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unemployment compensation law of State X has been certified in its entirety to the Secretary of the Treasury by the Secretary of Labor for such year. The highest rate applied in such year under such State law to any taxpayer is 3 percent. However, A has obtained a rate of 1 percent under the law of such State and is required to pay his entire year's contribution at that rate. The amount of remuneration of A's employees subject to contributions under such State law is $25,000. A's additional credit under section 3302(b) is $425, computed as follows:

Remuneration subject to contributions	$25,000
Contributions at 2.7 percent rate	675
Less:	
Contributions required to be paid at 1 percent rate	250
Additional credit to A	425

Since the 2.7 percent rate is less than the highest rate applied (3 percent), the 2.7 percent rate is used in computing the amount ($675) from which the amount of contributions required to be paid at the 1 percent rate ($250) is deducted in order to ascertain the additional credit ($425).

(2) *Certification with respect to particular provisions of a State law.* If the Secretary of Labor makes a certification to the Secretary of the Treasury with respect to particular provisions of a State law for any taxable year pursuant to section 3303, the additional credit of the taxpayer for such year with respect to such law shall be computed in such manner as the Commissioner shall determine.

(c) *Amount of additional credit allowable to taxpayer with respect to more than one State law.* If the taxpayer is entitled to additional credit with respect to more than one State law in any taxable year, the additional credit allowable with respect to each State law shall be computed separately (in accordance with paragraph (b) of this section) and the total additional credit allowable against the tax for such year shall be the aggregate of the additional credits allowable with respect to such State laws. For limitation on total credits, see § 31.3302(c)–1.

[T.D. 6516, 25 FR 13032, Dec. 20, 1960, as amended by T.D. 6658, 28 FR 6632, June 27, 1963]

§ 31.3302(b)–2 Proof of additional credit under section 3302(b).

Additional credit under section 3302(b) shall not be allowed against the tax for any calendar year unless there is submitted—

(a) To the Commissioner a certificate of the proper officer of each State (with respect to the law of which the additional credit is claimed) showing the highest rate of contributions applied under the State law in such calendar year to any person having individuals in his employ; and

(b) To the district director a certificate of the proper officer of each State (with respect to the law of which the additional credit is claimed) showing for the taxpayer—

(1) The total remuneration with respect to which contributions were required to be paid by the taxpayer under the State law with respect to such calendar year; and

(2) The rate of contributions applied to the taxpayer under the State law with respect to such calendar year.

If under the law of such State different rates of contributions were applied to the taxpayer during particular periods of such calendar year, the certificate shall set forth the information called for in paragraphs (b)(1) and (2) of this section with respect to each such period.

(c) Such other or additional proof as the Commissioner or the district director may deem necessary to establish the right to the additional credit provided for under section 3302(b).

§ 31.3302(c)–1 Limit on total credits.

(a) *In general.* Paragraph (b) of this section relates to the limitation on the aggregate of the credits allowable under section 3302 (a) and (b). Paragraph (c) of this section relates to reductions, under certain circumstances, of the total credits allowable after applying section 3302 (a), (b), and (c)(1). In paragraphs (c)(1), (2), and (3) of this section, relate, respectively, to reductions of credits in respect of advances under title XII of the Social Security Act before September 13, 1960, advances under title XII of the Social Security Act after September 12, 1960, and payments under the Temporary Unemployment Compensation Act of 1958. A reduction of credit under paragraph (c)(1), (2), or (3) of this section applies separately from, and in addition to, a

reduction under any other such subparagraph. See section 3302(d) and § 31.3302(d)–1 for definitions and special rules relating to section 3302(c), and for a provision that, in applying section 3302(c), the Federal tax shall be computed at the rate of 3 percent.

(b) *Limitation on aggregate credit.* The aggregate of the credit under section 3302(a) and the additional credit under section 3302(b) shall not exceed 90 percent of the tax against which credit is taken, computed as if the tax were imposed at the rate of 3 percent. Thus, the aggregate of the credit which is allowable to an employer for any taxable year shall not exceed 2.7 percent of the wages paid by the employer during the year.

(c) *Reductions of amount of credit otherwise allowable*—(1) *Advances before September 13, 1960, under title XII of Social Security Act*—(i) *Credit reductions for 1961 and 1962.* Pursuant to section 3302(c)(2), as applicable to credit allowable for any year ended before 1963, the total credits otherwise allowable under section 3302 to a taxpayer subject to the unemployment compensation law of the State of—

(a) Alaska shall be reduced for the taxable year 1961 by an amount equal to 0.15 percent of the wages paid by the taxpayer during 1961 which are attributable to Alaska, and shall be reduced for the taxable year 1962 by an amount equal to 0.3 percent of the wages paid by the taxpayer during 1962 which are attributable to Alaska; or

(b) Michigan shall be reduced for the taxable year 1962 by an amount equal to 0.15 percent of the wages paid by the taxpayer during 1962 which are attributable to Michigan.

(ii) *Credit reductions for 1963 and subsequent years.* If any balance of an advance or advances under title XII of the Social Security Act, made before September 13, 1960, to the unemployment account of a State, remains unpaid on January 1, 1963, or on January 1 of any succeeding taxable year, the total credits otherwise allowable under section 3302 to a taxpayer subject to the unemployment compensation law of the State shall be reduced for the taxable year unless—

(a) No balance of such advance or advances exists as of the beginning of November 10 of the taxable year, or

(b) The State pays into the Federal unemployment account, before November 10 of the taxable year, the amount certified by the Secretary of Labor pursuant to section 3302(c)(2), and designates such payment as being made for purposes of the last sentence of section 3302(c)(2).

The credit reduction for a taxable year shall be a percentage of the wages paid by the taxpayer during that taxable year which are attributable to the State. The percentage for the taxable year 1963, or for any succeeding taxable year beginning before January 1, 1968, is 0.15 percent (that is, 5 percent of the Federal tax, computed as if imposed at the rate of 3 percent of the wages). The percentage for any taxable year beginning on or after January 1, 1968, is the percentage reduction for the immediately preceding taxable year plus 0.15 percent. Thus, for 1968 the percentage is 0.3 percent, for 1969 the percentage is 0.45 percent, and for 1970 the percentage is 0.6 percent.

(2) *Advances after September 12, 1960, under title XII of Social Security Act*—(i) *In general.* If any balance of an advance or advances under title XII of the Social Security Act, made after September 12, 1960, to the unemployment account of a State, remains unpaid on January 1 of two consecutive taxable years, the total credits otherwise allowable under section 3302 to a taxpayer subject to the unemployment compensation law of the State shall be reduced for the taxable year beginning with the second consecutive January 1, unless prior to November 10 of that taxable year the total amount of any such advance or advances made to the account of the State has been fully repaid. The reduction made pursuant to this subdivision in the total credits otherwise allowable for the taxable year beginning with the second consecutive January 1 shall be 0.3 percent of the wages paid by the taxpayer during the taxable year which are attributable to the State (that is, 10 percent of the Federal tax, computed as if imposed at the rate of 3 percent of the wages). In the case of any succeeding

taxable year beginning with a consecutive January 1 on which there exists such a balance of an unreturned advance or advances made after September 12, 1960, the total credits otherwise allowable shall be further reduced unless prior to November 10 of that succeeding taxable year the total amount of any such advance or advances made to the account of the State has been fully repaid. The reduction for each such succeeding taxable year beginning with a consecutive January 1 on which such a balance exists shall be a percentage of the wages paid by the taxpayer during that succeeding taxable year which are attributable to the State. The percentage reduction for any such succeeding taxable year shall be the aggregate of *(a)* the percentage reduction (without regard to paragraph (c)(2)(ii) or (iii) of this section) for the immediately preceding taxable year, *(b)* 0.3 percent of the wages paid by the taxpayer during the taxable year which are attributable to the State, and *(c)* the percentage, if any, described in paragraph (c)(2)(ii) or (iii) of this section.

(ii) *Additional reduction if a balance of advances exists after third or fourth consecutive January 1.* If the credit reduction described in subdivision (i) of this subparagraph is made for the third or fourth consecutive taxable year, the total credits otherwise allowable under section 3302 to a taxpayer subject to the unemployment compensation law of the State shall be further reduced for the taxable year unless the average employer contribution rate (see section 3302(d)(4)) for such State for the calendar year preceding such taxable year is at least 2.7 percent. The percentage of reduction, if any, under this subdivision shall be the percentage referred to in section 3302(c)(3)(B) which is certified by the Secretary of Labor pursuant to section 3302(d)(7).

(iii) *Additional reduction if a balance of advances exists after fifth or any succeeding consecutive January 1.* If the credit reduction described in subdivision (i) of this subparagraph is made for the fifth or any succeeding taxable year, the total credits otherwise allowable under section 3302 to a taxpayer subject to the unemployment compensation law of the State shall be further reduced for the taxable year unless the average employer contribution rate (see section 3302(d)(4)) for the State for the calendar year preceding such taxable year equals or exceeds the 5-year benefit cost rate (see section 3302(d)(5)) applicable to the State for the taxable year or 2.7 percent, whichever is higher. The percentage of reduction, if any, under this subdivision for a taxable year shall be the percentage referred to in section 3302(c)(3)(C) which is certified by the Secretary of Labor pursuant to section 3302(d)(7).

(3) *Payments under the Temporary Unemployment Compensation Act of 1958.* If any amount of temporary unemployment compensation was paid in a State under the Temporary Unemployment Compensation Act of 1958, the total credits otherwise allowable under section 3302 to a taxpayer with respect to wages attributable to the State for the taxable year beginning January 1, 1963, and for each taxable year thereafter, shall be reduced unless prior to November 10 of the taxable year—

(i) There have been restored to the Treasury the amounts of temporary unemployment compensation paid in the State (except amounts paid to individuals who exhausted their unemployment compensation under title XV of the Social Security Act and title IV of the Veterans' Readjustment Assistance Act of 1952 prior to their making their first claims under the Temporary Unemployment Compensation Act of 1958), the amount of costs incurred in the administration of the Temporary Unemployment Compensation Act of 1958); with respect to the State, and the amount estimated by the Secretary of Labor as the State's proportionate share of other costs incurred in the administration of such Act, or

(ii) The State restores to the general fund of the Treasury the amount certified by the Secretary of Labor pursuant to section 104 of the Temporary Unemployment Compensation Act of 1958, and designates such restoration as being made for purposes of the last sentence of such section.

The credit reduction for a taxable year shall be a percentage of the wages paid by the taxpayer during that year which are attributable to the State. The percentage for the taxable year 1963 is 0.15

percent (that is, 5 percent of the Federal tax, computed as if imposed at the rate of 3 percent). The percentage for any succeeding year is 0.3 percent (that is, 10 percent of the Federal tax, computed as if imposed at the rate of 3 percent).

(4) *Example.* The cumulative effect of the credit reductions described in this paragraph may be illustrated by the following example:

Example. Advances to the unemployment account of State X were made in 1957 and in 1961 under title XII of the Social Security Act. Payments under the Temporary Unemployment Compensation Act of 1958 were made in State X in 1958. No portion of the advances or payments is returned before November 10, 1964. As a consequence:

(a) The credit reduction applicable under subparagraph (1) of this paragraph is made for 1964 at the rate of 0.15 percent;

(b) The credit reduction described in subparagraph (2) of this paragraph has been made for 1963 (the second successive year after 1961) at the rate of 0.3 percent. The rate of credit reduction under subparagraph (2) for 1964 is 1 percent (the aggregate of 0.6 percent under section 3302(c)(3)(A) and 0.4 percent (assumed for purposes of this example to be the percentage referred to in section 3302(c)(3)(B) which is certified by the Secretary of Labor), and

(c) The credit reduction described in subparagraph (3) of this paragraph has been made for 1963 at the rate of 0.15 percent. The rate of credit reduction for 1964 is 0.3 percent.

The cumulative rate of credit reduction applicable for 1964 to wages attributable to State X is 1.45 percent, representing the aggregate of the percentage reductions applicable under subparagraphs (1), (2), and (3) of this paragraph (0.15 percent, 1 percent, and 0.3 percent, respectively). In 1964 Employer A paid wages of $100,000, all of which are subject to the unemployment compensation law of State X. The credit which would be allowable (under section 3302 (a), (b), and (c)(1)) if there were no credit reduction is $2,700. Employer A's tax is computed as follows for 1964:

Total taxable wages (attributable to State X)	$100,000
Gross Federal tax (3.1 percent of wages)	3,100
Less credit:	
Gross credit	$2,700
Credit reduction (1.45 percent of wages)	1,450
Net credit	1,250
Amount of Federal tax due	1,850

[T.D. 6658, 28 FR 6633, June 27, 1963, as amended by T.D. 6708, 29 FR 3198, Mar. 10, 1964]

§ 31.3302(d)–1 Definitions and special rules relating to limit on total credits.

(a) *Rate of tax deemed to be 3 percent.* In applying the provisions of section 3302(c) relating to the limitation on total credits, and to reductions of credits otherwise allowable, the tax imposed by section 3301 shall be computed at the rate of 3 percent in lieu of any other rate prescribed in section 3301 (see § 31.3301–3).

(b) *Wages attributable to a particular State.* For purposes of section 3302(c) (2) or (3), wages are attributable to a particular State if they are subject to the unemployment compensation law of the State. If wages are not subject to the unemployment compensation law of any State, the determination as to whether such wages, or any portion thereof, are attributable to the particular State with respect to which the reduction in total credits is imposed shall be made in accordance with rules prescribed by the Commissioner.

(c) *Employment Security Act of 1960.* The Employment Security Act of 1960, referred to in section 3302(c)(2), means title V of the Social Security Amendments of 1960.

[T.D. 6658, 28 FR 6635, June 27, 1963]

§ 31.3302(e)–1 Successor employer.

(a) *In general.* In addition to the credits against the tax allowable under section 3302(a) and (b) for any taxable year after 1960, the taxpayer may be entitled to an amount of credit under section 3302(e). Credit under section 3302(e) is provided in the case of a taxpayer who (1) acquires substantially all of the property used in a trade or business, or in a separate unit of a trade or business, of another person (referred to in this section as a predecessor) who is not an employer (see § 31.3306(a)–1) for the calendar year in which the acquisition takes place, and (2) immediately after the acquisition employs in his trade or business one or more individuals who immediately prior to the acquisition were employed in the trade or business of the predecessor.