

State agency. However, if the individual fails to attend or otherwise participate in such training, the State must determine if the reason for non-attendance or non-participation indicates that the individual is not able to work or is not available for work.

(d) *Self-employment assistance.* A State must not deny UC to an individual for failure to be available for work during a week if, during such week, the individual is participating in a self-employment assistance program and meets all the eligibility requirements of such self-employment assistance program.

(e) *Short-time compensation.* A State must not deny UC to an individual participating in a short-time compensation (also known as worksharing) program under State UC law for failure to be available for work during a week, but such individual will be required to be available for his or her normal workweek.

(f) *Alien status.* To be considered available for work in the United States for a week, the alien must be legally authorized to work that week in the United States by the appropriate agency of the United States government. In determining whether an alien is legally authorized to work in the United States, the State must follow the requirements of section 1137(d) of the SSA (42 U.S.C. 1320b-7(d)), which relate to verification of and determination of an alien's status.

(g) *Relation to ability to work requirement.* A State may consider an individual available for work if the State finds the individual able to work under § 604.4(b) despite illness or injury.

(h) *Work search.* The requirement that an individual be available for work does not require an active work search on the part of the individual. States may, however, require an individual to be actively seeking work to be considered available for work, or States may impose a separate requirement that the individual must actively seek work.

#### **§ 604.6 Conformity and substantial compliance.**

(a) *In general.* A State's UC law must conform with, and the administration of its law must substantially comply

with, the requirements of this regulation for purposes of certification under:

(1) Section 3304(c) of the FUTA (26 U.S.C. 3304(c)), with respect to whether employers are eligible to receive credit against the Federal unemployment tax established by section 3301 of the FUTA (26 U.S.C. 3301), and

(2) Section 302 of the SSA (42 U.S.C. 502), with respect to whether a State is eligible to receive Federal grants for the administration of its UC program.

(b) *Resolving Issues of Conformity and Substantial Compliance.* For the purposes of resolving issues of conformity and substantial compliance with the requirements of this regulation, the following provisions of 20 CFR 601.5 apply:

(1) Paragraph (b) of this section, pertaining to informal discussions with the Department of Labor to resolve conformity and substantial compliance issues, and

(2) Paragraph (d) of this section, pertaining to the Secretary of Labor's hearing and decision on conformity and substantial compliance.

(c) *Result of failure to conform or substantially comply—(1) FUTA requirements.* Whenever the Secretary of Labor, after reasonable notice and opportunity for a hearing to the State UC agency, finds that the State UC law fails to conform, or that the State or State UC agency fails to comply substantially, with the requirements of the FUTA, as implemented in this regulation, then the Secretary of Labor shall make no certification under such act to the Secretary of the Treasury for such State as of October 31 of the 12-month period for which such finding is made. Further, the Secretary of Labor must notify the Governor of the State and such State UC agency that further payments for the administration of the State UC law will not be made to the State.

(2) *SSA requirements.* Whenever the Secretary of Labor, after reasonable notice and opportunity for a hearing to the State UC agency, finds that the State UC law fails to conform, or that the State or State UC agency fails to comply substantially, with the requirements of title III, SSA (42 U.S.C. 501-504), as implemented in this regulation,

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then the Secretary of Labor must notify the Governor of the State and such State UC agency that further payments for the administration of the State UC law will not be made to the State until the Secretary of Labor is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, the Department of Labor will not make further payments to such State.

**AUTHORITY:** 42 U.S.C. 1102; 26 U.S.C. 7805(a); Secretary's Order No. 4-75 (40 FR 18515).

**SOURCE:** 53 FR 37429, Sept. 26, 1988, unless otherwise noted.

**EDITORIAL NOTE:** Nomenclature changes to part 606 appear at 71 FR 35513, June 21, 2006.

**PART 606—TAX CREDITS UNDER THE FEDERAL UNEMPLOYMENT TAX ACT; ADVANCES UNDER TITLE XII OF THE SOCIAL SECURITY ACT**

**Subpart A—General**

**Subpart A—General**

- Sec.
- 606.1 Purpose and scope.
- 606.2 Total credits allowable.
- 606.3 Definitions.
- 606.4 Redlegation of authority.
- 606.5 Verification of estimates and review of determinations.
- 606.6 Information, reports, and studies.

**§ 606.1 Purpose and scope.**

(a) *In general.* The regulations in this part 606 are issued to implement the tax credit provisions of the Federal Unemployment Tax Act, and the loan provisions of title XII of the Social Security Act. The regulations on tax credits cover all of the subjects of 3302 of the Federal Unemployment Tax Act (FUTA), except subsections (c)(3) and (e). The regulations on loans cover all of the subjects in title XII of the Social Security Act.

(b) *Scope.* This part 606 covers general matters relating to this part in this subpart A, and in the following subparts includes specific subjects described in general terms as follows:

**Subpart B—Tax Credit Reduction [Reserved]**

(1) Subpart B describes the tax credit reductions under the Federal Unemployment Tax Act, which relate to outstanding balances of advances made under title XII of the Social Security Act.

**Subpart C—Relief From Tax Credit Reduction**

(2) Subpart C describes the various forms of relief from tax credit reductions, and the criteria and standards for grant of such relief in the form of—

- 606.20 Cap on tax credit reduction.
- 606.21 Criteria for cap.
- 606.22 Application for cap.
- 606.23 Avoidance of tax credit reduction.
- 606.24 Application for avoidance.
- 606.25 Waiver of and substitution for additional tax credit reduction.
- 606.26 Application for waiver and substitution.

- (i) A cap on tax credit reduction,
- (ii) Avoidance of tax credit reduction, and

**Subpart D—Interest on Advances**

(iii) Waiver of and substitution for additional tax credit reduction.

- 606.30 Interest rates on advances.
- 606.31 Due dates for payment of interest. [Reserved]
- 606.32 Types of advances subject to interest.
- 606.33 No payment of interest from unemployment fund. [Reserved]
- 606.34 Reports of interest payable. [Reserved]
- 606.35 Order of application for repayments. [Reserved]

(3) Subpart D describes the interest rates on advances made under title XII of the Social Security Act, dues dates for payment of interest, and other related matters.

**Subpart E—Relief from Interest Payment**

(4) Subpart E describes the various forms of relief from payment of interest, and the criteria and standards for grant of such relief in the form of—

- 606.40 May/September delay.
- 606.41 High unemployment deferral.
- 606.42 High unemployment delay.
- 606.44 Notification of determinations.

- (i) May/September delay of interest payments,
- (ii) High unemployment deferral of interest payments,
- (iii) High unemployment delay of interest payments, and