



EY Payroll NewsFlash™

Vol. 11, 33
March 3, 2010

Florida legislation enacted to delay increase in SUI taxable wage base and tax rates

Legislation passed and signed by the governor yesterday, the first day of the 2010 Florida regular legislative session, delays the increase in the state unemployment insurance (SUI) taxable wage base and the changes in SUI tax rate calculation by two years until January 1, 2012. As a result, the 2010 taxable wage base will revert back to \$7,000 retroactive to January 1, 2010 (and will increase to \$8,500 effective January 1, 2012). (*HB 7033, signed by the governor on March 2, 2010*)

Because HB 7033 delays until 2012 the changes in SUI tax rate calculation as provided for under legislation passed in 2009 (*SB 810, Chapter 2009-99, signed by the governor on June 1, 2009*), SUI tax rates for calendar year 2010 will be recalculated by the Florida Department of Revenue and reissued to employers in late March or early April. The department is estimating that the revised minimum SUI tax rate for 2010 will be 0.36%, significantly down from the previously calculated minimum rate for 2010 of 1.18%. Based on the revised SUI taxable wage base of \$7,000, this will result in an estimated tax savings for minimum-rated employers of \$75.10 per employee for 2010. The maximum SUI tax rate will remain at 5.4% for 2010, but because of the reduction in the SUI taxable wage base, maximum-rated employers will save \$81 per employee for

2010. (*Website notice, Florida Department of Revenue, March 3, 2010*)

While SUI tax rates will generally continue to increase over 2009 due to the economic conditions (the minimum SUI tax rate for 2009 was 0.12%), the massive SUI tax increase scheduled for 2010 has been reduced by the enacted yesterday.

Installment payment of SUI taxes

HB 7033 also provides for quarterly installment payments for 2010 and 2011 for employers that may have difficulty paying SUI taxes in full each quarter. For an annual administrative fee of not more than \$5, a contributing employer may pay its quarterly SUI taxes for the first three quarters of 2010 and 2011 in equal installments, as follows:

1. For first quarter 2010, the employer must pay one-fourth of the amount due on or before April 30, 2010, one-fourth on or before July 31, 2010, one-fourth on or before October 31, 2010, and the remaining one-fourth on or before December 31, 2010. The same arrangement would apply for first quarter 2011.
2. In addition to the installment payments due for the first quarter, for the second quarter 2010, the employer must pay one-third of the amount due on or before July 31, 2010, one-third on or before October 31, 2010, and one-third on or before December 31, 2010. The same arrangement would apply for second quarter 2011.
3. In addition to the installment payments due for the first and second quarters, for the third quarter 2010, the employer must pay one-half of the amount due on or before October 31, 2010 and one-half on or before December 31, 2010. The same arrangement would apply for third quarter 2011.
4. Payment of the fourth quarter 2010 SUI taxes would be due as normal and in full on January 31, 2011. The same would apply for fourth quarter 2011.

Interest would not accrue under this installment arrangement as long as payments were made as specified above.

Status of Florida's trust fund

At the end of the fourth quarter 2008, Florida's unemployment trust fund balance was over \$1.3 billion; by June 30, 2009, the balance was just under \$450 million. On August 24, 2009, the balance in Florida's unemployment trust fund fell to zero and Florida began borrowing from the federal government to pay unemployment compensation benefits. Currently, Florida is borrowing approximately \$300 million per month, with a loan balance as of March 1, 2010 of \$1,271,200,000. News sources indicate that as a result of HB 7033, Florida may have to borrow an additional \$2.2 billion over the next couple of years. HB 7033 provides language that allows the department to begin billing employers by February 1, 2011 for the interest Florida will owe on its federal loan in September 2011.

Failure by the state to repay its current loan balance and future loans by November 10, 2011 could result in a FUTA tax credit reduction for Florida employers for calendar year 2011. Florida is one of 31 states and territories that currently have an outstanding

federal unemployment loan balance.

Implications

The enactment of HR 7033 relieves businesses of the financial impact of the overall SUI tax increases that were scheduled to go into effect in 2010.

Because an annual wage base applies to SUI taxes, businesses generally pay the majority of their SUI taxes in the first part of the year, owing less in the later quarters of the year for those employees who have reached the SUI wage base limit. HR 7033 takes an innovative approach to this cash flow issue by giving employers the option in 2010 and 2011 of making their SUI tax payments throughout the year. Employers using a third-party tax provider will want to discuss the extent to which the provider will be able to make changes in systems and procedures to accommodate the installment payment option.

The first SUI return and payment are due on April 30, 2010; therefore, businesses and their software/service providers will need to act quickly to implement these law changes.

The information contained herein is general in nature and is not intended, and should not be construed, as legal, accounting or tax advice or opinion provided by Ernst & Young LLP to the reader. The reader is also cautioned that this material may not be applicable to, or suitable for, the reader's specific circumstances or needs, and may require consideration of non-tax and other tax factors if any action is to be contemplated. The reader should contact his or her Ernst and Young LLP or other tax professional prior to taking any action based upon this information. Ernst & Young LLP assumes no obligation to inform the reader of any changes in tax laws or other factors that could affect the information contained herein. Copyright 2010. Ernst & Young LLP. All rights reserved. No part of this document may be reproduced, retransmitted or otherwise redistributed in any form or by any means, electronic or mechanical, including by photocopying, facsimile transmission, recording, rekeying, or using any information storage and retrieval system, without written permission from Ernst & Young LLP.