the current or preceding year.
 - b. They had one or more employees (including full-time, part-time, and temporary) at any time in each of twenty calendar weeks during the current or preceding year.

- (3) Agricultural employers are liable to file if they meet either of the tests below:
- They paid cash wages of \$20,000 or more to agricultural workers in any calendar quarter in the current or preceding calendar year.
 - They employed 10 or more agricultural workers for some portion of a day during any 20 different weeks in the current or preceding calendar year.

Note: Aliens admitted to the U.S. on a temporary basis to perform farm work (H-2A Temporary Agricultural Workers) are counted to determine if one of the two (agricultural employer) tests set forth above are satisfied. Wages paid to H-2A workers are exempt from FUTA tax.

- (4) Household employers are liable if they paid \$1,000 or more in any calendar quarter during the current or preceding year for work in:
- A private home
 - A local college club
 - A local chapter of a college fraternity or sorority

Note: To report FUTA tax, household employers must file Schedule H (Form 1040) with their Form 1040 series return, unless they have other non-household employees, in which case the employer may include the household employees' FUTA tax on Form 940 instead. If household employees are included on Form 940, the employer must file the appropriate employment tax return (e.g., Form 941, Employer's Quarterly Federal Tax Return, Form 943, Employer's Annual Tax Return for Agricultural Employees, or Form 944, Employer's Annual Federal Tax Return) to report the household employees' social security, Medicare, and withheld federal income taxes. If a trust is a household employer, the trust must file Schedule H (Form 1040) with Form 1041, unless it has other non-household employees, in which case the trust may include the household employees' FUTA taxes on Form 940 and report their social security, Medicare, and any withheld federal income taxes on Form 941, Form 943 and/or Form 944, respectively.

21.7.3.3.2
(10-01-2015)
**Deposit Requirements
and Payments (Form
940)**

- (1) For deposit requirements see:
- Publication 15, Circular E, Employer's Tax Guide
 - Publication 51, Circular A, Agricultural Employer's Tax Guide
 - Instructions for Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return*
 - IRM 20.1.4.9, Form 940 Deposit Rules
- (2) The Federal Unemployment Tax Act (FUTA) threshold to carry a quarterly tax liability to the next quarter is \$500.
- (3) Form 940 balance due payments, including balances that are up to 10 years past due, can be made by phone or by using a credit card online. Payments can be made through several authorized third-party service providers who can obtain credit authorization during the transaction and provide a confirmation number as proof of payment. For specific information on business payments made by credit card, see IRM 21.2.1.48.6(7), Credit or Debit Card Payments (Pay by Phone or Internet).

Reminder: A credit card cannot be used to submit a Federal Tax Deposit (FTD). Taxpayers currently required to make a FTD must use one of the

available Electronic Funds Transfer (EFT) deposit systems. See IRM 20.1.4.2.2, Authorized Deposit Methods, and IRM 21.2.1.47, Electronic Federal Tax Payment System (EFTPS), for more information.

- 21.7.3.3.3
(01-01-2006)
Wages Subject to Federal Unemployment Tax Act (FUTA) Tax
- (1) In arriving at the taxable wages subject to FUTA tax, the taxpayer subtracts the following amounts from the total payments made to all employees:
 - Amounts paid which are exempt from FUTA tax
 - Amounts paid to each employee over \$7,000
 - (2) Information on exempt payments can be found in Form 940 Instructions, Publication 15, (Circular E), Employer's Tax Guide, and Publication 15-B, Employers Tax Guide to Fringe Benefits. Form 940 has check boxes to indicate exempt payments.
- 21.7.3.3.4
(10-01-2013)
Contributions Made to the State Unemployment Fund
- (1) Contributions are payments which state laws require employers to make to an unemployment fund. These payments are sometimes referred to as "state unemployment taxes" and are contributions only to the extent they are not deducted from the employee's pay.
 - (2) An employer is permitted to use state unemployment tax contributions as an offset against the federal unemployment tax as a normal credit. Any timely contributions (made by the due date of Form 940) to the state (including the District of Columbia, Puerto Rico, and the U.S. Virgin Islands) unemployment fund increases this credit, which reduces the tax rate on Form 940.
- 21.7.3.3.5
(01-01-2007)
Experience Rates for Additional Credit
- (1) Employers are assigned experience rates by the state in which they do business.
 - a. The rate is determined by the unemployment record of each employer and is the percentage at which contributions are made to the state unemployment fund.
 - b. Employers who stabilize employment are rewarded in the form of reduced experience rates.
 - (2) The contributions paid according to the state employment insurance laws can be credited against the employer's federal unemployment tax. The credit is limited to 5.4 percent of the federal taxable wages.
- 21.7.3.3.6
(10-01-2013)
Federal Tax Rate - Federal Unemployment Tax Act (FUTA)
- (1) Employers pay FUTA on the first \$7,000 of each employee's annual wages. The maximum FUTA tax rate is 6.0 percent (.060).
 - (2) An employer is allowed two kinds of credit against FUTA tax.
 - Normal credit, based on contributions
 - Additional credit, based on experience rate
- 21.7.3.3.7
(10-01-2012)
Successor Employer - Computer Condition Code (CCC) "5"
- (1) If the taxpayer checks box "b" on Form 940 or Form 940 (PR), Code and Edit codes the return with a CCC "5" indicating the taxpayer is a successor employer.

- (2) This designation indicates the employer is entitled to certain credits based on payments made by the predecessor employer. Refer to Publication 15, (Circular E), Employer's Tax Guide, for more information.

21.7.3.4
(10-01-2015)

**Unemployment Taxes
Procedures**

- (1) This section contains procedures for unemployment taxes.

Reminder: This section attempts to address situations most frequently encountered when working unemployment tax issues. The guidance contained in this and other applicable IRMs cannot address every possible taxpayer inquiry. In some cases, it may be necessary to consult your lead or manager to determine the appropriate action. Elevate any issue or question that cannot be resolved at the site level or could have Service-wide impact to the appropriate Headquarters analyst with program responsibility.

21.7.3.4.1
(11-29-2017)

**Federal Unemployment
Tax Act (FUTA)
Certification Program**

- (1) The IRS uses the FUTA Certification program to determine whether Form 940 or Schedule H (Form 1040) reported state payments were paid into the appropriate state unemployment fund. There are 53 participating agencies, which includes the 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. Small Business Self Employed (SB/SE) Campus Compliance employees certify state payments (credits) using the procedures in IRM 4.19.5, Certification of State Federal Unemployment Tax Act (FUTA) Credits.
- (2) The FUTA Case Processing (FCP) system is used by the SB/SE FUTA team to reconcile cases determined to have discrepancies. The state payment data is downloaded to the FCP system and the system identifies potential tax increases and decreases. The download to the FCP system is identified by the FUTA Release Year. The October 2021 download is identified as the FUTA Release 2019.

21.7.3.4.2
(11-25-2019)

**Federal Unemployment
Tax Act (FUTA)
Certification Program -
Discrepancy Cases**

- (1) Discrepancy cases result from the computerized and manual certifications of payments to State Unemployment Insurance Agencies.
- (2) Form 940 adjustments processed under this program are recognized by the following non-refile blocking series (BS):
- 50 for Non-zero certification (when the State certifies wages/contributions)
 - 51 for Zero certification (when the State certifies no record of wages/contributions)
- (3) The program issues the following letters:
- Letter 4010C, FUTA Certification - Proposed Increase to FUTA Tax
 - Letter 4011C, FUTA Certification - Proposed Decrease to FUTA Tax
 - Letter 380C, State Certification Tax Adjustment Explained: Form 940/Schedule H
- (4) If the taxpayer received a FUTA discrepancy letter or notice and calls an Accounts Management phone application instead of contacting the FUTA contact provided in the letter or notice, follow the referral guidance under IRM 4.19.5.4.12, Customer Service Representative (CSR) Information.

- (5) Route all correspondence and amended returns (both numbered and unnumbered) regarding a FUTA assessment to:

Cincinnati FUTA Case Processing
Stop 815G
7940 Kentucky Drive
Florence, KY 41042

21.7.3.4.3
(08-23-2021)
**Manual Certification
Required/Not Required**

- (1) Manual certification is required when the transaction code (TC) 150 is an IRC 6020 (b) assessment and one of the following apply:

- a. The taxpayer is computing the tax at a rate less than the full applicable rate of 6.0 percent.
- b. The taxpayer is filing a zero return **and** BMFOLU shows wages in the **Processed (W2)** column for the TC 150 IRC 6020(b) tax period.

Note: See IRM 21.7.9.4.1.6, Duplicate Filing Conditions Involving Returns Prepared Under IRC 6020(b), for additional procedures on adjusting IRC 6020(b) accounts.

- (2) If a manual certification is required, follow local procedures to prepare Form 940-B, Request for Verification of Credit Information Shown on Form 940, and forward to your Federal Unemployment Tax Act (FUTA) liaison.

Note: The Taxpayer First Act of 2019, enacted August 15, 2019, states the IRS must notify taxpayers in advance that we may contact third parties to help resolve their accounts. Contacts with any office of any governmental entity are exempt except for contacts concerning the taxpayer's business with the government office contacted, such as the taxpayer's contracts with or employment by the office. This is a rare occurrence for manual certification requests. If the taxpayer is an employee or contractor with the state, review the guidance under IRM 5.19.5.13, Notification of Third Party Contact, to determine whether to report the third-party contact.

- (3) Manual certification is not required when the transaction code (TC) 150 is an IRC 6020(b) assessment **and**
- a. The taxpayer is computing the tax at the full applicable rate.
OR
 - b. The taxpayer is filing a zero return **and** a TC 599 CC 008 (closed unagreed) is posted on the tax module **and** CC BMFOLU does not show wages in the **Processed (W2)** column for that period. If the tax period is not found under CC BMFOLU, use CC IRPTR1 to determine whether Forms W-2 were processed for the tax period.
OR
 - c. The taxpayer is filing a zero return **and** a signed internal request is received from an area office (e.g., from a revenue officer) stating the taxpayer was out of business for the entire tax year(s) of the IRC 6020(b) assessment(s).
- (4) If a manual certification is not required, input the adjustment using established procedures.

21.7.3.4.3.1
(02-23-2016)

**Federal Unemployment
Tax Act (FUTA) Liaison
Responsibilities**

- (1) When taxpayers are contacted by the Automated 6020B Program, the notification provides response instructions. If the taxpayer doesn't agree with the proposal, they have 45 days to prepare tax returns that show the taxpayer's correct tax liability. If the taxpayer files a Form 940 claiming a reduced rate of assessment, they **must** attach a copy of the state certification showing the contributions paid to the state.
- (2) If the certification is not attached, the IRS attempts to secure a certification as a customer service courtesy. Currently, the IRS system security cannot allow email delivery from a state agency. The certification must be faxed or mailed to the IRS. The preferred delivery method is fax. Designated employees act as liaisons between the IRS and State Labor Department Agencies or Workforce Commissions. These employees are responsible for submitting the completed Form 940-B for certification.
- (3) Liaisons use the following guidelines for initial and subsequent requests.

If	Then
Initial request	Allow 30 calendar days for response
No response after 1st request	Notate on Form 940-B 2nd request and resubmit. Allow 14 calendar days for response.
No response after 2nd request	Contact the agency representative by phone for certification. Contact information can be found on Servicewide Electronic Research Program (SERP), on the Who/Where tab listed as follows: <i>State Labor Department Form 940 Certification Contacts</i> . Inform the contact of your previous requests and allow three workdays for the requested information.
The state wants to email the certification	Inform the state employee that the IRS can't accept an email response and request the certification by fax. Suspend the case an additional seven workdays.
The state wants to mail the certification via the U.S. Postal Service	Inform the state we prefer a fax response; however, we can accept a certification by mail. Suspend the case an additional seven workdays.
The state employee determines the IRS liaison is not authorized to receive the Form 940-C	Advise the state employee to send the certification to the taxpayer with instructions to fax the certification to the IRS.
60 days has elapsed since the initial request	Notate the Form 940-B as a No Response . Note: Ensure the Correspondence Imaging Inventory (CII) History Notes indicate the IRS made 3 attempts to secure the recertification from the state(s).

- (4) When the recertification is received from the State or a Form 940-B is notated **No Response**, forward it to the initial requestor for case resolution. See IRM 21.7.3.4.8, Claims and Requests for Adjustments (Form 940), for additional information.

- (5) When the case involves multiple states and there are several no responses after the time frame in paragraph two above, we are unable to adjust the taxpayer's tax liability until all the state certifications are received for review. The liaison takes the following actions:
 - Update the CII History Notes to identify the missing states.
 - Return the case to the initial requestor and advise the case is not workable due to **No Response/Multiple States**.
- (6) If there is a trend of no response from a state, report the issue to Accounts Management Headquarters through the campus Planning and Analysis staff.

21.7.3.4.4
(10-01-2013)
**Additional Credit
Computation**

- (1) Employers who have been granted a state experience rate lower than 5.4 percent by a state for all or part of a year are entitled to an "additional credit." The additional credit is equal to the difference between:
 - a. Maximum allowable federal credit (taxable federal wages times the federal credit rate) **and**,
 - b. State taxable wages multiplied by the employer's experience rate, if rate is less than maximum federal credit rate
- (2) Credit for contributions paid late (after the due date of the Form 940) is limited to 90 percent of the amount which would have been allowed as a credit for such contributions if such contributions were paid by Form 940 due date.
- (3) A worksheet is provided in the Form 940 instructions. The worksheet is used to compute the credit if some of the wages paid by the employer were not subject to state unemployment tax or if the employer paid any state unemployment tax late.

21.7.3.4.5
(11-29-2017)
Multiple State Cases

- (1) If taxable Federal Unemployment Tax Act (FUTA) wages were paid to employees in more than one state, Form 940 filers must complete and file Schedule A, Multi-State Employer and Credit Reduction Information. The Schedule A is also used to report wages paid in any state subject to credit reduction. See IRM 21.7.3.4.10, Credit Reduction States, for additional information.
- (2) The tax liability for multiple state cases is computed the same as single state cases; however, the additional credit is computed for each individual state. See IRM 21.7.3.4.4, Additional Credit Computation, for computation procedures. After the tax liability is computed for each individual state, the results are combined into one amount and only one tax item reference code is used to adjust the tax liability. The primary state is used to adjust the tax. IRM 21.7.3.4.7, Item Reference Codes (Form 940), provides item reference code determination guidance.
- (3) The primary state wage item reference code is used for all wages not associated with a credit reduction state. The **wages** of a credit reduction state **must** always be adjusted for the exact amount of the change. When the credit reduction state wages have been adjusted and there are left-over wages, the left-over wages are adjusted under the primary state wage item reference code. If unable to determine the primary state, adjust the state indicating the highest wages paid. If unable to determine the state with the highest wages paid, adjust the state listed on the address of record. If the primary state, the

state indicating the highest wages paid, and the state listed as the address of record are all credit reduction states, then adjust wages of any state shown on the Schedule A that is not a credit reduction state.

Example: The State of California is a 2017 credit reduction state. The taxpayer is amending total wages by \$30,000. There were \$10,000 paid in the State of California. The account indicates Nevada is the primary state. The item reference codes for the wages are: WCA for \$10,000 and WNV for \$20,000. The primary state of Nevada is used for the tax change using item reference code TNV.

Reminder: Recertification is obtained from each state when it meets the criteria in IRM 21.7.3.4.3(1), Manual Certification Required/Not Required.

21.7.3.4.6
(10-09-2015)
Aggregate Returns

- (1) Only agents of home care service recipients authorized under IRC 3504 may file an aggregate Form 940. See Rev. Proc. 2013-39 and IRB 2013-52 for additional information.

Note: To request authorization to act as an agent for an employer, Form 2678, Employer/Payer Appointment of Agent, is filed with the IRS.

- (2) Some aggregate returns are distinguished by showing the following in the entity area or noted on the tax return:

- “State”
- “City”
- “County”
- “Notice 2003-70”
- “Fiscal Agent”
- “Fiscal Intermediary”
- “Employer Agent”
- “Choreworkers”

See IRM 3.11.154.3.16 , Aggregate Form 940 Returns, for additional information.

- (3) Beginning with the annual Form 940 for 2010, aggregate filers must complete *Schedule R (Form 940)*, Allocation Schedule for Aggregate Form 940 Filers, and submit with the Form 940. See the following subsection for additional information regarding the Form 940 (Schedule R).

21.7.3.4.6.1
(11-29-2017)
**Schedule R (Form 940):
Allocation Schedule for
Aggregate Form 940
Filers**

- (1) The IRS has developed *Schedule R (Form 940)*, Allocation Schedule for Aggregate Form 940 Filers, that allocates the aggregate wage, tax, credit, deposit, and payment amounts reported on Form 940.
- (2) Schedule R provides the IRS with client-specific information to support the totals reported by an agent on the aggregate return. It includes an allocation line for each client showing a breakdown of its wages and tax liability for the tax period. The instructions for each Schedule R explain all the information a “Section 3504 Agent” must provide with respect to each client reported on the aggregate form. When a Form 940 is processed and a Schedule R (Form 940) is attached, a Schedule R Indicator (SRI) is posted to master file.

- (3) If a taxpayer filed a Schedule R (Form 940) with the original return and a correction is necessary, then a revised Schedule R (Form 940) is required with

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Note: If a taxpayer is required to file a Schedule R (Form 940) and does not do so with the original return, the taxpayer may submit another Form 940 with a Schedule R (Form 940) attached, which may create a Transcript (TRNS) 193. If so, follow existing procedures in IRM 21.7.9, BMF Duplicate Filing Conditions.

- (4) The chart below indicates procedures for most Schedule R inquiries:

If	And	Then
Loose Schedule R is received	The original return has posted (regardless if a Schedule R indicator is present)	No additional action is needed. Note: If working a Correspondence Imaging Inventory (CII) case, add a case note to identify the loose schedule and close the CII case.
Loose Schedule R is received	The original return has not posted and the original processing time for Form 940 has not elapsed	Suspend loose schedule pending posting of original return. See IRM 21.3.3.5.2, Loose Forms/Schedules, for more information.

If	And	Then
Loose Schedule R is received	The original return has not posted and the original processing time for Form 940 has elapsed	Contact taxpayer preferably by phone, to obtain a signed copy of the original return and suspend case for 40 days. a. If the taxpayer replies with a copy of the original return, process accordingly. b. If the taxpayer does not reply, reject the Schedule R back to the taxpayer requesting the original Form 940 (and accompanying Schedule R) be filed.
Loose paper Schedule R is received	There is not enough information to identify the taxpayer or scan into CII	Destroy the loose paper Schedule R.

21.7.3.4.7
(10-09-2015)

**Item Reference Codes
(Form 940)**

- (1) All increases and decreases in tax must have item reference codes showing the tax associated with the state where the adjustment is indicated.
 - a. The tax item reference code amount must equal the TC 29X tax adjustment.
 - b. The three-digit item reference code for the tax portion of the adjustment is comprised of a "T" followed by the two-digit state code.
- (2) If adjustment is due to an increase or decrease in wages, an item reference code for wages is also required. The three-digit item reference code for the wage portion is comprised of "W" followed by the two-digit state code.
- (3) If more than one state is involved, input the adjustment using the primary state. If unable to determine the primary state, adjust the state which indicates the highest wages paid. If unable to determine the state with highest wages paid, adjust the state listed on the address of record. Caution is used however, if any of the states being amended were a credit reduction state for that particular tax year. In that case, each credit reduction state **wage** adjustment must be input. See IRM 21.7.3.4.5, Multiple State Cases, for an example.
- (4) If no increase or decrease to tax or wages is made, item reference codes are not needed.

- 21.7.3.4.8 (03-19-2020) (1) Consider prior adjustments on the account and follow the guidance under IRM 21.5.3.4, General Claim Procedures.

Claims and Requests for Adjustments (Form 940)

Reminder: Statute year claims require careful review. IRM 21.5.3.4.3, Tax Decrease and Statute Consideration, provides additional detail.

- (2) Process responses to manual certification requests as follows:

If	Then
Certification request indicates no payments were made to the state	Do not adjust to taxpayer's figures. Input TC 290 .00 to release the -A freeze and send Letter 380C, State Certification Tax Adjustment Explained: Form 940, to inform the taxpayer the State could not verify the reported contributions.
Certification request indicates payments were made to the state	Complete the worksheet in the Form 940 instructions to verify the correct tax and adjust accordingly. See IRM 21.7.9.4.1.6, Duplicate Filing Conditions Involving Returns Prepared Under IRC 6020(b), for guidance regarding 6020(b) cases. If the adjustment is different than what the taxpayer expected, correspond with Letter 380C explaining the changes.

If	Then
<p>The campus FUTA Liaison notates the Form 940-B with No Response or the case file as not workable due to No Response / Multiple States</p>	<p>Do not adjust to the taxpayer's figures. Close the case by releasing the -A freeze, uploading the received Form 940-C documents to the Correspondence Imaging Inventory (CII) case file, and sending a Letter 380C informing the taxpayer:</p> <ul style="list-style-type: none"> • The IRS contacted each state reported on the Form 940 and requested a state certification showing the contributions paid to the state. • Since we did not receive a response from the state(s) of [insert missing state(s)], we are unable to adjust the tax liability based on the tax return. • The taxpayer may request a state certification from the missing state(s). • If the missing state certifications are sent to the IRS by fax or mail, we will review them and make the appropriate changes to the tax liability. <p>Note: Before closing the case as not workable, review the account history to determine whether the Federal Unemployment Tax Act (FUTA) liaison received any of the missing state certifications.</p>

- (3) Interest on a refund is not allowable when taxpayer reduces the tax because of an increase in state credits.
- Input a TC 291 with a secondary TC 770 .00 to restrict credit interest.
 - Only input TC 770 .00 when there is a decrease to tax and no change to wages.

Note: See IRC 6413(d) for additional information.

- (4) Since master file is only able to compute a failure to deposit (FTD) penalty on the initial Record of Federal Tax Liability (ROFTL) supplied with the original return (Form 940, Part 5), we must determine whether a FTD penalty is appli-

cable whenever an amended/supplemental return is filed or when a revised ROFTL schedule is submitted by the taxpayer. The new ROFTL requires a manual recalculation and update of the penalty. If deposits are made late, not made in sufficient amounts, made directly to the IRS (e.g., sending a check with a tax return or paying by credit card), or not made using EFT, a FTD penalty may be imposed on the module. IRM 20.1.4, Failure to Deposit Penalty, provides Form 940 deposit requirements, penalty calculation guidance using Command Code FTDPN, and instructions for using transaction code 18X to assess or adjust a FTD penalty.

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21.7.3.4.8.1

(11-25-2019)

Claims Involving Indian Tribal Governments

- (1) Under current law, federally recognized Indian tribal governments (ITG) and their subdivisions, subsidiaries, and wholly-owned business enterprises are exempt from Federal Unemployment Tax Act (FUTA) and can elect to participate in a state unemployment fund (SUTA), or in a reimbursement program. The SUTA exemption is an entity-by-entity election. If an election is made, the entity is exempt from FUTA only if it is a full participant in SUTA or in a reimbursement option with the state, and all SUTA liabilities are fully paid. See Announcement 2001-16, 2001-I C.B.715.

21.7.3.4.8.2

(01-01-2005)

Railroad Retirement Board (RRB) Determinations

- (1) If an amended Form 940 mentions RRB determinations, see IRM 21.7.2.6.5.8, RRB Employer Status Determinations.

21.7.3.4.8.3

(05-19-2021)

Exempt Organization (EO) and Government Agency Tax-Exempt Inquiries

- (1) IRC 501(a) non-profit organizations exempt from Federal Unemployment (FUTA) tax are assigned an Employment Code (EC) W. State and local government agencies not subject to FUTA tax are assigned an EC G. The EC is verified with Command Codes ENMOD and BMFOLE.
- (2) Per IRM 21.7.7.6.21, FUTA Tax and Exempt Organizations, paragraph (5), the EO Accounts function refers Form 940 Employment Code W abatement requests to the Ogden Accounts Management Campus.
- (3) If an organization submits correspondence or an amended Form 940 saying it is exempt from filing and paying the FUTA tax liability, verify the EC and take the following action:

If	And	Then
The EC is G, T, or W	The tax module reports tax assessed (TC 150) and taxable wages,	<ol style="list-style-type: none"> 1. Abate the FUTA tax assessed and remove the taxable wages. Follow normal adjustment procedures. 2. Delete the Form 940 filing requirements. 3. Issue Letter 858C to notify the organization it is not liable to file Form 940.
The EC is G, T, or W	Deposits are posted to the tax module with no TC 150 (no tax assessment),	<ol style="list-style-type: none"> 1. Verify the deposits were submitted by the organization. 2. Delete the Form 940 filing requirements. 3. Issue a manual refund. Follow normal manual refund procedures. 4. Issue Letter 858C to notify the organization it is not liable to file Form 940.
The EC is not G, T, or W	The abatement request was initiated by EO Accounts	<ol style="list-style-type: none"> 1. Do not abate the tax liability. 2. Contact the request sender and request exempt status verification. EC verification is required by IRM 21.7.7.6.21(5), Futa and Exempt Organizations.
The EC is not G, T, or W	The organization claims an application was submitted for a determination,	<ol style="list-style-type: none"> 1. Do not abate the tax liability. 2. Contact EO Accounts through the appropriate AM P & A analyst to verify the application status. Note: Organization are not subject to FUTA tax during the application period for exempt status.

(4) If EO Accounts contact is necessary, follow the EO response guidance below:

If	And	Then
EO Accounts determined the organization is exempt	The tax module reports tax assessed (TC 150) and taxable wages,	<ol style="list-style-type: none"> 1. Abate the FUTA tax assessed and remove the taxable wages. Follow normal adjustment procedures. 2. Delete the Form 940 filing requirements. 3. Issue Letter 858C to notify the organization it is not liable to file Form 940. 4. Update the CII history to indicate EO Accounts verified the tax-exempt status of the organization and the EC will be updated.
EO Accounts determined the organization is exempt	Deposits are posted to the tax module with no TC 150 (no tax assessment),	<ol style="list-style-type: none"> 1. Verify the deposits were submitted by the organization. 2. Delete the Form 940 filing requirements. 3. Issue a manual refund. Follow normal manual refund procedures. 4. Issue Letter 858C to notify the organization it is not liable to file Form 940. 5. Update the CII history to indicate EO Accounts verified the tax-exempt status of the organization and the EC will be updated.
EO Accounts determined the organization is NOT exempt,		<ol style="list-style-type: none"> 1. Reject the adjustment request. 2. Advise the organization to contact the TE/GE toll free number 877-829-5500 to confirm or request exempt status.

21.7.3.4.9
(11-25-2019)
**Form 3465 Adjustment
Requests from Entity
(Form 940)**

- (1) Entity verifies whether taxpayer is subject to unemployment tax and forwards Form 3465, Adjustment Request, to Accounts Management (AM) for processing. See IRM 21.7.11.4.2(6), **CP 172, SC Notice Requesting Follow-up Action on Entity; CP 192, Employment Code Exempts FICA/FUTA Filing Forms 940, 941, 943; Form 3465, Adjustment Request.**
- (2) If the account Employment Code (EC) does not show a F, T, or W, contact the sender and advise the EC must be updated to the appropriate code before the requested adjustment is input by AM. The EC is displayed under Command Codes ENMOD and BMFOLE.

21.7.3.4.10
(11-23-2022)

Credit Reduction States

- (1) Employers that pay their state unemployment tax timely and in full receive a 5.4 percent credit against their Federal Unemployment Tax Act (FUTA) tax. However, the credit is reduced when a state has taken loans from the federal government to meet its state unemployment benefit liabilities and has not repaid these loans within the allowable time frame. A state that has not repaid money it has borrowed from the federal government is called a credit reduction state. The reduction is 0.3 percent for the first year and an additional 0.3 percent for each succeeding year until the loan is repaid.

Exception: States passing their fifth consecutive January 1st with an outstanding balance is subject to an additional credit reduction under FUTA 3302(c)(2)(C) (Benefit Cost Ratio (BCR) add-on). A waiver of this add-on is provided under 20 CFR 606.25 for states that meet the specified criterion.

- (2) The Department of Labor evaluates the credit reduction status of each state and jurisdiction. The credit reduction status for each state and jurisdiction is released in November prior to the Form 940 filing due date. The following table provides the current credit reduction percentages, which includes any applicable BCR.

State/Jurisdiction	Abrv	2019	2020	2021	2022
California	CA	N/A	N/A	N/A	.003
Connecticut	CT	N/A	N/A	N/A	.003
Illinois	IL	N/A	N/A	N/A	.003
New York	NY	N/A	N/A	N/A	.003
Virgin Islands	VI	.027	.030	.033	.036

Note: See IRM 3.12.154-14, Credit Reduction States and Rates, or *archived copies of IRM 21.7.3* for credit reduction states prior to 2019.

- (3) Any employer reporting wages paid in a credit reduction state/jurisdiction must use Schedule A, Form 940 to compute the tax.

Note: If there are no credits for state unemployment tax, the credit reduction is not applicable, and tax is computed at the maximum FUTA rate.

- (4) If an adjustment is the result of a change to the total taxable wages (not credit for payments made to the State), the amount shown on the return for credit reduction must also be adjusted, using the appropriate credit reduction factor for the applicable State and year.
- The reduced credit increases the federal tax liability.
 - The credit reduction portion of tax is not required to be deposited until the due date of the Form 940. See IRM 20.1.4.9, Form 940 Deposit Rules, for more information. If questioned by the taxpayer, instruct them to report the additional credit reduction amount with the fourth quarter's liability.

21.7.3.4.11
(01-01-2005)
**State Certified Wages
Less Than Federal
Taxable Wages**

- (1) When state certified wages are less than federal taxable wages reported on
1. Calculate the gross federal tax on the federal wages.
 2. Calculate the allowable state credit on the state wages.

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21.7.3.4.12
(03-10-2017)
**State Certified Wages
Exceed the Federal
Taxable Wages**

- (1) When the state taxable wages are \$4000 or more than the federal taxable wages and the state wage base is the same as the federal wage base (Exhibit 21.7.3-1, State Unemployment Insurance Taxable Wage Bases):
1. Increase the federal taxable wages to match the state taxable wages.
 2. Calculate the net tax liability (Line 10 Worksheet) with the adjusted wage amounts.
- figures.
- taxpayer an explanation with Letter 380C.

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21.7.3.4.13
(01-01-2005)
IRC 127 Claims

- (1) A minimal number of claims are received because of the permanent extension of IRC 127. Claims are allowed without requesting recertification. See IRM 21.7.2.5.9, IRC 127, Educational Exclusions, for more information.

21.7.3.4.14
(10-01-2012)
**Schedule H Federal
Unemployment Tax Act
(FUTA) Erroneously
Reported**

- (1) Some taxpayers erroneously report Federal Unemployment Tax Act (FUTA) tax on both Schedule H, Form 1040, Form 1041, and on Form 940. Others report the tax on Form 940 instead of Schedule H.
- (2) Use the table below to adjust these accounts.

If	Then
Tax is reported on both Schedule H (MFT 30/05) and Form 940 (MFT 10)	<ol style="list-style-type: none"> 1. Delete portion of FUTA tax from MFT 10. 2. Transfer any payments intended for Schedule H FUTA tax from MFT 10 to MFT 30/05. 3. Inform taxpayer of corrections made. 4. Delete filing requirements if appropriate.
Tax is reported on Form 940 only	<ol style="list-style-type: none"> 1. Leave the assessment on MFT 10. 2. If payments on MFT 30 were intended for FUTA assessment, transfer to MFT 10. 3. Abate applicable penalties and interest if the necessary payment(s) was received by <p>manually adjust penalties and interest based on the correct due date of April 15.</p>
Tax is reported on Schedule H (MFT 30/05) only	<ol style="list-style-type: none"> 1. Leave assessment on MFT 30/05. 2. If payments on MFT 10 are intended for Schedule H, transfer to MFT 30/05. 3. Delete filing requirements on MFT 10, if appropriate.

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If	Then
Tax is erroneously reported on both Form 940 and Form 941 or Form 944	See IRM 21.6.4.4.8.12, BMF Form 941, Employer's Quarterly Federal Tax Return, Filed Instead of IMF Schedule H, Household Employment Taxes.

Note: If unable to find which payments on MFT 10 or 30/05 were intended for account where assessment is being made, contact taxpayer (preferably by telephone) to determine which payments need transferred.

21.7.3.4.15
(10-01-2014)

Form 940 Electronic Filing

- (1) Information regarding Form 940 electronic filing options is provided in Pub 4163, Modernized e-File (MeF) Information for Authorized IRS e-File Providers for Business Returns, and IRM 3.42.4, IRS e-file for Business Tax Returns.
- (2) All *e-filed* Forms 940 are recognized on TXMOD by their unique Filing Location Codes (FLC)/Document Codes (Doc Codes). See IRM 3.42.4.9.2.1, Researching e-file BMF Identification Codes, paragraph (12), for more detail.
- (3) IRM 3.42.4.15, Handling e-file Inquiries, contains a list of contacts and telephone numbers which are provided to callers who need assistance with electronic filing issues.

Exhibit 21.7.3-1 (11-23-2022)

State Unemployment Insurance Taxable Wage Bases

State	2022	2021	2020	2019	
Alabama	8,000	8,000	8,000	8,000	
Alaska	45,200	43,600	41,500	39,900	
Arizona	7,000	7,000	7,000	7,000	
Arkansas	10,000	10,000	7,000	10,000	
California	7,000	7,000	7,000	7,000	
Colorado	17,000	13,600	13,600	13,100	
Connecticut	15,000	15,000	15,000	15,000	
Delaware	14,500	16,500	16,500	16,500	
District of Columbia	9,000	9,000	9,000	9,000	
Florida	7,000	7,000	7,000	7,000	
Georgia	9,500	9,500	9,500	9,500	
Hawaii	51,600	47,400	48,100	46,900	
Idaho	46,500	43,000	41,600	40,000	
Illinois	12,960	12,960	12,740	12,960	
Indiana	9,500	9,500	9,500	9,500	
Iowa	34,800	32,400	31,600	30,600	
Kansas	14,000	14,000	14,000	14,000	
Kentucky	11,100	11,100	10,800	10,500	
Louisiana	7,700	7,700	7,700	7,700	
Maine	12,000	12,000	12,000	12,000	
Maryland	8,500	8,500	8,500	8,500	
Massachusetts	15,000	15,000	15,000	15,000	
Michigan	9,500	9,500	9,000	9,000	
Minnesota	38,000	35,000	35,000	34,000	
Mississippi	14,000	14,000	14,000	14,000	
Missouri	11,000	11,000	11,500	12,000	
Montana	38,100	35,300	34,100	33,000	
Nebraska	9,000 or 24,000 for high tax group employers	9,000 or 24,000 for high tax group employers	9,000 or 24,000 for high tax group employers	9,000	

Exhibit 21.7.3-1 (Cont. 1) (11-23-2022)**State Unemployment Insurance Taxable Wage Bases**

State	2022	2021	2020	2019	
Nevada	36,600	33,400	32,500	31,200	
New Hampshire	14,000	14,000	14,000	14,000	
New Jersey	39,800	36,200	35,300	34,400	
New Mexico	28,700	27,000	25,800	24,800	
New York	12,000	11,800	11,600	11,400	
North Carolina	28,000	26,000	25,200	24,300	
North Dakota	38,400	38,500	37,900	36,400	
Ohio	9,000	9,000	9,000	9,500	
Oklahoma	24,800	24,000	18,700	18,100	
Oregon	47,700	43,800	42,100	40,600	
Pennsylvania	10,000	10,000	10,000	10,000	
Puerto Rico	7,000	7,000	7,000	7,000	
Rhode Island	24,600 or 26,100 for high tax group employers	24,600 or 26,100 for high tax group employers	24,000 or 25,500 for high tax group employers	25,100	
South Carolina	14,000	14,000	14,000	14,000	
South Dakota	15,000	15,000	15,000	15,000	
Tennessee	7,000	7,000	7,000	7,000	
Texas	9,000	9,000	9,000	9,000	
Utah	41,600	38,900	36,600	35,300	
Vermont	15,500	14,100	16,100	15,600	
Virginia	8,000	8,000	8,000	8,000	
Virgin Islands	30,800	32,500	28,900	26,500	
Washington	62,500	56,500	52,700	52,700	
West Virginia	12,000	12,000	12,000	12,000	
Wisconsin	14,000	14,000	14,000	14,000	
Wyoming	27,700	27,300	26,400	25,400	