

NEW YORK STATE DEPARTMENT OF LABOR  
UNEMPLOYMENT INSURANCE DIVISION  
GOV. W. AVERELL HARRIMAN STATE OFFICE BUILDING CAMPUS  
ALBANY, N.Y. 12240

THE RELATIONSHIP OF NEW YORK STATE AND FEDERAL  
UNEMPLOYMENT INSURANCE TAX REPORTING

The New York State Unemployment Insurance Program provides immediate, short-term financial protection for employees who become unemployed through no fault of their own. A fund was established to provide benefit payments to eligible claimants. Payments to this fund are made by employers through an unemployment insurance tax on their payrolls.

In addition, the Federal Government imposes an annual Unemployment Insurance tax on all employers liable under the provisions of the Federal Unemployment Tax Act (FUTA). Monies from that tax are used to administer the unemployment insurance programs in the States. Local governments, Indian tribes and nonprofit employers who are exempt under Section 501 (c)(3) of the Internal Revenue Code are not liable for the FUTA tax. However, Indian tribes will become liable for taxes under FUTA if coverage is terminated for failure to make required payments to New York State.

The Federal Government allows a credit of up to 5.4% against payments due under FUTA when taxes are paid to the State. To obtain the full credit when filing federal form 940, an employer must pay the State tax in full by January 31 (April 15th for employers of household employees) following the close of the taxable year. If the State tax is paid after January 31 (April 15th for employers of household employees) the credit is limited to 90% of the amount that would have been allowable as a credit had the State tax been paid on time. Until the State tax is paid, no credit may be taken against the Federal tax.

Some earnings may not be used by claimants to gain entitlement to unemployment insurance benefits, but are taxable under FUTA. So that employers may obtain their FUTA credit, State law provides that employers subject to FUTA must pay New York State unemployment insurance taxes on those earnings. They are:

1. Wages paid to daytime students who are in regular attendance in elementary or secondary schools (see page 2 for certain limited exclusions);
2. Dismissal or severance payments; and
3. The first six months of sick pay benefits including disability payments. This does not include occupationally related workers' compensation payments, which are not taxable under FUTA.

Employers have the option of reporting these payments to the State either on their quarterly tax returns (Form NYS-45) or annually on an Annual Supplementary Contributions Report, either Form IA 7 or Form IA7A. Employers who have a tax rate of 5.4% or less will use Form IA 7 and those having a tax rate greater than 5.4% will use Form IA 7A. These reports are due on or before January 31 for wages paid during the prior calendar year.

Please note that these payments are reportable for New York purposes only if an employer liable under New York State Unemployment Insurance Law is also subject to FUTA.

Wages paid to students by local governments, Indian tribes and nonprofit employers are reportable as described on page 2.

Additional information regarding the Federal Unemployment Tax may be obtained from the Internal Revenue Service. Check the United States Government listings in the telephone directory, or on the IRS Web site [www.irs.gov](http://www.irs.gov).

Questions regarding the filing of quarterly or annual New York State returns and requests for forms may be directed to the Employer Account Adjustment Section at the above address.

## STUDENTS

### Elementary and High School Students:

Students in regular attendance during the daytime in elementary and secondary schools who perform services for employers other than nonprofit organizations, governmental entities and Indian tribes are not covered for unemployment insurance benefit purposes even if they work only during summer or other vacation periods or on weekends. However, their earnings are taxable if the employer is subject to the Federal Unemployment Tax Act (FUTA) unless the services are performed for a summer camp as described below. Please see page 1 of this form for reporting such students for unemployment insurance tax purposes.

Governmental entities, Indian tribes and nonprofit organizations are not subject to the Federal Unemployment Tax Act. However the services of all students in their employ, except those working at a summer camp as described below, are covered for benefit purposes, and the student's earnings are taxable and must be reported quarterly. Indian tribes will become liable for taxes under FUTA if coverage is terminated for failure to make required payments to New York State.

### College Students:

Services performed by college students are generally covered for unemployment insurance tax and benefit purposes and their earnings are reported quarterly. The only exceptions are:

- A. Those who are in regular attendance in the educational institution that employs them and their employment is incidental to their course of study; or
- B. Those who are attending nonprofit or public educational institutions and who are enrolled in certain work-study programs for credit at such institutions.

The above exclusions also apply to elementary or secondary students.

### Summer Camps:

If the following conditions are met, non-profit, governmental, Indian tribal or other camps need not report or pay unemployment insurance contributions on the wages paid to secondary school students or college students, and those students cannot use their camp employment to gain entitlement to unemployment insurance benefits:

1. The camp meets the Public Health Law definition of a Children's Overnight Camp, a Summer Day Camp or a Traveling Summer Day Camp (Section 1392).
2. The camp must not operate more than seven months during the current year and must not have operated for more than seven months in the previous year.

-or-

The camp must have had average gross receipts for any six months in the preceding calendar year, which were not more than thirty-three and one-third percent (33 1/3%) of its average gross receipts for the other six months of that year.

3. The student must work less than thirteen weeks in a year.
4. The student must be enrolled full-time at a secondary school or an institution of higher education or, if between terms, must have been enrolled full time during the preceding term, and there is a reasonable assurance that the student will be enrolled full-time for the succeeding term.