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**ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 10-20, Change 2**

**TO: STATE WORKFORCE AGENCIES**

**FROM: SUZAN G. LEVINE**   
Principal Deputy Assistant Secretary

**SUBJECT: Unemployment Compensation (UC) for Individuals Affected by the Coronavirus Disease 2019 (COVID-19) – Short-Time Compensation (STC) for Reopening the Economy**

1. **Purpose.** To provide guidance to states regarding UC flexibilities related to COVID-19, specifically on how states can use the STC program to support reopening the economy.
2. **Action Requested.** The Department of Labor’s (Department) Employment and Training Administration (ETA) requests that State Workforce Administrators provide the information in this Unemployment Insurance Program Letter (UIPL) to appropriate program and other staff in state workforce systems as they respond to the economic effects of COVID-19.
3. **Summary and Background.**
  - a. Summary – The Unemployment Insurance (UI) program is facing an unprecedented demand due to the economic effects of efforts to mitigate the spread of COVID-19. Many businesses were temporarily closed or forced to operate at a reduced capacity in order to curb the spread of COVID-19 or due to the economic impact of the pandemic.

As mentioned in UIPL No. 21-20, states may use STC to help employers who are reopening business operations. Use of the STC program in this manner is limited to those individuals who worked for an employer prior to being temporarily laid off due to COVID-19, and who the employer brings back with reduced hours in order to reemploy a greater number of employees than the employer would otherwise have been able to. This UIPL provides guidance on how states may use the STC program to support employers in reopening as the economic impacts of the pandemic subside.

- b. Background – The STC program (also known as “worksharing” or “shared work”) is a layoff aversion program in which an employer, under a state-approved plan, reduces the hours for a group of workers in lieu of layoffs and these workers in turn receive a reduced unemployment benefit payment. This program preserves employees’ jobs and employers’ trained workforces during a disruption to the firm’s regular business activity

<b>RESCISSIONS</b> None	<b>EXPIRATION DATE</b> Continuing
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by reducing hours of work for an entire group of affected employees, rather than by laying off some employees while others continue to work full time. The STC benefit payment cushions the adverse effect of the reduction in business activity on workers and, by maintaining their connection to their employers, increases the likelihood that these workers will be available to resume their prior employment when business demand increases.

States may take advantage of the incentives in the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Public Law (Pub. L.) 116-136), as amended. Sections 2108 and 2109 of the CARES Act provided for full federal funding of STC payments and federal STC benefit costs through December 31, 2020 (*see* UIPL No. 21-20). This funding was extended through March 14, 2021, with enactment of the Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) (Pub. L. 116-260) (*see* Section 4.b.vi. of UIPL No. 09-21). This funding was further extended through September 6, 2021, with enactment of the American Rescue Plan Act of 2021 (ARPA) (Pub. L. 117-2) (*see* Section 4.c.vi. of UIPL No. 14-21).

States are reminded that the CARES Act also provides states with grant funds to implement or improve administration of an STC program and to promote and enroll employers. The deadline to apply for these grants is December 31, 2023. *See* UIPL No. 22-20.

- 4. Guidance.** The Department is committed to promoting state adoption of the STC program and to meeting the requirements of Section 2111 of the CARES Act. The purpose of this UIPL is to provide states with guidance on how to effectively leverage the STC program as local economies are reopening. For a business that was partially or fully closed because of COVID-19, STC can serve as a means of bringing most or all of its laid-off workforce back to the job, even if social distancing measures, a decline in business, and/or other factors prevent the employer from operating at normal, full-time staffing levels.

As states have reopened their local economies in phases, many businesses have been unable to bring all staff back at full capacity and full hours right away. STC can provide, and in some states has provided, an important bridge to support both employers and workers in these circumstances. More than half the states offer an STC program in their state law.<sup>1</sup>

States with existing STC programs are strongly encouraged to quickly assess how they can implement STC within the context of businesses reopening and reach out to employers who have taken, or are most likely to be able to take, advantage of this approach.

States without STC programs should consider whether to enact legislation to implement an STC program using grant funds made available in the CARES Act, and if so, how quickly, or

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<sup>1</sup>For a list of states with STC laws, see Table 4-5 of the Extensions and Special Programs Chapter in the most recent *Comparison of State Unemployment Insurance Laws* at <https://oui.doleta.gov/unemploy/statelaws.asp#RecentStatelaw>.

if they should take advantage of the temporary STC program authorized in Section 2109 of the CARES Act.

Attachment I provides the statutory text for Section 3306(v) of the Federal Unemployment Tax Act (FUTA) (26 U.S.C. § 3306(v)). Attachment II provides a description of how important requirements of the STC program may be satisfied in a plan to support an employer's reopening. Attachment III provides several examples of how states may use STC as a tool for reopening. Attachment IV provides a summary of the Department's key guidance related to the economic effects of COVID-19 and STC.

- a. **Conformity with Section 3306(v) of the Federal Unemployment Tax Act (FUTA).** A state's STC law must conform to Section 3306(v), FUTA, in order for the state to use state unemployment trust fund dollars to pay STC costs, or to receive federal reimbursement for such costs under the CARES Act. States without an existing STC program may provide STC benefits under an agreement with the Secretary of Labor to administer STC benefits in accordance with Section 3306(v), FUTA, and receive partial reimbursement for such benefit costs, pursuant to Section 2109 of the CARES Act.

This guidance applies when an employer has an affected unit within its operations. It does not require that the employer itself is fully closed. As provided in the draft legislative language of the attachment to UIPL No. 22-12, Change 1, the term "affected unit" may mean a specified plant, department, shift, or other definable unit which includes more than one worker to which an approved STC plan applies.

The state must consider certain parameters within the context of reopening:

- The state must approve the employer's STC plan in accordance with its applicable state law **prior** to the employer bringing back the employees to be included in an STC plan.
  - The STC plan may only cover employees that the employer employed in the affected unit **immediately prior** to the temporary closure or reduction in staff. The STC plan within the context of a reopening economy cannot cover individuals who were not working for an employer at the time of the temporary closure.
- b. **Action required by the state.** The Department has not previously provided specific guidance to states about using the STC program within the context of businesses reopening and states may need some time to make adjustments to accommodate this new guidance. No changes are necessary for an STC plan that was previously approved by the state in accordance with state law within the context of a business reopening.

States are expected to ensure adherence to the guidance contained in this UIPL for all STC plans approved on or after August 30, 2021 (three months from the date of publication).

5. **Inquiries.** States should direct inquiries to [COVID-19@dol.gov](mailto:COVID-19@dol.gov) and copy the appropriate ETA Regional Office.

6. **References.**

- American Rescue Plan Act of 2021 (ARPA), including Title IX, Subtitle A, Crisis Support for Unemployed Workers (Pub. L. 117-2);
- Consolidated Appropriations Act, 2021, including Division N, Title II, Subtitle A, the Continued Assistance Act for Unemployed Workers Act of 2020 (Continued Assistance Act) (Pub. L. 116-260);
- Coronavirus Aid, Relief, and Economic Security (CARES) Act, including Title II, Subtitle A, Relief for Workers Affected by Coronavirus Act (Pub. L. 116-136);
- Sections 3304(a) and 3306(v) of the Federal Unemployment Tax Act (FUTA), 26 U.S.C. §§ 3304(a) and 3306(v);
- Section 303(a) of the Social Security Act (SSA), 42 U.S.C. § 503(a);
- UIPL No. 14-21, *American Rescue Plan Act of 2021 (ARPA) – Key Unemployment Insurance (UI) Provisions*, issued March 15, 2021, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=5669](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5669);
- UIPL No. 09-21, *Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) - Summary of Key Unemployment Insurance (UI) Provisions*, issued December 30, 2020, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=3831](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3831);
- UIPL No. 22-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Short-Time Compensation (STC) Program Grants*, issued on May 10, 2020, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=6220](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=6220);
- UIPL No. 21-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Short-Time Compensation (STC) Program Provisions and Guidance Regarding 100 Percent Federal Reimbursement of Certain State STC Payments*, issued on May 3, 2020, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=9622](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=9622);
- UIPL No. 15-20, Change 4, *American Rescue Plan Act of 2021 (ARPA) – Extensions to the Federal Pandemic Unemployment Compensation (FPUC) Program and Mixed Earners Unemployment Compensation (MEUC) Program*, issued March 26, 2021, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?docn=3728](https://wdr.doleta.gov/directives/corr_doc.cfm?docn=3728);
- UIPL No. 15-20, Change 3, *Continued Assistance for Unemployed Workers (Continued Assistance) Act of 2020 – Federal Pandemic Unemployment Compensation (FPUC) Program Reauthorization and Modification and Mixed Earners Unemployment Compensation (MEUC) Program Operating, Reporting, and Financial Instructions*, issued January 5, 2021, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=6122](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=6122);
- UIPL No. 15-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Federal Pandemic Unemployment Compensation (FPUC) Program Operating, Financial, and Reporting Instructions*, issued on April 4, 2020, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=9297](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=9297);
- UIPL No. 14-20, Change 1, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Questions and Answers*, issued August 12, 2020, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=3791](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3791);

- UIPL No. 14-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Summary of Key Unemployment Insurance (UI) Provisions and Guidance Regarding Temporary Emergency State Staffing Flexibility*, issued April 2, 2020, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=3390](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3390);
- UIPL No. 10-20, *Unemployment Compensation (UC) for Individuals Affected by the Coronavirus Disease 2019 (COVID-19)*, issued March 12, 2020, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=8893](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8893);
- UIPL No. 22-12, Change 2, *Short-Time Compensation Provisions in the Middle Class Tax Relief and Job Creation Act of 2012*, issued on February 7, 2014, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=7832](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7832);
- UIPL No. 22-12, Change 1, *Short-Time Compensation Provisions in the Middle Class Tax Relief and Job Creation Act of 2012*, issued on December 21, 2012, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=5754](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5754); and
- UIPL No. 22-12, *Short-Time Compensation Provisions in the Middle Class Tax Relief and Job Creation Act of 2012*, issued on June 18, 2012, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=9382](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=9382).

## 7. **Attachment(s).**

- Attachment I: Section 3306(v) of the Federal Unemployment Tax Act (FUTA) (26 U.S.C. § 3306(v)).
- Attachment II: Important Requirements of a Short-Time Compensation (STC) Program for Reopening Businesses.
- Attachment III: Examples of Using Short-Time Compensation (STC) as a Tool for Reopening.
- Attachment IV: Summary of the Department’s Key Short-Time Compensation (STC) Guidance.

**Section 3306(v) of the Federal Unemployment Tax Act (FUTA) (26 U.S.C. § 3306(v))**

Section 3306. Definitions.

(v) Short-time compensation program

For purposes of this section, the term “short-time compensation program” means a program under which-

- (1) the participation of an employer is voluntary;
- (2) an employer reduces the number of hours worked by employees in lieu of layoffs;
- (3) such employees whose workweeks have been reduced by at least 10 percent, and by not more than the percentage, if any, that is determined by the State to be appropriate (but in no case more than 60 percent), are not disqualified from unemployment compensation;
- (4) the amount of unemployment compensation payable to any such employee is a pro rata portion of the unemployment compensation which would otherwise be payable to the employee if such employee were unemployed;
- (5) such employees meet the availability for work and work search test requirements while collecting short-time compensation benefits, by being available for their workweek as required by the State agency;
- (6) eligible employees may participate, as appropriate, in training (including employer-sponsored training or worker training funded under the Workforce Innovation and Opportunity Act) to enhance job skills if such program has been approved by the State agency;
- (7) the State agency shall require employers to certify that if the employer provides health benefits and retirement benefits under a defined benefit plan (as defined in section 414(j)) or contributions under a defined contribution plan (as defined in section 414(i)) to any employee whose workweek is reduced under the program that such benefits will continue to be provided to employees participating in the short-time compensation program under the same terms and conditions as though the workweek of such employee had not been reduced or to the same extent as other employees not participating in the short-time compensation program;
- (8) the State agency shall require an employer to submit a written plan describing the manner in which the requirements of this subsection will be implemented (including a plan for giving advance notice, where feasible, to an employee whose workweek is to be reduced) together with an estimate of the number of layoffs that would have occurred absent the ability to participate in short-time compensation and such other information as the Secretary of Labor determines is appropriate;
- (9) the terms of the employer's written plan and implementation shall be consistent with employer obligations under applicable Federal and State laws; and
- (10) upon request by the State and approval by the Secretary of Labor, only such other provisions are included in the State law that are determined to be appropriate for purposes of a short-time compensation program.

**Important Requirements of a Short-Time Compensation (STC) Program  
for Reopening Businesses**

State STC law must conform to all provisions of Section 3306(v) of the Federal Unemployment Tax Act (FUTA) in order for the state to use state unemployment trust fund dollars to pay STC costs, or to receive federal reimbursement for such costs under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, and its amendments. States without an existing STC program may provide STC benefits under an agreement with the Secretary of Labor to administer STC benefits in accordance with Section 3306(v), FUTA, and receive partial reimbursement for such benefit costs, pursuant to Section 2109 of the CARES Act.

The following paragraphs highlight how important requirements of an STC program may be satisfied in a plan to support an employer's reopening. This guidance applies when an employer has an affected unit within its operations. It does not require that the employer itself is fully closed. As provided in the draft legislative language of the attachment to Unemployment Insurance Program Letter (UIPL) No. 22-12, Change 1, the term "affected unit" may mean a specified plant, department, shift, or other definable unit which includes more than one worker to which an approved STC plan applies.

***In lieu of layoffs.*** To comply with Section 3306(v)(2) of FUTA, an employer must reduce the number of hours worked by employees of an affected unit in lieu of continued layoffs of those employees. Because the reduction in hours must be in lieu of continued layoffs, only those employees in the affected unit who were employed immediately prior to the temporary closure of that affected unit may participate in the STC program for reopening.

***Reduced workweek.*** To comply with Section 3306(v)(3) of FUTA, the employees' workweek must "have been reduced by at least 10 percent, and by not more than the percentage, if any, that is determined by the State to be appropriate (but in no case more than 60 percent)." Within the context of reopening, the state should compare these reduction percentages to the affected unit's employment immediately prior to the temporary layoff. If state law includes a cap on the number of hours reduced that is less than 60 percent, this may prevent certain employers from participating in the STC program as a tool for reopening. For example, if state law includes a cap of 50 percent and individuals are being brought back with the business reopening at a 60 percent reduction from their workweek immediately prior to the temporary layoff, such an employer would not be eligible to participate in an STC plan.

***Pro rata portion of unemployment compensation.*** Section 3306(v)(4) of FUTA provides that the amount of payable unemployment compensation is a pro rata portion of the amount which would otherwise be payable to the employee if such employee were unemployed.

The Federal Pandemic Unemployment Compensation (FPUC) and Mixed Earners Unemployment Compensation (MEUC) payments are made in addition to the pro rata

portion of unemployment compensation. As explained in UIPL No. 15-20, an individual who receives STC payments is entitled to receive an additional \$600 per week from the FPUC program with respect to weeks of unemployment ending on or before July 31, 2020. The FPUC program was reauthorized with enactment of the Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) and modified to provide \$300 per week in supplemental benefits for weeks of unemployment beginning after December 26, 2020 and ending on or before March 14, 2021. Additionally, the Continued Assistance Act created the MEUC program to provide a \$100 supplemental benefit amount to certain individuals with self-employment income (*see* UIPL No. 15-20, Change 3). The FPUC and MEUC programs were further extended with enactment of the American Rescue Plan Act of 2021 (ARPA), through the week ending on or before September 6, 2021 (*see* UIPL No. 15-20, Change 4).

As noted in Question 19 of Attachment I to UIPL No. 14-20, Change 1, an individual may also continue to receive STC benefits after exhaustion of the regular UC claim while the individual is eligible to receive Pandemic Emergency Unemployment Compensation (PEUC) under Section 2107 of the CARES Act.

An individual whose benefit year has exhausted and who is not eligible for a new claim or PEUC is not eligible to participate in STC. This is because the STC payment amount is deducted from the individual's maximum benefit entitlement for a given benefit year and, in this case, the individual has exhausted their entitlement.

***Continued health benefits and retirement benefits.*** To comply with Section 3306(v)(7) of FUTA, the state must require employers to provide health benefits and certain retirement benefits to any participating employee under the same terms and conditions as though the workweek had not been reduced. To use STC as a tool for reopening, benefits must be continued on the same terms and conditions as provided immediately before the temporary layoff.

***Submission of a written plan.*** To comply with Section 3306(v)(8) of FUTA, the state must require an employer "to submit a written plan describing the manner in which the requirements of this subsection will be implemented (including a plan for giving advance notice, where feasible, to an employee whose workweek is to be reduced) together with an estimate of the number of layoffs that would have occurred absent the ability to participate in [STC] and such other information as the Secretary of Labor determines is appropriate." To use STC as a tool for reopening, the employer must: (1) submit an estimate of the number of layoffs that would have continued in the affected unit absent the ability to participate in STC; and (2) the state must approve the employer's STC plan **before** the affected unit returns for a reduced workweek.

***Optional provision to exclude an employer that hires new employees.*** As described on page 21 of UIPL No. 22-12, Change 1, state law may include a requirement that the employer provide assurances to the state UC agency that it will not hire new employees in the affected unit during the term of the plan. If this optional provision is included in state law, certain employers may be prevented from utilizing the STC program as a tool for reopening.

***Optional provision to exclude an employer that recently reduced its workforce.*** As described on page 3 of UIPL No. 22-12, Change 2, state law may include a provision that prohibits an employer from participating in STC if that employer recently reduced its workforce by a percentage and within a period specified in state law. If this optional provision is included in state law, certain employers may be prevented from utilizing the STC program as a tool for reopening.

**Examples of Using Short-Time Compensation (STC) as a Tool for Reopening Businesses**

These five scenarios demonstrate how the STC program may be used as a tool for reopening businesses. State law must conform to all provisions of Section 3306(v) of the Federal Unemployment Tax Act (FUTA). For purposes of this exercise, we highlight three particular provisions for each example, namely paragraphs (2) (*in lieu of layoffs*), (3) (*reduced workweek*), and (8) (*submission of a written plan*). These scenarios do not encompass all possible uses of STC as a reopening tool.

**Company A: Employer reopens and brings back all employees with reduced hours.**

Company A temporarily closed because of COVID-19. Prior to closing, Company A employed 10 individuals in a single affected unit for a standard workweek of 40 hours. In April 2021, Company A partially reopens by bringing back all 10 individuals at a reduced workweek of 30 hours.

***In lieu of layoffs.*** The employer has enough work (300 hours) for 7.5 full-time employees. The employer is able to avert the continued layoff of 2.5 full-time employees by bringing back all 10 employees for a reduced workweek.

***Reduced workweek.*** The employer reduced the workweek from 40 hours to 30 hours, which is a reduction of 25 percent and permissible under federal law, though state law may vary.

***Submission of a written plan.*** Provided Company A submitted an STC plan and the state approved the plan **prior** to bringing back these 10 individuals, Company A may use STC as a tool for reopening.

***Summary.*** The 10 returning employees would each receive 75 percent of their prior wages from their employer, while also remaining eligible for 25 percent of their respective weekly benefit amounts under a regular Unemployment Compensation (UC) or Pandemic Emergency Unemployment Compensation (PEUC) claim.

**Company B: Employer reopens with work sufficient to bring back all employees with reduced hours; however, one employee is unable to return and their position is filled with a new hire.**

Company B temporarily closed because of COVID-19. Prior to closing, Company B employed 10 individuals in a single affected unit for a standard workweek of 40 hours. In April 2021, Company B partially reopens by bringing back all 10 individuals at a reduced workweek of 30 hours. However, one individual is not able to return. For purposes of store coverage, the employer decides to hire a new individual to work 30 hours per week in place of the individual who cannot return.

***In lieu of layoffs.*** The employer has enough work (300 hours) for 7.5 full-time employees. The employer is able to avert the continued layoff of 1.5 full-time employees by bringing back nine of the original employees for a reduced workweek.

***Reduced workweek.*** The employer reduced the workweek from 40 hours to 30 hours, which is a reduction of 25 percent and permissible under federal law, though state law may vary.

***Submission of a written plan.*** Provided Company B submitted an STC plan and the state approved the plan **prior** to bringing back these nine individuals, Company B may use STC as a tool for reopening.

***Summary.*** The nine returning employees would each receive 75 percent of their prior wages from their employer, while also remaining eligible for 25 percent of their respective weekly benefit amounts under a regular UC or PEUC claim.

The new employee is not eligible to participate in STC.

**Company C: Employer reopens with work sufficient to bring back some employees with reduced hours, while other employees remain fully unemployed.**

Company C temporarily closed because of COVID-19. Prior to closing, Company C employed five individuals in a single affected unit, including four full-time workers (standard workweek of 40 hours) and one part-time worker (standard workweek of 20 hours). In April 2021, Company C partially reopens by bringing back three previous full-time employees at a reduced workweek of 24 hours and no part-time workers.

***In lieu of layoffs.*** The employer has enough work (72 hours) for less than two full-time employees. The employer is able to avert the continued layoff of one full-time employee by bringing back three full-time employees for a reduced workweek. When possible, we encourage the employer to bring all employees back at reduced hours.

In this example, the full-time worker and part-time worker who are not called back may continue to file against their regular UC claims and subsequent extensions.

***Reduced workweek.*** The employer reduced the workweek from 40 hours to 24 hours, which is a reduction of 40 percent and permissible under federal law, though state law may vary.

***Submission of a written plan.*** Provided Company C submitted an STC plan and the state approved the plan **prior** to bringing back these three individuals, Company C may use STC as a tool for reopening.

***Summary.*** The three returning employees would each receive 60 percent of their prior wages from their employer, while also remaining eligible for 40 percent of their respective weekly benefit amounts under a regular UC or PEUC claim.

**Company D: Employer reopens with work sufficient to bring back some employees with reduced hours, without submitting a written STC plan to the state, while other employees remain fully unemployed. Subsequent to the initial reopening, the employer brings back the remaining employees so that all employees are now working reduced hours.**

Company D temporarily closed because of COVID-19. Prior to closing, Company D employed 10 individuals in a single affected unit for a standard workweek of 40 hours. In February 2021, without submitting a plan to the state, Company D partially reopens by bringing back five individuals at a reduced workweek of 30 hours. In May 2021, Company D further reopens by bringing back the remaining five individuals at a reduced workweek of 30 hours.

***In lieu of layoffs.*** In February 2021, the employer has enough work (150 hours) for 3.75 full-time employees. The employer is able to avert the continued layoff of 1.25 full-time employees by bringing back five of the original employees for a reduced workweek, but does not submit a plan prior to bringing back these five employees.

The five full-time workers who are not called back may continue to file against their regular UC claims and subsequent extensions.

In May 2021, the employer has enough work (150 hours) for an additional 3.75 full-time employees. The employer is able to avert the continued layoff of 1.25 full-time employees by bringing back the remaining five original employees for a reduced workweek.

***Reduced workweek.*** The employer reduced the workweek from 40 hours to 30 hours for both groups (those brought back in February and those brought back in May), which is a reduction of 25 percent and permissible under federal law, though state law may vary.

***Submission of a written plan.*** Because Company D did not submit a written plan prior to bringing back the five employees in February 2021, and as a result the state did not approve a plan for Company D, Company D may **not** use STC as a tool for reopening with these employees.

Provided the employer submitted an STC plan and the state approved the plan for Company D **prior** to bringing back the remaining five individuals in May 2021, Company D may use STC as a tool for reopening the five individuals brought back in May 2021.

***Summary.*** The five employees who returned in February 2021 would not be eligible for STC.

The five employees returning in May 2021 would each receive 75 percent of their prior wages from their employer, while also remaining eligible for 25 percent of their respective weekly benefit amounts under a regular UC or PEUC claim.

**Company E: Employer retains staff in one affected unit at reduced hours while laying off staff from another affected unit. The employer later brings back laid off individuals from the second affected unit to work reduced hours.**

Company E reduced operations because of COVID-19. Prior to this reduction in operations, Company E employed 10 individuals in two different affected units, each for a standard workweek of 40 hours. In October 2020, Company E temporarily laid off five staff from the second affected unit. The remaining five staff in the first affected unit continued to work at a reduced 30 hours per week schedule. In May 2021, Company E brought back the five individuals from the second affected unit who were previously laid off to work at a reduced schedule of 20 hours per week.

***In lieu of layoffs.*** In October 2020, the employer had enough work (150 hours) for 3.75 full-time employees. The employer is able to avert the layoff of 1.25 full-time employees by reducing hours for the five retained employees in the first affected unit.

- If the employer submitted and was approved for an STC plan in advance of the reduction, the five employees in the first affected unit who remained employed with a reduced workweek may have received STC.
- The five employees who were temporarily laid off in the second affected unit may file against their regular UC claims and subsequent extensions.

In May 2021, the employer had an additional amount of work (100 hours) for 2.5 full-time employees in the second affected unit. The employer is able to avert the continued layoff of 2.5 full-time employees by submitting a plan and then bringing back the five original employees who were laid off in October 2020 for a reduced workweek of 20 hours per week.

***Reduced workweek.*** The employer reduced the workweek from 40 hours to 30 hours for the first affected unit of five individuals (those who remained employed in October 2020), which is a reduction of 25 percent and permissible under federal law, though state law may vary.

The employer reduced the workweek from 40 hours to 20 hours for the second affected unit (those who were temporarily laid off in October 2020 and brought back in May 2021), which is a reduction of 50 percent and permissible under federal law, though state law may vary.

***Submission of a written plan.*** Provided Company E submitted an STC plan and the state approved the plan for the first affected unit of five individuals who remained employed in October 2020 prior to the reduction in work hours, these individuals may participate in STC.

Provided Company E submitted an STC plan and the state approved the plan prior to bringing back the five individuals from the second affected unit in May 2021, Company E may use STC as a tool for reopening the five individuals brought back in May 2021.

*Summary.* STC addresses each affected unit separately. The five employees from the first affected unit who remained employed with a reduced workweek in October 2020 would each receive 75 percent of their wages from their employer while also remaining eligible for 25 percent of their respective weekly benefit amounts under a regular UC or PEUC claim.

The five employees from the second affected unit returning in May 2021 would receive 50 percent of their prior wages from their employer while also remaining eligible for 50 percent of their respective weekly benefit amounts under a regular UC or PEUC claim.

## Attachment IV to UIPL No. 10-20, Change 2

### Summary of Key Short-Time Compensation (STC) Guidance

Following is a summary of the Department's key guidance related to the economic effects of COVID-19 and STC.

- The Unemployment Insurance (UI) related provisions are summarized in Unemployment Insurance Program Letter (UIPL) No. 14-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Summary of Key Unemployment Insurance (UI) Provisions and Guidance Regarding Temporary Emergency State Staffing Flexibility*, issued on April 2, 2020. Questions and Answers are provided in UIPL No. 14-20, Change 1, issued on August 12, 2020.
- UIPL No. 22-12, *Short-Time Compensation Provisions in the Middle Class Tax Relief and Job Creation Act of 2012*, issued on June 18, 2012, provides an overview of the provisions in Section 3306(v) of the Federal Unemployment Tax Act (FUTA). UIPL No. 22-12, Change 1, issued on December 21, 2012, provides states with model legislative language to use in implementing an STC program, including pre-approved optional provisions under Section 3306(v)(10) of FUTA. UIPL No. 22-12, Change 2, issued on February 7, 2014, informs states of additional pre-approved optional provisions under Section 3306(v)(10) of FUTA.
- Section 2108 of the CARES Act provides for temporary 100 percent federal financing of STC payments in a state with an STC program, assuming the state law conforms to Section 3306(v) of FUTA and the requirements of Section 2108(a)(3) are met for the STC payments, whether the STC program is new or pre-existing. The state is eligible for reimbursement of STC payments made with respect to weeks of unemployment beginning on or after the date of enactment of the CARES Act and ending on or before September 6, 2021. The Department provided guidance with the publication of the following UIPLs:
  - UIPL No. 21-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Short-Time Compensation (STC) Program Provisions and Guidance Regarding 100 Percent Federal Reimbursement of Certain State STC Payments*, issued on May 3, 2020. As explained in this UIPL, federal reimbursement of STC payments is also available to states that are using STC as a tool for reopening, provided the conditions of Section 3306(v), FUTA are met.
  - Section 4.b.vi. of UIPL No. 09-21, *Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) - Summary of Key Unemployment Insurance (UI) Provisions*, issued December 30, 2020.
  - Section 4.c.vi. of UIPL No. 14-21, *American Rescue Plan Act of 2021 (ARPA) – Key Unemployment Insurance (UI) Provisions*, issued March 15, 2021.

When the federal financing provided for in the CARES Act expires, Section 3304(a)(4)(E) of FUTA and Section 503(a)(5) of the Social Security Act (SSA) provide

an exception to the “Withdrawal Standard” allowing a state to use its unemployment trust fund to make STC payments.

- Section 2110 of the CARES Act provides up to \$100 million for grants to states for the implementation or improved administration of an STC program, including promotion of the program and enrollment of employers, assuming the program conforms with federal requirements. The Secretary may use up to \$250,000 of the \$100 million to provide outreach and to share best practices for STC programs. The deadline to apply for these grants is December 31, 2023. The Department provided guidance on how to secure a grant with the publication of UIPL No. 22-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Short-Time Compensation (STC) Program Grants*, issued on May 10, 2020.