



*Processes Are Needed to Ensure Reliability
of Federal Unemployment Tax Certification
Files and to Work Multi-State Cases*

December 22, 2015

Reference Number: 2016-40-009

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.

Redaction Legend:

2 = Risk Circumvention of Agency Regulation or Statute

6 = Confidential Communications and/or Legal Advice

Phone Number / 202-622-6500

E-mail Address / TIGTACommunications@tigta.treas.gov

Website / <http://www.treasury.gov/tigta>



To report fraud, waste, or abuse, call our toll-free hotline at:

1-800-366-4484

By Web:

www.treasury.gov/tigta/

Or Write:

Treasury Inspector General for Tax Administration
P.O. Box 589
Ben Franklin Station
Washington, D.C. 20044-0589

Information you provide is confidential and you may remain anonymous.



HIGHLIGHTS

PROCESSES ARE NEEDED TO ENSURE RELIABILITY OF FEDERAL UNEMPLOYMENT TAX CERTIFICATION FILES AND TO WORK MULTI-STATE CASES

Highlights

Final Report issued on December 22, 2015

Highlights of Reference Number: 2016-40-009 to the Internal Revenue Service Chief Technology Officer and Commissioner for the Small Business/Self-Employed Division.

IMPACT ON TAXPAYERS

The Federal Unemployment Tax Act (FUTA) requires that Federal and State Governments work in cooperation to establish and administer unemployment insurance programs to provide benefits to unemployed workers. The IRS is responsible for collecting the FUTA tax which is a Federal employer tax on wages paid to employees to fund State Workforce Agencies. During Tax Year 2012, employers reported FUTA tax totaling more than \$7.6 billion on Forms 940, *Employer's Annual Federal Unemployment (FUTA) Tax Return*.

WHY TIGTA DID THE AUDIT

Employers that pay both the FUTA tax and a State unemployment tax are allowed a credit of the FUTA tax. The IRS's FUTA Certification Program verifies that State unemployment funds that employers claim on their Form 940 were actually paid into the States' unemployment funds. The overall objective of this review was to evaluate whether the IRS's FUTA Certification Program ensures the accuracy of FUTA credit claims.

WHAT TIGTA FOUND

TIGTA's review identified that the IRS's validation of the State FUTA Certification Data Files does not ensure the reliability of the data prior to its use in identifying discrepancy cases. Review of the data submitted by State Agencies identified that 94 percent of the State Agencies

submitted data that contained formatting errors in key data fields used to identify FUTA discrepancy cases. For one State, the errors resulted in the State's certification data being excluded from the FUTA Certification Program.

In addition, the IRS does not have a process to ensure State certification data are complete. Our comparison of the 5,064,269 single-State employers identified 3,452 employers in which no information was reported back from the State. As a result, these employers were excluded from the IRS's FUTA Certification discrepancy analysis.

TIGTA also identified 3,729 multi-State employers with potential discrepancies totaling more than \$200 million. The IRS's processes do not accurately identify multi-State employer discrepancy cases.

Finally, the IRS incorrectly assessed 12,171 employers more FUTA tax than the employer owed, totaling almost \$3.2 million, due to a programming error and using an incorrect FUTA tax rate to compute the amount of tax owed.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the Commissioner, Small Business/Self Employed Division, develop a process to identify errors in State FUTA Certification Data Files; work with State Agencies to ensure that all records are returned; revise its process to accurately identify multi-State employer discrepancy cases; correct tax assessments made on the 12,171 employers as a result of programming errors; and ensure that programming is updated to accurately calculate tax adjustments.

The IRS agreed with all but one recommendation for which it partially agreed.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

December 22, 2015

MEMORANDUM FOR CHIEF TECHNOLOGY OFFICER
COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED
DIVISION

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files and to Work
Multi-State Cases (Audit # 201440008)

This report presents the results of our review to evaluate whether the Internal Revenue Service's (IRS) Federal Unemployment Tax Certification Program ensures the accuracy of Federal Unemployment Tax credit claims. This audit was included in our Fiscal Year 2015 Annual Audit Plan and addresses the major management challenge of Tax Compliance Initiatives.

Management's complete response to the draft report is included in Appendix V.

Copies of this report are also being sent to the IRS managers affected by the report recommendations. If you have any questions, please contact me or Russell P. Martin, Assistant Inspector General for Audit (Returns Processing and Account Services).



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

Table of Contents

BackgroundPage 1

Results of ReviewPage 7

 Processes Do Not Adequately Ensure That State
 Certification Data Are Reliable and CompletePage 7

Recommendation 1:.....Page 9

Recommendation 2:.....Page 10

 Multi-State Employers *****2*****
 *****2*****Page 10

Recommendation 3:.....Page 11

 Processes Do Not Accurately Identify Multi-State
 Employer Discrepancy CasesPage 11

Recommendation 4:.....Page 14

 Employers Were Incorrectly Assessed Federal
 Unemployment TaxPage 15

Recommendations 5 through 7:.....Page 17

Appendices

 Appendix I – Detailed Objective, Scope, and MethodologyPage 18

 Appendix II – Major Contributors to This ReportPage 24

 Appendix III – Report Distribution ListPage 25

 Appendix IV – Outcome Measures.....Page 26

 Appendix V – Management’s Response to the Draft ReportPage 29



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

Abbreviations

FCP	Federal Unemployment Tax Act Case Processing
FUTA	Federal Unemployment Tax Act
IRS	Internal Revenue Service
TY	Tax Year



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

Background

The Federal Unemployment Tax Act (FUTA)¹ requires that Federal and State Governments work in cooperation to establish and administer unemployment insurance programs to provide benefits to unemployed workers. The Internal Revenue Service (IRS) is responsible for collecting the FUTA tax, which is a Federal employer tax on wages paid to employees to fund State Workforce Agencies. The FUTA tax accumulates as an unemployment trust fund, *i.e.*, FUTA Trust Fund, from which funds are dispensed to the 50 States, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands (hereafter referred to as State Agencies) for their unemployment compensation programs. The U.S. Department of Labor is responsible for monitoring the unemployment compensation systems for each State and directing the Department of the Treasury in distributing revenue deposited in the FUTA Trust Fund.

For those employers that pay both the FUTA tax and a State unemployment tax, they are allowed a credit of the FUTA tax. The FUTA tax is 6 percent of the first \$7,000 of wages, *i.e.*, the FUTA wage base, paid to each employee during the calendar year for FUTA taxable wages paid after June 30, 2011.² Employers are allowed a credit of 5.4 percent of the amount of FUTA tax paid provided that the employer made all payments of State unemployment tax by the due date of the Form 940, *Employer's Annual Federal Unemployment (FUTA) Tax Return*.³

Form 940 FUTA filing and payment requirements

Employers report the Federal employer tax by filing Form 940.⁴ The Form 940 is an annual return covering the period January 1 through December 31. Employers that are required to file Form 940 include:⁵

- Employers who paid \$1,500 or more to employees in any calendar quarter.
- Employers who paid employees working partial days for 20 different weeks or more in a calendar year.

¹ 26 U.S.C. §§ 3301–3311.

² For wages paid prior to July 1, 2011, the FUTA tax rate was 6.2 percent.

³ For Tax Year 2012, Forms 940 were due to be filed on or before January 31 following the close of the calendar year or by February 11 if the employer made all of the tax deposits when they were due.

⁴ The FUTA tax is also reported on Schedule H, *Household Employment Taxes*, attached to Form 1040, *U.S. Individual Income Tax Return*, or Form 1041, *U.S. Income Tax Return for Estates and Trusts*. Our audit focused solely on FUTA tax reported on Form 940 because Form 940 represents almost 98 percent of the total FUTA tax returns filed.

⁵ The FUTA tax does not apply to Indian tribal governments, tax-exempt organizations, and State and local governments.



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

- Agricultural employers paying cash wages of \$20,000 or more to workers in any calendar quarter.
- Agricultural employers that employed 10 or more workers for some part of a day during any 20 or more different weeks in the calendar year.

Figure 1 summarizes FUTA tax reported on Form 940 for Tax Year (TY) 2012.

Figure 1: Selected Statistics for Form 940 - TY 2012

Electronically Filed Tax Returns	Percentage Electronically Filed	Paper-Filed Tax Returns	Percentage Paper-Filed	Total Tax Returns Filed	FUTA Tax Reported
1,667,137	30.3%	3,835,906	69.7%	5,503,043	\$7,641,802,043

Source: TIGTA analysis of the Business Return Transaction File⁶ as of April 24, 2014.

FUTA tax

The FUTA tax is calculated by multiplying FUTA taxable wages by 0.6 percent, which is the difference between the maximum 5.4 percent FUTA credit and the FUTA tax rate of 6.0 percent. In some instances, an employer is required to adjust its FUTA tax owed. This can include when:

- All of the wages the employer paid were not subject to a State Agency's unemployment tax.
- Some of the wages the employer paid were not subject to a State Agency's unemployment tax or the employer paid the State Agency's unemployment tax late, *i.e.*, after the due date of the Federal return.
- The employer paid wages to a State Agency subject to the credit reduction. States subject to the credit reduction are those States that borrow from the Federal Unemployment Account in order to pay State unemployment benefits. For employers in these States, the FUTA tax credit is reduced by 0.3 percent for each consecutive year until the State's loan is repaid. The employer reports total FUTA taxable wages for the State Agencies subject to the credit reduction and applies the appropriate credit reduction percentage.⁷ During TY 2012, employers in 19 States were subject to the credit reduction ranging from 0.3 percent to 1.5 percent. Figure 2 shows the State Agencies for which employers are subject to the credit reduction.

⁶ An IRS database of transcribed line items on all business returns and their accompanying forms and schedules.

⁷ Multi-State employers are required to mark each State for which they were required to pay State unemployment tax; however, the employer is required to report total wages paid in only those States subject to the credit reduction.



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

Figure 2: State Agencies Subject to Credit Reduction During TY 2012

State Agency	Credit Reduction Percentage	State Agency	Credit Reduction Percentage	State Agency	Credit Reduction Percentage
Arizona	0.3%	Indiana	0.9%	Ohio	0.6%
Arkansas	0.6%	Kentucky	0.6%	Rhode Island	0.6%
California	0.6%	Missouri	0.6%	Vermont	0.3%
Connecticut	0.6%	Nevada	0.6%	Virgin Islands	1.5%
Delaware	0.3%	New Jersey	0.6%	Wisconsin	0.6%
Florida	0.6%	New York	0.6%		
Georgia	0.6%	North Carolina	0.6%		

Source: TIGTA analysis of Form 940, Schedule A, for TY 2012.

Figure 3 provides an example of the Form 940 used to calculate and report FUTA taxable wages, FUTA tax, and adjustments to the FUTA tax.

Figure 3: Selected Section of the TY 2012 Form 940

Part 2: Determine your FUTA tax before adjustments for 2012. If any line does NOT apply, leave it blank.	
3	Total payments to all employees 3
4	Payments exempt from FUTA tax 4
Check all that apply: 4a <input type="checkbox"/> Fringe benefits 4c <input type="checkbox"/> Retirement/Pension 4e <input type="checkbox"/> Other	
4b <input type="checkbox"/> Group-term life insurance 4d <input type="checkbox"/> Dependent care	
5	Total of payments made to each employee in excess of \$7,000 5
6	Subtotal (line 4 + line 5 = line 6) 6
7	Total taxable FUTA wages (line 3 – line 6 = line 7) (see instructions) 7
8	FUTA tax before adjustments (line 7 x .006 = line 8) 8
Part 3: Determine your adjustments. If any line does NOT apply, leave it blank.	
9	If ALL of the taxable FUTA wages you paid were excluded from state unemployment tax, multiply line 7 by .054 (line 7 x .054 = line 9). Go to line 12 9
10	If SOME of the taxable FUTA wages you paid were excluded from state unemployment tax, OR you paid ANY state unemployment tax late (after the due date for filing Form 940), complete the worksheet in the instructions. Enter the amount from line 7 of the worksheet 10
11	If credit reduction applies, enter the total from Schedule A (Form 940) 11
Part 4: Determine your FUTA tax and balance due or overpayment for 2012. If any line does NOT apply, leave it blank.	
12	Total FUTA tax after adjustments (lines 8 + 9 + 10 + 11 = line 12) 12

Source: Form 940 for TY 2012.

IRS FUTA Certification Program

The FUTA Certification Program verifies that the State unemployment funds that employers claim on their Form 940 were actually paid into the States' unemployment funds. The amount of FUTA tax credit employers can claim is directly contingent upon the State unemployment tax they are required to pay. Each September, the IRS extracts Forms 940 data to create a FUTA State Identification Data File. In October, the IRS sends the FUTA State Identification Data File



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

to each of the State Agencies. The FUTA State Identification Data File contains the current year's Form 940 tax returns as well as late-filed Form 940 tax returns for the prior nine tax years. For example, in September 2013, the IRS extracted TYs 2003 through 2012 Form 940 tax returns filed between September 21, 2012, and September 26, 2013 (hereafter referred to as the September 2013 extract). In October 2013, the IRS securely transferred the data files to each State Agency for matching to its unemployment records.

The State Agencies compare the data file that the IRS sent with their employers' accounts information using, for example, the Employer Identification Number⁸ and tax year. The IRS requests that each State Agency return employer data by January (for the September 2013 extract, responses were to be provided by January 2014). The IRS requests, for each employer, payment information that includes:

- State unemployment tax rate(s)⁹ assigned by the State.
- Total taxable State wages reported for each State unemployment tax rate.
- Total unemployment payments made to the State.

Once the State Agency files are received, the IRS, through an automated process, compares the information returned from the State Agencies for each employer to Form 940 data to determine the amount of the allowable FUTA credit and FUTA tax. The IRS considers employers with differences between the amount the IRS calculates as the FUTA tax and what the employer reported on Form 940 (including any subsequent adjustments) as discrepancy cases for potential adjustment to tax. Below is a high-level hypothetical example:

Hypothetical Example: Employer A with employees in State B files a TY 2012 Form 940. State B is not a credit reduction State. Employer A reports total FUTA taxable wages on Form 940 of \$500,000 and takes the full 5.4 percent tax credit on the \$500,000, i.e., \$27,000, for wages that were also subject to State B's unemployment tax, resulting in a total FUTA tax of \$3,000 (0.6 percent of \$500,000). As part of the FUTA Certification Program, the IRS sends Employer A's identifying information, e.g., Employer Identification Number, to State B to obtain Employer A's State unemployment payment information. Based on the payment information State B provides, the IRS determines if Employer A is entitled to the full tax credit of \$27,000. Employer A is entitled to the full tax credit if Employer A made all required payments of State B unemployment tax by the due date of the Form 940. If not, the IRS identifies Employer A as a discrepancy case for potential adjustment to Employer A's FUTA tax.

⁸ An Employer Identification Number is a unique nine-digit number used to identify a taxpayer's business account on IRS records.

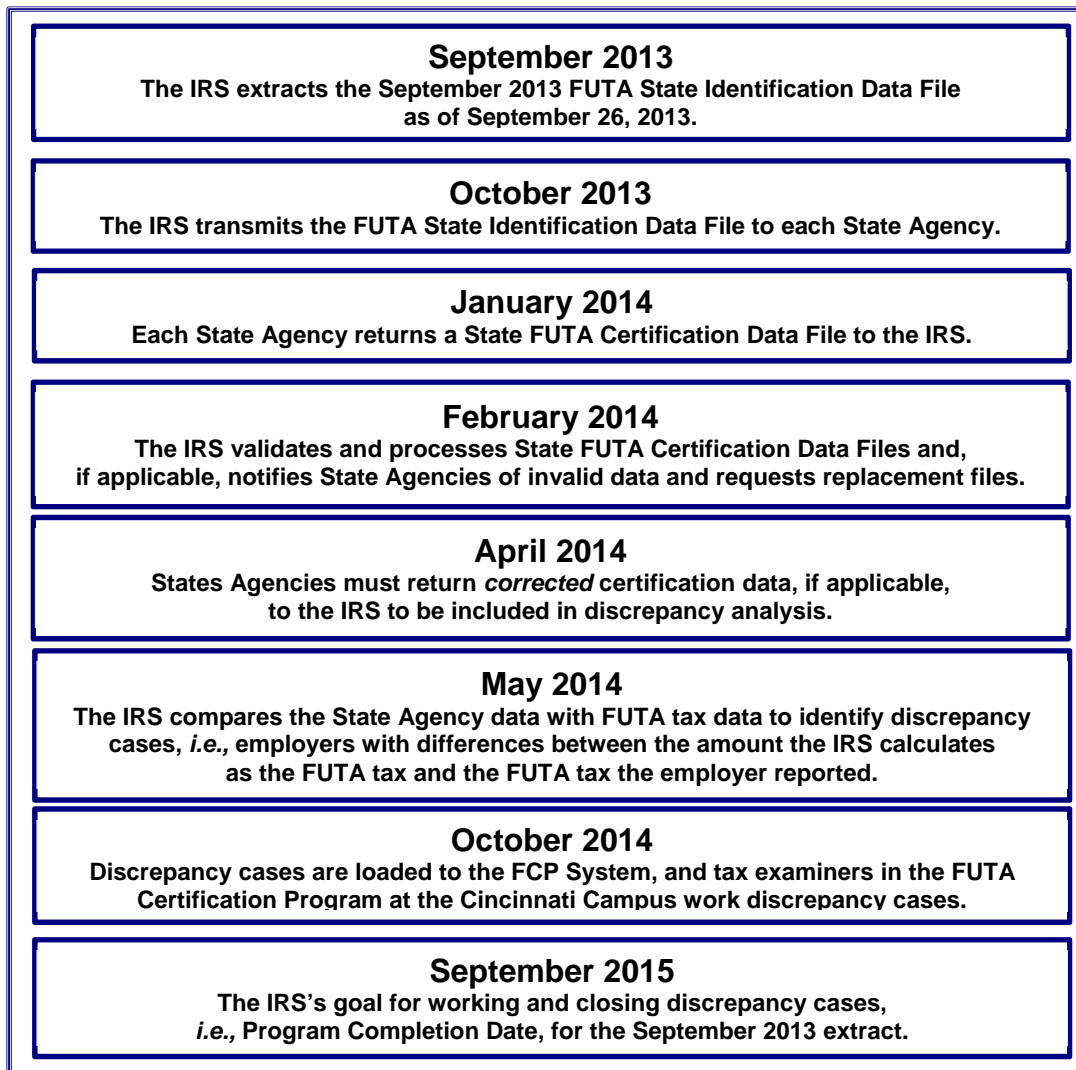
⁹ The employer's State unemployment tax rate, also referred to as experience rate, is the percentage at which employers make contributions to the State unemployment fund. Employers may have more than one tax rate.



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

Once identified, the discrepancy cases are transferred to the IRS's FUTA Case Processing (FCP) System,¹⁰ where they are then assigned to be worked by tax examiners. The tax examiners are responsible for determining whether adjustments to the employers' FUTA tax are needed. For example, the IRS identified 118,242 Forms 940 discrepancy cases associated with the employers included in the September 2013 extract. Figure 4 provides the timeline of transmitting, receiving, and working discrepancy cases associated with the September 2013 extract.

Figure 4: Timeline of the FUTA Certification Process



Source: IRS Publication 4485, *Guide for the Certification of State FUTA Credits (Rev. 10-2013)*, and the *Internal Revenue Manual*.

¹⁰ The FCP System is a computer application that houses the FUTA programs (inventory, correspondence, reporting, and document preparation).



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

This review was performed in the Small Business/Self-Employed Division Campus¹¹ Compliance Services function in Cincinnati, Ohio, and with information obtained from the Small Business/Self-Employed Division Headquarters and the Information Technology organization Headquarters in Lanham, Maryland, during the period August 2014 through August 2015. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

¹¹ The data processing arm of the IRS. The campuses process paper and electronic submissions, correct errors, and forward data to the Computing Centers for analysis and posting to taxpayer accounts.



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

Results of Review

Processes Do Not Adequately Ensure That State Certification Data Are Reliable and Complete

Our review identified that the IRS’s validation of the State FUTA Certification Data Files does not ensure the reliability of the data prior to its use in identifying discrepancy cases. When the State Agency files are received, the IRS conducts basic data validation on the files. For example, the IRS ensures that numeric fields contain numeric characters. Review of the data submitted by State Agencies identified that 49 (94 percent) of the 50 States, the District of Columbia, and the U.S. Virgin Islands submitted data¹² for the September 2013 extract¹³ that contained formatting errors in one or more of the key data fields used in the IRS’s automated comparison process to calculate the allowable FUTA tax credit. These data fields included State wage fields, State unemployment tax rate fields, and State payment fields. For four State Agencies, 77 percent to 91 percent of the records submitted contained a formatting error. Figure 5 provides a breakdown of the top four State Agencies with the largest percentage of records submitted with data formatting errors.

Figure 5: Top Four States Submitting Certification Files With Largest Percentage of Records Containing a Data Formatting Error

State	Total Records With Formatting Errors	Total Records in Certification File	Percentage of Records With Formatting Error
*****2*****	593,302	653,488	91%
*****2*****	104,626	118,730	88%
*****2*****	32,244	36,687	88%
*****2*****	13,957	18,164	77%

Source: TIGTA analysis of State certification data from the September 2013 extract.

The IRS uses the State wage, the State unemployment tax rate, and the State payment fields to calculate the allowable FUTA credit amount. Our analysis of State certification data for *****2***** showed that the data formatting errors did not

¹² *****2***** is not included because it did not submit a certification file.

¹³ The September 2013 extract was the most recent extract at the time of our review.



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

materially exclude cases during the IRS's analysis for discrepancy cases. However, the incorrect data did impact the accuracy of the IRS's identification of potential FUTA tax discrepancy cases for the State of ***2****. The IRS noticed an unusually large volume of discrepancy cases were identified for transfer to the FCP System associated with ****2****. It was through the identification of a large number of discrepancy cases that the IRS determined the data submitted by ****2*** contained inaccuracies. However, at that point, the IRS determined that it was too late in the processing cycle to have ***2***** resubmit its file. Therefore, the IRS excluded all ****2**** records from discrepancy processing. The IRS subsequently contacted ****2**** to advise it of the data formatting errors so that ****2***** could correct these errors for the certification data related to the September 2014 extract.

Our analysis showed that 631,008 employers located in the State of ****2**** that paid State unemployment tax to only the one State (referred to as single-State employers) filed Forms 940 reporting \$48.6 billion in FUTA taxable wages claiming more than \$2.3 billion in FUTA tax credits for TY 2012 as of September 26, 2013. The decision to exclude all ****2**** records resulted in the IRS not identifying ***2***** employers that claimed more or less FUTA tax credit than entitled. For comparison, our analysis showed that the IRS made adjustments to 3,754 TY 2011 Forms 940 filed by single-State ****2*** employers that claimed more credit than entitled totaling almost \$20.7 million.¹⁴

When we raised concerns to IRS management regarding the lack of an effective process to ensure the reliability of State certification files, management stated that Publication 4485 contains review procedures for the States to follow, and had the States followed these review procedures, these data formatting errors would not have occurred. In addition, they stated that the IRS does not have the legal authority to compel or otherwise penalize a State for failure to respond or respond with accurate certification files in a timely manner.

IRS management further stated that programmers perform validity checks as soon as the IRS receives the State certification file. The IRS validation includes such items as naming conventions, correct tax year, and whether indicator rates¹⁵ are in the correct position. If the programmers find an error in the files that the State transmitted, the IRS immediately contacts the State to have the State correct the error(s) and resubmit the State certification file.¹⁶ IRS management explained that the problem with ***2*** was that the data passed other validity

¹⁴ We also identified 215 employers that had a reduction in tax of \$293,055. This resulted in a net adjustment of \$20,365,281 for the 3,969 employers (3,754 + 215), which we then further adjusted to account for the change in the FUTA tax rate from 6.2 percent to 6 percent. See Appendix IV.

¹⁵ Indicator rates indicate the number of employer State unemployment tax rates for the employer. The rate indicator of "1" is used when there are more than four experience rates for the employer, while a rate indicator of "3" is used when the State cannot provide certification information because it cannot certify a prior year return or an early filed current year return on its database. In all other instances, the rate indicator should be "blank."

¹⁶ This occurs when 5 percent or more of the total records returned by the State contain errors as identified by the IRS's validation process.



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

checks. However, the IRS does not include a validity check of the State unemployment tax rate field and, as a result, did not identify the erroneous data.

The IRS does not have a process to ensure that State certification data are complete

Our comparison of the 5,064,269 single-State employers included in the IRS's September 2013 FUTA State Identification Data File to records that the State Agencies returned identified 3,452¹⁷ employers in which no information was reported back from the State. As a result, these employers were excluded from the IRS's FUTA certification discrepancy analysis. The IRS reviewed 100 of the 3,452 employers that we identified and determined that a response was received for 58 employers but was rejected by the IRS due to data formatting errors. The IRS explained that its process is designed to drop these records because they cannot be validated or corrected in a timely manner. For the remaining 42 employers, a response was not returned by the State Agency as required by Publication 4485, which states "*ALL FEDERAL RECORDS MUST BE RETURNED!*" When the State Agency does not return an employer's record, the IRS is unable to determine whether or not the employer made any payments to the State unemployment fund and FUTA tax credits claimed are accurate.

When we brought this concern to IRS management's attention, the IRS stated that the excluded employers are small in number when compared to the population and that it would require reprogramming the FCP System and back and forth with the States each year to include the dropped records in the FUTA Certification Program. We agree that the volume of excluded employers, when compared to the universe, is a small number of records missing from the State FUTA Certification Data Files relating to this particular extract (September 2013). However, because there is no process to identify records that are not returned by the State Agencies, the IRS does not know the extent of missing records.

Recommendations

The Commissioner, Small Business/Self-Employed Division, should:

Recommendation 1: Develop a process to identify errors in key data fields, *i.e.*, State wage fields, State unemployment tax rate fields, and the State payment fields, used to calculate allowed FUTA tax credit as part of the IRS's upfront data validation process for State FUTA Certification Data Files. For those errors that materially affect the calculation of allowed FUTA tax credit, request corrected files.

Management's Response: The IRS agreed with this recommendation. While the IRS agrees with this recommendation, the IRS is unable to commit to implementing a

¹⁷ This does not include 33,670 single-State employers that filed a Form 940 for TY 2012 and paid unemployment tax to ***2****.



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

corrective action at this time due to budgetary constraints. The IRS will place this corrective action on hold pending the availability of required funding.

Recommendation 2: Develop a process to identify records not returned as required from State Agencies and, as warranted, contact State Agencies to request recertification for those employers whose records were not returned.

Management's Response: The IRS agreed with this recommendation. The IRS will review current processes and procedures for the return of State Agency files to ensure that sufficient steps are in place to address instances when certification records are not returned.

Multi-State Employers *****2*****
*****2*****

*****2*****
*****2*****
*****2*****
*****2*****
*****2*****266,775

(5 percent) of more than 5.5 million Forms 940 filed in TY 2012 were filed by multi-State employers.¹⁸ These multi-State employers include large employers and accounted for more than \$22.6 billion (53 percent) of the total FUTA tax credit for TY 2012. Figure 6 summarizes information for single-State and multi-State employers filing TY 2012 Forms 940.

¹⁸ The IRS September 2013 extract was obtained as of September 26, 2013; however, our analysis is as of April 24, 2014, to obtain a more complete population of Forms 940 filed for TY 2012. Forms 940 filed after September 26, 2013, would be included in the subsequent year's FUTA Certification Program, *i.e.*, the September 2014 extract.



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

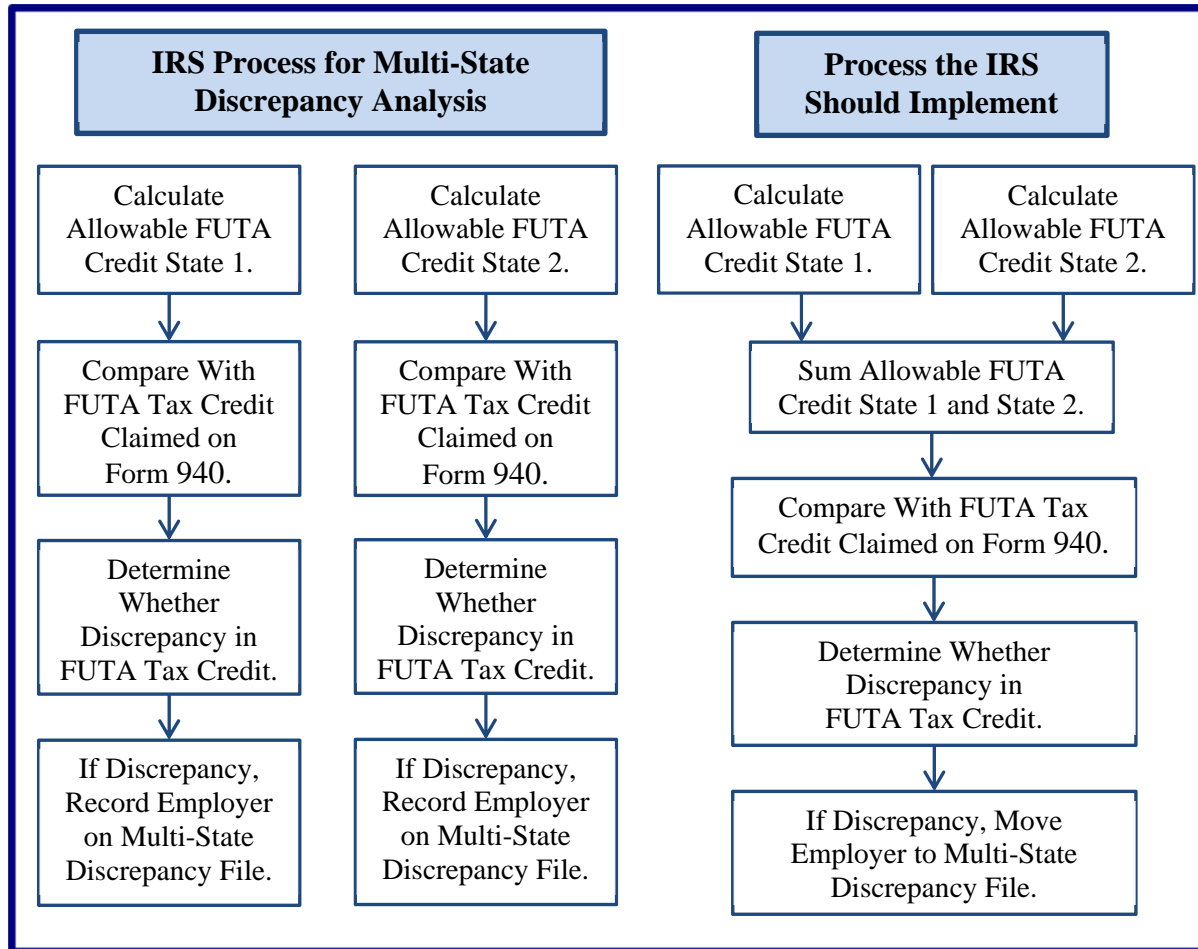
instances, the current IRS process results in erroneously identifying an employer as having a discrepancy in the FUTA tax credit. For example, if an employer pays State unemployment tax to five States, the IRS's process compares the allowable FUTA credit individually for each of the five States to the total FUTA tax credit claimed. The IRS's analysis may identify the employer as having as many as five discrepancy cases, one for each of the five States, because the allowable FUTA tax credit supported by each State's certification data is only one of the five States for which the employer paid State unemployment tax. As a result, the IRS's process erroneously identifies most multi-State employers as a discrepancy case. For example, the IRS's discrepancy analysis identified 262,121 (99 percent) of 264,254 multi-State employers that filed a TY 2012 Form 940 as having one or more discrepancies in FUTA tax credits claimed related to the September 2013 extract.

To accurately identify discrepancies for multi-State employers, the IRS should calculate the allowable credit for each State, total the allowable credits, and then compare this to the FUTA tax credit claimed on the Form 940. This approach would provide for a more meaningful and accurate identification of discrepancy cases. Figure 7 provides a high-level comparison of the process the IRS uses that results in an inaccurate identification of a discrepancy case to the process the IRS should implement.



Processes Are Needed to Ensure Reliability of Federal Unemployment Tax Certification Files and to Work Multi-State Cases

Figure 7: Comparison of the IRS Process for Identifying Multi-State Employer Discrepancies to the Process the IRS Should Implement



Source: TIGTA analysis of program requirements for multi-State employer discrepancy analysis.



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

Our analysis using the approach the IRS should implement identified 3,729 multi-State employers with potential discrepancies¹⁹ totaling more than \$200 million.²⁰ These cases could then be worked by tax examiners to determine actual adjustment amounts. Figure 8 summarizes the potential discrepancies in FUTA tax credits claimed on Forms 940 filed for TY 2012.

Figure 8: Analysis for Multi-State Employers Potential Discrepancy Cases Filing TY 2012 Forms 940

Discrepancy Type	Multi-State Cases	Total Potential Tax Increase/(Decrease)
Potential Assessments	3,552	\$201,205,192
Potential Refunds	177	(\$672,747)
Total	3,729	\$200,532,445

Source: TIGTA analysis of certification data related to the September 2013 extract.

When we raised concerns to IRS management regarding the lack of an effective process to accurately identify discrepancy cases for multi-State employers, the IRS stated that the FUTA Certification Program is capable of using the approach that we suggested. IRS management indicated that the current IRS process could be modified so that the process of summing allowable credits for the various States is considered prior to identifying cases as discrepancies.

Recommendation

Recommendation 4: The Commissioner, Small Business/Self-Employed Division, should revise its process to accurately identify multi-State employer discrepancy cases.

Management’s Response: The IRS partially agreed with this recommendation. The IRS stated that it has programming in place to identify the multi-State employer discrepancy cases, *****2*****. The IRS stated that it will not use discrepancy data to *****2***** but will use such data as part of an overall analysis for potential case selection.

¹⁹ Our analysis excluded 45,395 multi-State employers that included ***2**** as one of the States the employer paid State unemployment tax. This was due to the formatting issues with ****2***** State FUTA Certification Data File as previously discussed. As a result, we were unable to identify the true universe of multi-State employers with a discrepancy in FUTA tax credits claimed.

²⁰ *****2*****, we used the IRS’s September 2012 extract to determine the change rate for cases worked in the FUTA Certification Program. This showed that 26,102 (35.92 percent) of 72,670 TY 2011 records in the September 2012 extract had a net adjustment. We applied this rate to the 3,729 multi-State cases, resulting in 1,339 potential adjustments totaling \$72,031,254. See Appendix IV.



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

The IRS did not agree with our outcome measure. The IRS stated that our outcome measure of more than \$72 million from 1,339 multi-State employer accounts *****2*****
*****2*****
*****2*****
*****2*****.

Office of Audit Comment: Our report details that the programming the IRS has in place erroneously identifies most multi-State employers as having a discrepancy in the FUTA tax credit. As such, the IRS must correct its identification programming to ensure that the sample of cases it plans to review accurately reflects multi-State employer discrepancy cases. Our outcome measure reflects the noncompliance that the IRS allows relative to multi-State employers *****2*****
*****2*****
*****2*****.

As previously stated, our outcome measure excludes 45,395 multi-State employers that reported paying ***2*** State unemployment tax due to data formatting errors with the State FUTA Certification Data File. As a result, we were unable to identify the true universe of multi-State employers with a discrepancy in FUTA tax credits claimed. Therefore, our estimate is a conservative measure of the amount of potential increase in revenue related to accurately identifying and working multi-State employer discrepancy cases.

Employers Were Incorrectly Assessed Federal Unemployment Tax

Our review of FUTA discrepancy cases involving TY 2011 Forms 940 identified that the IRS incorrectly assessed 12,171 employers more FUTA tax than what the employer owed, totaling almost \$3.2 million. The incorrect assessment of these 12,171 employers resulted from:

- 2,590 employers that were incorrectly assessed FUTA tax because of a programming error within the FCP System. This error resulted in the incorrect calculation of the allowable FUTA tax credit amount if the credit for wages subject to State unemployment tax is less than the credit reduction amount. When this occurs, the program is erroneously calculating a negative allowable FUTA tax credit amount. As a hypothetical example:

The FCP System calculates the credit for wages subject to State unemployment tax as \$1,000 and the credit reduction amount as \$1,500. The FCP System subtracts the credit reduction amount from the credit for wages subject to State unemployment tax resulting in a negative \$500 in the allowable FUTA tax credit. Then, when calculating the adjustment, the FCP System incorrectly adds the negative \$500 credit to the FUTA tax, increasing the employer's FUTA tax by \$500 because the program is subtracting a negative credit amount.



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

When we brought this programming error to IRS management's attention, the IRS agreed and noted that this programming error relates to a limited group of taxpayers. The IRS indicated that a computer programming change identifying the population of affected taxpayers and excluding them from the credit reduction rules will be developed and submitted.

- 9,581 employers that were incorrectly assessed FUTA tax because the IRS used an incorrect FUTA tax rate in the FCP System to compute the amount of tax owed. For example, the FCP System's proposed adjustments were based on a 6.2 percent tax rate for **all** wages paid during TY 2011. However, during TY 2011, only FUTA taxable wages paid on or prior to June 30, 2011, were subject to a maximum FUTA tax of 6.2 percent, while FUTA taxable wages paid after June 30, 2011, were subject to a maximum FUTA tax of 6 percent.

When we brought this to IRS management's attention, the IRS agreed that proposed assessments were incorrectly based solely on the 6.2 percent tax rate and were not reduced to 6 percent for taxable wages paid after June 30, 2011. IRS management stated that when they became aware that legislation for the 6.2 percent rate was not being extended past mid-year 2011, options were discussed with affected internal stakeholders, including the Specialty/Employment Tax function, the Accounts Management function, and the Information Technology organization. The IRS determined that systemic changes to the FCP System would affect tax calculations conducted and letters already issued to employers. It also determined that changes were not possible because the changes required Information Technology organization staff to divert resources for a "risky" system change. The IRS advised that the FCP System is a very outdated and fragile system housed on an outdated platform, in a language that is no longer supported, with no backup. The IRS further stated that it is always risky to make *any* changes, much less *significant* changes, to letters, user screens, and the database itself to reflect and display the breakdowns by quarter versus the normal annual combined fields.

In addition, IRS management explained that the Letter 4010C, *FUTA Certification – Proposed Increase to FUTA Tax*, not only informs the taxpayer of issues and how to correct them, but within the closing paragraph, the IRS informs the taxpayer that not responding will be considered agreement and the appropriate assessment, including all penalties and interest, will be included.

It should be noted that the IRS did modify tax return processing programming to correctly capture the FUTA wages before and after the tax rate change for TY 2011. The IRS mainframe process was also updated to account for this change in tax rate. While the IRS has established a manual process for tax examiners to correct the calculation of tax when taxpayers reply to Letter 4010C, the IRS does not have a process to proactively alert those employers that do not reply to notices of adjustment. This includes not advising employers that the proposed assessment was based on a tax rate of 6.2 percent for all FUTA taxable wages, even though



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

FUTA taxable wages paid after June 30, 2011, were taxed at 6 percent. As a result, employers have no reason to believe the proposed assessment is incorrect.

Recommendations

The Commissioner, Small Business/Self-Employed Division, should:

Recommendation 5: Correct tax assessments made on the 2,590 employers as a result of programming errors and establish a process to identify other employers affected by this programming error.

Management's Response: The IRS agreed with this recommendation. The IRS will conduct research, and all impacted Taxpayer Identification Numbers will be corrected if an incorrect assessment is still on the account.

Recommendation 6: Develop a process to ensure that programming of the FCP System is updated as appropriate to accurately calculate tax adjustments.

Management's Response: The IRS agreed with this recommendation. The IRS stated that it has an established process to submit requirements for programming changes, and it input a program change request on November 24, 2015, to correct programming related to credit reductions. To prevent future programming issues, the IRS will also review the process from submission of a change request through testing programming changes and take action to revise the procedures if appropriate.

Recommendation 7: Correct tax assessments made on the 9,581 employers as a result of using the incorrect tax rate to compute the FUTA tax owed by these employers.

Management's Response: The IRS agreed with this recommendation. The IRS will develop a method to sort and verify cases that require adjustment actions and complete appropriate steps for resolution.



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this review was to evaluate whether the IRS's FUTA Certification Program ensures the accuracy of FUTA credit claims. To accomplish our objective, we:

- I. Determined whether the IRS's FUTA State Identification Data File provided to the States is complete and accurate.
 - A. Reviewed Program Requirements Package 180 Section 23¹ to identify requirements for identifying Form 940, *Employer's Annual Federal Unemployment (FUTA) Tax Return*, returns included in the FUTA State Identification Data File.
 - B. Discussed with IRS personnel the processes and procedures for extracting the FUTA State Identification Data File.
 - C. Determined the IRS's extract criteria for the FUTA State Identification Data File for the September 2013 extract.
 - D. Obtained the IRS's September 2013 extract of the FUTA State Identification Data File as of September 26, 2013, containing 6,320,562 Form 940 records.²
 - E. Verified that the FUTA State Identification Data File for the September 2013 extract was complete by comparing the Taxpayer Identification Numbers³ and tax periods from the FUTA State Identification Data File to 5,658,634⁴ employers from the Business Master File⁵ that filed TYs 2003 through 2012 Forms 940 between September 21, 2012, and September 26, 2013.⁶

¹ The Program Requirements Package contains the computer processing specifications for the FUTA certification mainframe processing. This includes creating the yearly FUTA State Identification Data Files, analyzing the State FUTA Certification Data Files, and analysis to identify discrepancy cases.

² The FUTA State Identification Data File contained 5,064,269 records for single-State employers and 1,256,293 multi-State records filed by 266,413 multi-State employers. Each multi-State employer can have up to 53 records (one for each State Agency for which a multi-State employer reports wages).

³ A nine-digit number assigned to taxpayers for identification purposes. Depending upon the nature of the taxpayer, it can be an Employer Identification Number, a Social Security Number, or an Individual Taxpayer Identification Number.

⁴ The number of employers from the Business Master File represents unique employers (multi-State employers have one record).

⁵ The IRS database that consists of Federal tax-related transactions and accounts for businesses. These include employment taxes, income taxes on businesses, and excise taxes.

⁶ Our analysis identified 447 employers that filed a Form 940 for TY 2012 that were not on the FUTA State Identification Data File; however, this represented less than 0.008 percent of the 5,658,634 employers.



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

- II. Evaluated the IRS's processes to ensure that the State FUTA Certification Data Files are complete and accurate.
- A. Reviewed Program Requirements Package 180 Section 23 to identify data validation of the State FUTA Certification Data Files.
 - B. Discussed with IRS management the processes and actions taken to ensure that States provide the IRS FUTA certification data within the required time frames.
 - C. Discussed with IRS management the processes and procedures for evaluating the State FUTA Certification Data Files. We:
 - 1. Discussed the IRS's process for requesting that States resubmit their data.
 - 2. Obtained requests for the States that had to resubmit their data related to the September 2013 extract.
 - D. Obtained the consolidated State FUTA Certification Data File (a consolidation of the various State FUTA Certification Data Files) related to the September 2013 extract, which contained 6,287,217 Form 940 records.⁷
 - 1. Verified that all States provided certification data except for *****2*****.
 - 2. Determined that the States returned all except 3,452⁸ of the 5,064,269 single-State employer Form 940 records. We identified these records based on a comparison of the data obtained in Step I.D with Step II.D.
 - 3. Evaluated data formatting for the key data elements of State unemployment tax rates, *i.e.*, experience rates, total taxable State wages reported for each State unemployment tax rate, and total payments the employer made to the State for the Form 940 records contained in the consolidated State FUTA Certification Data File identified in Step II.D.
 - E. Assessed the impact of incomplete or inaccurate State FUTA Certification Data Files.
- III. Evaluated whether the IRS's automated certification process accurately identifies discrepancy cases.
- A. Reviewed Program Requirements Package 180 Section 23 to identify processes for determining discrepancies, including conditions for excluding cases, *e.g.*, tolerances.
 - B. Interviewed IRS personnel on whether any processing errors were identified during the automated process of comparing the IRS's FUTA data with the State FUTA Certification Data Files.

⁷ State certification data include data for both single-State and multi-State employers.

⁸ This does not include 33,670 single-State employers that filed a Form 940 for TY 2012 and paid unemployment tax to *****2*****.



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

- C. Obtained the IRS's FUTA discrepancy analysis data file related to the September 2013 extract. This identified 263,397 TY 2012 Form 940 potential discrepancy cases.
 - D. Evaluated the accuracy of the IRS's FUTA certification data analysis in determining whether or not single-State employers claimed the appropriate amount of FUTA tax credit. We determined that the automated certification process accurately identified 58,380 discrepancy cases involving TY 2012 Forms 940.⁹
- IV. Determined whether the IRS accurately works FUTA discrepancy cases.
- A. Identified the processes and procedures that the IRS has established to work discrepancy cases.
 - B. Conducted a walkthrough of the FUTA Certification Program in Cincinnati, Ohio, on September 30, 2014, to identify the procedures to work discrepancy cases.
 - C. Evaluated the accuracy of discrepancy case actions.
 - 1. Obtained the discrepancy download for FUTA (single-State filers) for the September 2012 extract and identified 114,395 Form 940 tax returns with discrepancies.
 - 2. Identified 50,683 adjustment transactions (tax increases and tax decreases) processed by tax examiners in the FUTA Certification Program in Cincinnati, Ohio, from the Business Master File as of January 1, 2015.
 - D. Determined whether the IRS applied the appropriate FUTA tax rates when working FUTA discrepancy cases.
 - 1. Identified 39,444 adjustment transactions for TY 2011 Form 940 tax returns from Step IV.C.2. We also identified TY 2011 Form 940 total FUTA taxable wages, FUTA taxable wages paid on or before June 30, 2011, FUTA taxable wages paid after June 30, 2011, and FUTA tax from the Business Return Transaction File¹⁰ as of April 30, 2015.
 - 2. Identified 22,206 employers for analysis of applying the correct tax rate for taxable wages paid after June 30, 2011. From the population of employers identified in step IV.D.1, we removed:

⁹ Our analysis excluded employers that paid ***2**** State unemployment tax because of data formatting errors in ****2***** State FUTA Certification Data File. Our analysis identified 267 discrepancy cases that were not identified by the IRS process and 333 discrepancy cases in which our analysis identified an allowable credit that was either more or less than the IRS's analysis; however, this represented less than 0.01 percent of the 4,734,545 TY 2012 Form 940 single-State employers included in the IRS's September 2013 extract.

¹⁰ An IRS database of transcribed line items on all business returns and their accompanying forms and schedules.



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

- a. 3,258 employers that did not report taxable wages paid after June 30, 2011.
 - b. 2,786 employers for which total FUTA taxable wages did not match the sum of FUTA taxable wages paid on or before June 30, 2011, and FUTA taxable wages paid after June 30, 2011. This issue can occur because of employer error in preparing the tax return or because of IRS data input errors. We removed these employers' records because the taxable wages paid after June 30, 2011, could not be accurately determined.
 - c. 11,194 employers that had a net adjustment on their account of \$0.
3. Identified 9,581 employers assessed additional tax from the FUTA Certification Program using the incorrect FUTA tax rate of 6.2 percent for wages paid after June 30, 2011. We recalculated the tax adjustments using the correct FUTA tax rate of 6 percent for wages paid after June 30, 2011, and identified employers for which the IRS assessment differed from the appropriate adjustment amount by 0.2 percent, *i.e.*, 6.2 percent minus 6 percent.
 4. Computed the tax rate, *i.e.*, total tax assessed divided by total taxable wages reported, for the 39,444 discrepancy cases identified in Step IV.D.1.
 5. Identified 3,618 employers with adjustment transactions for TY 2011 tax returns for which the total tax assessed exceeded 6.2 percent. Of these 3,618 employers, we identified 2,590 employers for which the computed tax rate exceeded the TY 2011 maximum FUTA tax rate of 6.2 percent by the credit reduction percentage, *i.e.*, 0.3 percent, 0.6 percent, and 0.9 percent, of the States for which the employers were required to pay State unemployment tax. We used the maximum FUTA tax rate of 6.2 percent because our analysis showed that the IRS used only the 6.2 percent tax rate in the adjustment calculations.
 6. Evaluated cases in which the computed tax rate exceeds 6.2 percent to identify the reason for exceeding the gross FUTA tax rate.
 7. Quantified the impact of 2,590 Forms 940 for TY 2011 that exceeded the gross FUTA tax rate of 6.2 percent.
- V. Assessed the IRS's work on discrepancy cases for multi-State employers.
- A. Discussed with IRS management the methodology for *****2*****
*****2*****at the Cincinnati Campus.¹¹
 - B. Obtained IRS discrepancy cases for FUTA multi-State filers for the September 2013 extract.

¹¹ The data processing arm of the IRS. The campuses process paper and electronic submissions, correct errors, and forward data to the Computing Centers for analysis and posting to taxpayer accounts.



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

1. Identified 264,254 multi-State employers that filed a TY 2012 Form 940 and were included in the IRS's September 2013 extract.
 2. Evaluated the IRS's automated process which identified 262,121 multi-State employers with discrepancy cases related to the IRS's September 2013 extract.
- C. Assessed an alternative technique to evaluate FUTA tax credits claimed by multi-State employers.
1. Identified 264,254 multi-State employers in the IRS's September 2013 extract, and matched these records to the consolidated State FUTA Certification Data File and the Business Return Transaction File. This identified 190,228 multi-State employers that had complete data on the consolidated State FUTA Certification Data File, *i.e.*, all States returned the employer's record in the State FUTA Certification Data Files, and the Business Return Transaction File.
 2. Identified 144,563 of the 190,228 multi-State employers for recalculation of potential discrepancy in FUTA tax.
 - a. Removed 45,395 multi-State employers that reported paying *****2*** State unemployment tax. We removed these multi-State employers from further analysis because *****2***** State FUTA Certification Data File contained data formatting errors.
 - b. Removed 270 multi-State employers that required manual computation, *e.g.*, certain conditions on the employer's tax account such as currently not collectible. We removed these multi-State employers from further analysis because employers requiring manual computation cannot be accurately calculated using data analysis alone.
 3. Identified 3,729 employers with a potential increase or decrease in FUTA tax of more than \$500. For the 144,563 multi-State employers, we calculated the FUTA tax credits the multi-State employers are allowed for each State for which the IRS received State FUTA certification data, totaled the allowable credit for each State, and calculated the increase or decrease in FUTA tax by comparing the total allowable credit for all States with the total FUTA tax assessed on the employers' tax accounts.
- D. Assessed the impact on tax administration for *****2*****
*****2*****at the Cincinnati Campus.

Data validation methodology

During this review, we relied on data extracted from the IRS mainframe. We validated the mainframe data by matching the file counts to IRS control reports and comparing a sample of the data to the Business Master File. We also relied on extracts from the Business Return



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

Transaction File to obtain information on the posting of adjustments to employers' accounts. Before relying on the adjustments data, we compared a sample of the data to the Business Master File and determined that the data were reliable.

Internal controls methodology

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined that the following internal controls were relevant to our audit objective: policies and procedures used by the FUTA Certification Program to ensure that credits of FUTA tax claimed by employers are valid. We evaluated the controls by reviewing the IRS's Internal Revenue Manual, interviewing IRS management, reviewing the Program Requirement Package applicable to the FUTA Certification Program, and testing the program's processes including: identifying data to include in the identification file, validating the certification files returned by the States, calculating the employer's allowable credit, and determining if the employer claimed the correct amount of credit or if an assessment or refund is necessary.



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

Appendix II

Major Contributors to This Report

Russell P. Martin, Assistant Inspector General for Audit (Returns Processing and Account Services)
Diana M. Tengesdal, Director
Darryl J. Roth, Audit Manager
Nathan J. Smith, Lead Auditor
Johnathan D. Elder, Senior Auditor
Gwendolyn S. Gilboy, Senior Auditor
Tracy M. Hernandez, Senior Auditor



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

Appendix III

Report Distribution List

Commissioner
Office of the Commissioner – Attn: Chief of Staff
Deputy Commissioner for Operations Support
Deputy Commissioner for Services and Enforcement
Deputy Chief Information Officer for Operations
Deputy Commissioner, Small Business/Self-Employed Division
Associate Chief Information Officer, Applications Development
Associate Chief Information Officer, Enterprise Operations
Director, Examination, Small Business/Self-Employed Division
Director, Campus Examination, Small Business/Self-Employed Division
Director, Cincinnati Campus, Small Business/Self-Employed Division
Director, Examination Automated Underreporter Policy, Small Business/Self-Employed
Division
Director, Examination Planning Performance and Analysis, Small Business/Self-Employed
Division
Director, Headquarters Examination, Small Business/Self-Employed Division
Director, Office of Audit Coordination



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

Appendix IV

Outcome Measures

This appendix presents detailed information on the measurable impact that our recommended corrective actions will have on tax administration. These benefits will be incorporated into our Semiannual Report to Congress.

Type and Value of Outcome Measure:

- Increased Revenue – Potential; \$19,707,482 from 3,969 employers not included in the FUTA Certification Program due to data formatting errors (see page 7).

Methodology Used to Measure the Reported Benefit:

The IRS excluded all ****2**** employers from the FUTA certification discrepancy processing for the September 2013 extract. Our analysis of ****2**** certification data determined that the data were not reliable for calculating a potential increase or decrease in FUTA tax for employers included in the September 2013 extract. As an alternative, we determined the FUTA Certification Program adjustments made relating to ****2**** single-State employers from the September 2012 extract. We identified 50,683 employers that had adjustments made to their tax accounts based on the results of the FUTA Certification Program for the September 2012 extract. Of these, 6,835 were ***2*** a employers that filed a TY 2011 Form 940. We then determined the adjustments made to the accounts by the FUTA Certification Program and found that 3,754 employers had an increase of \$20,658,336 and 215 employers had a reduction in tax of \$293,055, for a net adjustment of \$20,365,281. We then adjusted this amount to 96.77 percent (6 percent divided by 6.2 percent) due to the change in the FUTA tax rate from 6.2 percent to 6 percent for FUTA taxable wages paid after June 30, 2011. This resulted in potential increased revenue of \$19,707,482.

Type and Value of Outcome Measure:

- Increased Revenue – Potential; \$72,031,254 from 1,339 multi-State employer accounts *2*
*****2***** (see page 11).

Methodology Used to Measure the Reported Benefit:

We identified 264,254 multi-State employers in the IRS's September 2013 extract. We identified 190,228 multi-State employers that had complete data on the consolidated State FUTA Certification Data File and the Business Return Transaction File. We excluded 45,395 employers that reported paying ***2*** State unemployment tax due to data formatting errors with State FUTA Certification Data File and 270 employers that required manual



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

computation, *e.g.*, certain conditions on the employer's tax account such as currently not collectible. For the remaining 144,563 multi-State employers, we calculated the credits the multi-State employers are allowed for each State for which the IRS received State FUTA Certification Data Files. We totaled the allowable credits for those States and calculated the increase or decrease in FUTA tax by comparing the total allowable credit for all States with the total FUTA tax assessed on the employers' tax accounts. We identified 3,729 employers with a potential increase or decrease in FUTA tax of at least \$500. We totaled the increase and decrease amounts for the 3,729 employers and determined the potential net tax increase of \$200,532,445.

*****2*****, we used the IRS's September 2012 extract to determine the change rate for cases worked in the FUTA Certification Program. This showed that 26,102 (35.92 percent) of 72,670 TY 2011 records in the September 2012 extract had a net adjustment. We applied this rate to the 3,729 multi-State cases, resulting in 1,339 potential adjustments totaling \$72,031,254.

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; \$3,162,599 from 12,171 taxpayers incorrectly assessed FUTA tax owed (see page 15).

Methodology Used to Measure the Reported Benefit:

We identified 50,683 employers that had adjustments made to their accounts by the FUTA Certification Program related to the IRS's September 2012 extract. Of these, we identified 39,444 employer account adjustments were TY 2011 returns.

We summed the amount of tax the 39,444 employers were assessed on their Form 940 and the amount the FUTA Certification Program assessed in additional tax and divided this amount by the total FUTA taxable wages to determine the employers' assessed tax rate. We found 3,618 employers were assessed a tax rate above 6.2 percent. Of those, 2,590 employers were assessed an amount equal to the credit reduction percentage, *i.e.*, 0.3 percent, 0.6 percent, and 0.9 percent, of the State for which they were required to pay State unemployment tax. We identified the dollar amount of the assessments that exceeded the maximum tax rate for these 2,590 employers, which totaled \$1,536,875.

We summed the total FUTA taxable wages paid on or before June 30, 2011, and total FUTA taxable wages paid after June 30, 2011, for the 39,444 employers. We compared this to the total FUTA taxable wages and identified 2,786 employers for which the total FUTA taxable wages did not match (*i.e.*, due to the possibility of a data input error), 3,258 employers that did not report wages paid after June 30, 2011, and 11,194 employers with a net adjustment of \$0. For the remaining 22,206 employers, we recalculated the tax adjustments using the correct FUTA tax rate of 6 percent for wages paid after June 30, 2011. We identified 9,581 employers for which the assessment made by the FUTA Certification Program exceeded the amount we calculated as



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

the actual adjustment amount by exactly 0.2 percent, *i.e.*, 6.2 percent minus 6 percent. We identified the dollar amount of the assessments that exceeded the maximum tax rate of 6 percent for wages paid after June 30, 2011, for these 9,581 employers, which totaled \$1,625,724.

We identified 12,171 (2,590 plus 9,581) employers that were incorrectly assessed FUTA tax owed totaling \$3,162,599 (\$1,536,875 plus \$1,625,724) in tax on TY 2011 Form 940 tax returns. This consists of incorrect assessments due to a programming error and incorrect assessments due to the IRS's use of the incorrect FUTA tax rate.



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

Appendix V

Management's Response to the Draft Report




DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER
SMALL BUSINESS/Self-EMPLOYED DIVISION

DEC 02 2015

MEMORANDUM FOR MICHAEL E. McKENNEY
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Karen Schiller 
Commissioner, Small Business/Self-Employed Division

SUBJECT: Draft Audit Report – Processes Are Needed to Ensure Reliability
of Federal Unemployment Tax Certification Files and to Work
Multi-State Cases (Audit # 201440008)

Thank you for the opportunity to review your draft report titled: "Processes Are Needed to Ensure Reliability of Federal Unemployment Tax Certification Files and to Work Multi-State Cases." Through the Federal Unemployment Tax Act (FUTA) Certification Program, the IRS and state agencies work together to ensure that the amounts of state unemployment funds that employers claim on their Forms 940 were actually paid into the states' unemployment funds. The IRS is responsible for collecting the FUTA tax which is a Federal employer tax on wages paid to employees to fund State Workforce Agencies. Those employers that pay both the FUTA and a State unemployment tax are allowed a credit of the FUTA tax. The FUTA Certification Program verifies that the State unemployment funds that employers claim on their Form 940 were actually paid into the States' unemployment funds. Between September 21, 2012, and September 26, 2013, over 5.6 million employers filed Forms 940, and the Service correctly loaded and made available for comparison 99.99% of these forms, only 447 were not on the FUTA State Identification Data file.

It must be noted that the FUTA certification program is a shared responsibility, and we depend on the states to properly discharge their duties to provide accurate, complete and timely state employer certification information. *****6*****
*****6*****
*****6*****

Our current programming already identifies multi-state discrepancy cases, and we agree that *****2*****
However, due to computer constraints, the high-level discrepancy data is a less useful tool for identifying multi-state employer workload. Accordingly, we had made a



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

business decision not to use discrepancy data to select multi-employer cases but to use such data as part of an overall analysis for potential case selection. In response to your recommendation, we will conduct a pilot on identified multi-state employer to evaluate future inclusion in FUTA Certification Program workload. We will correct erroneous tax assessments made as a result of a computer programming errors and will continue to follow established Information Technology (IT) protocol when submitting requirements for programming changes.

We agree with the outcome measures related to: (1) potential increased revenue of \$19,707,482 from 3,969 employers not included in the FUTA Certification Program due to data formatting errors, and (2) potential taxpayer rights and entitlements of \$3,162,599 from 12,171 taxpayers incorrectly assessed FUTA tax owed.

We do not agree, however, with the potential increased revenue of \$72,031,254 from 1,339 multi-State employer accounts *****2*****
*****2*****
*****2*****
*****2*****
*****2*****.

Attached is a detailed response outlining our corrective actions to address your recommendations. If you have any questions, please contact me, or a member of your staff may contact Shenita Hicks, Director Examination at (859) 669-5526.

Attachment



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

Attachment

RECOMMENDATION 1:

The Commissioner, Small Business/Self-Employed Division, should develop a process to identify errors in key data fields, i.e., State wage fields, State unemployment tax rate fields, and the State payment fields, used to calculate allowed FUTA tax credit as part of the IRS's upfront data validation process for State FUTA Certification Data. For those errors that materially affect the calculation of allowed FUTA tax credit, request corrected files.

CORRECTIVE ACTION:

While we agree with this recommendation, we are unable to commit to implementing a corrective action at this time, due to budgetary constraints. This recommendation will be placed on hold in the JAMES system, pending the availability of required funding.

IMPLEMENTATION DATE:

N/A

RESPONSIBLE OFFICIAL(S):

Director, Examination/AUR Policy, Headquarters Examination, Small Business/Self-Employed Division (SB/SE)

CORRECTIVE ACTION MONITORING PLAN:

N/A

RECOMMENDATION 2:

The Commissioner, Small Business/Self-Employed Division, should develop a process to identify records not returned as required from State Agencies, and as warranted, contact State Agencies to request recertification for those employers whose records were not returned.

CORRECTIVE ACTION:

The IRS will review current processes and procedures for the return of State Agency files to ensure sufficient steps are in place to address instances when recertification records are not returned.

IMPLEMENTATION DATE:

September 15, 2016

RESPONSIBLE OFFICIAL(S):

Director, Examination/AUR Policy, Headquarters Examination, Small Business/Self-Employed Division (SB/SE)



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

2

CORRECTIVE ACTION MONITORING PLAN:

IRS will monitor this corrective action as part of our internal management system of controls.

RECOMMENDATION 3:

The Commissioner, Small Business/Self-Employed Division, *****2*****
*****2*****.

CORRECTIVE ACTION:

The IRS will initiate a pilot on *****2*****
*****2*****.

IMPLEMENTATION DATE:

June 15, 2017

RESPONSIBLE OFFICIAL(S):

Director, Examination/AUR Policy, Headquarters Examination, Small Business/Self-Employed Division (SB/SE)

CORRECTIVE ACTION MONITORING PLAN:

IRS will monitor this corrective action as part of our internal management system of controls.

RECOMMENDATION 4:

The Commissioner, Small Business/Self-Employed Division, should revise its process to accurately identify multi-State employer discrepancy cases.

CORRECTIVE ACTION:

The IRS has programming in place to identify the multi-state employer discrepancy cases, *****2*****
*****2*****
*****2*****
*****2***** . Until the pilot is complete and we have the opportunity to assess the results, we are unable to commit to further action.

IMPLEMENTATION DATE:

N/A

RESPONSIBLE OFFICIAL(S):

Director, Examination/AUR Policy, Headquarters Examination, Small Business/Self-Employed Division (SB/SE)



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

3

CORRECTIVE ACTION MONITORING PLAN:

N/A

RECOMMENDATION 5:

The Commissioner, Small Business/Self-Employed Division, should correct tax assessments made on the 2,590 employers as a result of programming errors and establish a process to identify other employers affected by this programming error.

CORRECTIVE ACTION:

The IRS will conduct research and all impacted TINs will be corrected if an incorrect assessment is still on the account.

IMPLEMENTATION DATE:

November 15, 2016

RESPONSIBLE OFFICIAL(S):

Director, Examination/AUR Policy, Headquarters Examination, Small Business/Self-Employed Division (SB/SE)

CORRECTIVE ACTION MONITORING PLAN:

IRS will monitor this corrective action as part of our internal management system of controls.

RECOMMENDATION 6:

The Commissioner, Small Business/Self-Employed Division, should develop a process to ensure that programming of the FCP System is updated as appropriate to accurately calculate tax adjustments.

CORRECTIVE ACTION:

The Service has an established IT UWR process to submit requirements for programming changes and IT Ticket number #SD10238997 was input on November 24, 2015, to correct programming related to credit reductions. To prevent future programming issues, we will also review the process from submission of a UWR through testing programming changes and take action to revise procedures if appropriate.

IMPLEMENTATION DATE:

September 15, 2016

RESPONSIBLE OFFICIAL(S):

Director, Examination/AUR Policy, Headquarters Examination, Small Business/Self-Employed Division (SB/SE)



*Processes Are Needed to Ensure Reliability of
Federal Unemployment Tax Certification Files
and to Work Multi-State Cases*

4

CORRECTIVE ACTION MONITORING PLAN:

N/A

RECOMMENDATION 7:

The Commissioner, Small Business/Self-Employed Division, should correct tax assessments made on the 9,581 employers as a result of using the incorrect tax rate to compute the FUTA tax owed by these employers.

CORRECTIVE ACTION:

The IRS will develop a method to sort and verify cases that require adjustment actions, and complete appropriate steps for resolution.

IMPLEMENTATION DATE:

November 15, 2016

RESPONSIBLE OFFICIAL(S):

Director, Examination/AUR Policy, Headquarters Examination, Small Business/Self-Employed Division (SB/SE)

CORRECTIVE ACTION MONITORING PLAN:

IRS will monitor this corrective action as part of our internal management system of controls.