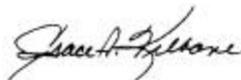


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|---|-------------------------------------|
| <b>Employment and Training Administration</b><br><b>Advisory System</b><br><b>U.S. Department of Labor</b><br><b>Washington, D.C. 20210</b> | <b>CLASSIFICATION</b>               |
|   | <b>CORRESPONDENCE SYMBOL</b><br>OWS |
|   | <b>DATE</b><br>March 19, 2002       |

**ADVISORY** : UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 16-02

**TO** : ALL STATE WORKFORCE AGENCIES

**FROM** : GRACE A. KILBANE  
Administrator  
Office of Workforce Security



**SUBJECT** : Procedures for Notifying the Internal Revenue Service (IRS) and the Department of Labor (DOL) if an Indian Tribe Fails to Make Required Payments Under State Unemployment (UI) Law.

1. Purpose. To establish procedures for notifying the IRS and DOL in the event an Indian Tribe fails to make required payments under state UI law.
2. References. Section 166 of the Community Renewal Tax Relief Act of 2000 as enacted by the Consolidated Appropriations Act, 2001 (CAA), P.L. 106-544; Unemployment Insurance Program Letter (UIPL) No. 14-01 (January 12, 2001); UIPL No. 14-01, Change 1 (April 6, 2001); and the Federal Unemployment Tax Act (FUTA), Section 3309(d), Internal Revenue Code.
3. Background. Indian Tribes, including any subdivision, subsidiary, or business enterprise wholly owned by the tribe, that fail to make required payments under state UI law, within 90 days of receiving a delinquency notice issued by the state, will not be excepted from the FUTA definition of “employment” until such failure is corrected. Failure to make these required payments will result in the following consequences:

|                           |  |
|---------------------------|--|
| <b>RECISSIONS</b><br>None | <b>EXPIRATION DATE</b><br>March 31, 2003 |
|---------------------------|--|

- ◆ Services performed for the tribe become subject to the FUTA tax.

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| RECISSIONS<br>None | EXPIRATION DATE<br>March 31, 2003 |
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- ◆ States are, at their option, no longer required to cover services performed for the tribe; and, are prohibited from allowing the tribe to remain a reimbursable employer. If the state chooses to continue coverage of tribal services, the tribe must be converted to contributing status.

- ◆ The IRS is responsible for the collection of FUTA and must determine any FUTA liability of tribes that have failed to make required state payments. DOL is responsible for the oversight of state UI operations. Therefore, UIPL No. 14-01, issued on January 12, 2001, requires a notification of both the IRS and the DOL when tribes fail to make required payments under state UI law. This applies to any contributions, reimbursements, penalties, interest, or bonds that are required.

4. Procedure. A notification of failure to pay should be made by letter to the Internal Revenue Service. The letter must include, at a minimum, the following information:

- ◆ The name of the tribe,
- ◆ The tribes federal employer identification number (EIN),
- ◆ The date of determination made by the state of the tribes failure to make required payments and
- ◆ Whether or not the tribe has subsequently satisfied these liabilities, and the date satisfied.

The notification must be mailed to the IRS at the following address:

The Internal Revenue Service  
Manager, Outreach Planning and Review  
Indian Tribal Governments  
T:GE:ITG  
1111 Constitution Avenue, N.W.  
Washington, D.C. 20224

If preferred, it may be faxed to the Manager, Outreach Planning and Review at 202-283-9760.

Notification to DOL should be made by copy of the IRS letter. However, the federal employer identification number should be removed from the DOL copy for security purposes. The DOL copy should be sent to the appropriate Regional Office for the Office of Workforce Security.

5. Action Required. State Administrators are requested to provide this information to the appropriate staff. Action should be taken by the states to issue the required notification of failure to make required state UI payments to both the IRS and the DOL. The Regional Office will forward all such notices received to the Office of Workforce Security/Division of Unemployment Operations/Tax Team.
6. Inquiries. Inquiries should be directed to the appropriate Regional Office.