

produce wire harnesses and had decreased sales and production and employment declines in the relevant period.

Other findings show that a major customer of Wirekraft is importing wire harnesses from Mexico in the relevant period.

The intent of the Department's certification is to include all workers who were adversely affected by increased imports.

Accordingly, the Department is amending the Mishawaka, Indiana certification to include workers at Marion, Ohio.

The amended notice applicable to NAFTA—00293 is hereby issued as follows:

All workers of the Wirekraft Industries, Inc., Mishawaka, Indiana and Wirekraft Industries' Burcliff Industries in Marion, Ohio who became totally or partially separated from employment on or after December 8, 1993 are eligible to apply for NAFTA-TAA under section 250 of the Trade Act of 1974.

Signed at Washington, DC, this 17th day of March 1995.

**Victor J. Trunzo,**

*Program Manager, Policy and Reemployment Services Office of Trade Adjustment Assistance.*

[FR Doc. 95-7484 Filed 3-24-95; 8:45 am]

BILLING CODE 4510-30-M

[NAFTA—00362]

**Wirekraft Industries, Inc., Burcliff Industries, Marion, OH; Termination of Investigation**

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called (NAFTA-AA), and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 USC 2273), an investigation was initiated on February 9, 1995 in response to a petition filed on behalf of workers at Wirekraft Industries, Inc.—Burcliff Industries in Marion, Ohio. On March 16, 1995 an amendment was made to NAFTA-TAA-00293 to include all workers of Wirekraft Industries, Inc.—Burcliff Industries in Marion, Ohio. Because the subject workers have been included in the amendment certification of NAFTA-TAA-00293, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 17th day of March 1995.

**Victor J. Trunzo,**

*Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.*

[FR Doc. 95-7485 Filed 3-24-95; 8:45 am]

BILLING CODE 4510-30-M

**Federal-State Unemployment Compensation Program: Unemployment Insurance Program Letters Interpreting Federal Unemployment Insurance Law**

The Employment and Training Administration interprets Federal law requirements pertaining to unemployment compensation as part of its role in the administration of the Federal-State unemployment compensation program. These interpretations are issued in Unemployment Insurance Program Letters (UIPLs) to the State Employment Security Agencies (SESAs). The UIPL described below is published in the **Federal Register** in order to inform the public.

**UIPL 17-95**

Public Law 103-465, commonly known as the legislation on "GATT"—The General Agreement on Tariffs and Trade, included a provision that affects the Federal-State unemployment compensation program. Under this legislation, States will be required to deduct and withhold Federal income tax from unemployment compensation if the individual so elects. In addition, State will have the option of withholding State and local income taxes from unemployment compensation if the individual elects to have such actions taken. This UIPL explains the change in unemployment compensation law, discusses its effective date and provides model language for States to use in amending State unemployment compensation law.

Dated: March 17, 1995.

**Doug Ross,**

*Assistant Secretary of Labor.*

**U.S. Department of Labor**

Employment and Training Administration, Washington, DC 20210

Classification UI

Correspondence Symbol TEURL

Date: February 28, 1995

Directive: Unemployment Insurance Program Letter No. 17-95

To: All State Employment Security Agencies

From: Mary Ann Wyrsh, Director, Unemployment Insurance Service

Subject: Withholding of Income Tax From Unemployment Compensation—Amendments Made by Public Law 103-465

1. *Purpose.* To advise State agencies of the provisions of Public Law (P.L.) 103-465 pertaining to the withholding of Federal, State and local income taxes from unemployment compensation (UC).

2. *References.* The Internal Revenue Code of 1986 (IRC), as amended, including the Federal Unemployment Tax Act (FUTA); Title III of the Social Security Act (SSA); Section 702 of P.L. 103-465; Section 301 of P.L. 102-318; 31 U.S.C. Section 6503 as amended by P.L. 101-453; 31 C.F.R. Part 205; and Unemployment Insurance Program Letters (UIPLs) 25-89, 45-89 and 45-92.

3. *Background.* On December 8, 1994, the President signed into law P.L. 103-465. Although the short title of this law is the "Uruguay Round Agreements Act," it is commonly known as the legislation on "GATT"—the General Agreement on Tariffs and Trade. Under this legislation, States will be required to deduct and withhold Federal income tax from UC if the individual so elects. In addition, States will have the option of withholding State and local income taxes if the individual so elects. This UIPL addresses these new provisions pertaining to income tax withholding. Rescissions: None.

Expiration Date: February 28, 1996.

4. *Discussion.*

a. *In General.* The "withdrawal standard" of Section 3304(a)(4), FUTA, and Section 303(a)(5), SSA, limits withdrawals (with specified exceptions not relevant here) from a State's unemployment fund to payments of "compensation." The term "compensation" is defined in Section 3306(h), FUTA, as "cash benefits payable to individuals with respect to their unemployment." Due to its restrictive nature, the withdrawal standard has prohibited States from deducting and withholding any form of income tax from payments of UC. For a detailed discussion of the limitations on the use of unemployment fund moneys, refer to UIPL 25-89 (54 FR 22973 (May 30, 1989)) which transmitted the Secretary's decision in a conformity proceeding involving the deducting and withholding of State UC taxes from UC and UIPL 45-89 (55 FR 1886 (January 19, 1990)) concerning permissible deductions from UC.

P.L. 103-465 amends Federal law to provide for "voluntary withholding"—that is, withholding at the taxpayer's election—of income taxes from a variety of payments made pursuant to Federal

law as well as from UC. The joint Senate report describes the reason for this withholding:

Some taxpayers find it burdensome to make quarterly estimated tax payments. These taxpayers may find it more convenient to elect to have Federal taxes withheld at the time specified payments are made to them. [S. Rep. No. 412, 103rd Cong. 2d Sess. 137-138 (1994).]

b. *Discussion of Amendments.* Section 702(b) of P.L. 103-465 amended Federal law to require State law to provide for the voluntary withholding of Federal income tax from UC. Specifically, new paragraph (18) of Section 3304(a), FUTA, was added to require, as a condition for employers in a State to receive credit against the Federal unemployment tax, that:

Federal individual income tax from unemployment compensation is to be deducted and withheld if an individual receiving such compensation voluntarily requests such deduction and withholding.

Section 702(c) of P.L. 103-465 also amended the withdrawal standard of FUTA and SSA (and the definition of "unemployment fund" in Section 3306(f), FUTA) to permit "the withholding of Federal, State, or local individual income tax."<sup>1</sup> As amended, the withdrawal standard in Section 3304(a)(4)(C), FUTA, now reads: nothing in this paragraph shall be construed to prohibit deducting an amount from unemployment compensation otherwise payable to an individual and using the amount so deducted to pay for health insurance, or the withholding of Federal, State, or local individual income tax, if the individual elected to have such deduction made and such deduction was made under a program approved by the Secretary of Labor \* \* \*.

Section 303(a)(5), SSA, also reads similarly. These amendments to the withdrawal standard and the definition of "unemployment fund" have an effect on the new voluntary withholding requirement of Section 3304(a)(18), FUTA. Under the withdrawal standard amendments, any deducting and withholding from UC may be made only if "such deduction was made under a program approved by the Secretary of Labor." The requirements necessary for approval of a program are contained in item 4.e of this UIPL.

<sup>1</sup> The amendment to the definition of "unemployment fund" also contained a technical amendment concerning the exception pertaining to the withholding of health insurance premiums. This exception was already contained in the withdrawal standard. Another technical amendment renumbered old subparagraph (18) of Section 3304(a), FUTA, as (19).

c. *Withholding of Federal Income Tax.* New IRC Section 3402(p)(2), which was added by Section 702(a) of P.L. 103-465, concerns voluntary withholding of UC and affects the FUTA and SSA provisions concerning deducting and withholding income tax. This section applies to payments of UC "as defined in section 85(b)," IRC. Section 85(b) defines UC as "any amount received under a law of the United States or of a State which is in the nature of unemployment compensation." The effect of this definition is that, if the payment of UC is taxable under the IRC, then the State must provide for voluntary withholding of Federal tax from that amount.

Section 3402(p)(2), IRC, also provides that the amount of Federal income tax withheld from UC "under this chapter [Chapter 24 of the IRC, Collection of Income Tax at Source on Wages] \* \* \* shall be an amount equal to 15 percent of such payment." As a result, the amount of Federal income tax to be withheld from UC by the States must be equal to 15 percent of the UC payment.

Since Section 3402(p)(2), IRC, is administered by the Federal Internal Revenue Service (IRS), the IRS has the authority to interpret these provisions.

d. *Withholding of State and Local Income Taxes.* States will decide whether to allow State and/or local income taxes to be deducted and withheld from UC at an individual's election. A State may decide to deduct and withhold only State income taxes, only local income taxes, both, or neither. It is left to the State to decide whether the percentage of the payment to be deducted and withheld shall be a uniform amount established by the State law or determined by the individual. The mechanisms for transferring amounts deducted and withheld from the unemployment fund to the State or locality will also be established by the State, subject to the requirements of items e.(2) and e.(3) below.

Although a State has the authority to deduct and withhold State and local income taxes from UC for other States and for localities outside the State, Federal law does not require a State to do so. A State may, therefore, restrict the taxes to be deducted and withheld to taxes subject to its laws or to individuals who plan to file a tax return against that State.

e. *Approved Program.* As noted in item 4.b, the amendments to the withdrawal standard concerning the withholding of income tax require that any deduction must be made under a program approved by the Secretary. Rather than requiring each State to submit a plan describing its program,

the Department has determined that States using the draft legislative language contained in Attachment II to this UIPL may consider their withholding programs to be automatically approved. (States are free to delete optional language, such as that pertaining to State and local taxes and to make nonsubstantive modifications, including taking into account State usage and formatting.) States not using the draft language will need to submit a plan describing its program to the appropriate regional office.

The following necessary elements of the program are discussed within the context of the draft language:

(1) *Notification.* Section 301 of P.L. 102-318, the Unemployment Compensation Amendments of 1992, already requires State agencies to provide to each individual filing a claim a written explanation of Federal and State income taxation of UC and the requirements pertaining to estimated tax payments. See UIPL 45-92 (57 Fed. Reg. 47871, 47875-47876 (October 20, 1992)). To assure that the individual has the opportunity to have amounts withheld from all payments, the individual is to be advised in writing at the time of filing the initial claim that UC is subject to Federal income tax as well as (if applicable) State and local income taxes; that requirements exist pertaining to estimated tax payments; and that income tax may be withheld at the individual's option.<sup>2</sup> States will need to revise their initial claims processes to obtain information concerning whether the individual elects or declines to have income tax withheld.

Section (1) of the draft language addresses notification and other matters. It permits the deduction and withholding of Federal, State and local income taxes. The general reference in Section (1)(C) to the IRC assures that State law will always correspond to whatever percentage Federal law authorizes for deductions. Since the States are not required to deduct and withhold State and local income taxes from UC, the draft language pertaining to such withholding is at the State's option. The language permits specified percentages of State and local income taxes to be withheld under State law

<sup>2</sup> UIPL 45-92 interpreted the notice requirement of Section 301 of P.L. 102-318 to provide that the information "must be provided at the time the initial claim is filed or at the time the individual files a claim for the first week." UIPL 45-92 also provided that the notice requirement would be satisfied if the information was provided at the time of the first payment. Once Section 3304(a)(18), FUTA, becomes effective, this position becomes obsolete as the notice must be given at the time of filing the initial claim.

since this method will likely be the easiest to administer. The State may, however, modify the draft language to allow the individual the option of electing the percentage or dollar amount to be deducted and withheld. As discussed in item 4.d. above, the State may also add language restricting the State and local withholding option.

The final issue addressed in Section (1) is the individual's option to change withholding status. The individual's anticipated tax liabilities may change due to, for example, a change in the tax year or due to work performed during the benefit year, or the individual may determine that amounts being withheld are needed to meet current living expenses. Therefore, individuals must also be notified of and provided an opportunity to change their withholding status.

Although the Department encourages States to allow the individual to change his or her withholding status several times, it will only require the States to permit this change at least once during each benefit year. States are not required to amend their continued claims forms or processes to accommodate this change in withholding. Instead, it will be sufficient for the agency to notify the individual at the time of filing the initial claim that withholding status may be changed at the individual's request.

Section (1)(G) of the draft language permits an unlimited number of changes by the claimant. The State may, however, modify the language to restrict the number of changes to any number greater than or equal to one.

(2) *Amounts to Remain in Unemployment Fund until Transferred to Taxing Authority.* Amounts deducted and withheld from unemployment compensation must remain in the State's unemployment fund until transferred to the Federal, State or local taxing authority as a payment of income tax. Such amounts will remain in the State's account in the Unemployment Trust Fund (UTF) until such time as they are drawn down to the State's benefit payment account in accordance with the State's agreement implementing 31 U.S.C. 6503, as amended by the Cash Management Improvement Act of 1990, P.L. 101-453, and the implementing regulations at 31 CFR Part 205.

The Department is currently exploring an alternative to the draw down approach with the U.S. Department of the Treasury. Under this alternative, amounts deducted and withheld would be transferred directly from the State's account in the UTF to the IRS.

(3) *Federal Procedures.* The State must follow all procedures specified by

this Department and the IRS related to withholding.

The inclusion of the provision in Section (3) of the draft language assures the Department that States will comply with any IRS procedures concerning the deducting and withholding of Federal income tax. It also gives States the authority to follow any procedures concerning deducting and withholding income tax which the Department or IRS may at some future date deem necessary. States may change the reference to "commissioner" to reference the title of the appropriate State official or agency.

(4) *Priorities.* Since UC overpayments, child support obligations and food stamp overissuances may also be deducted and withheld from UC, States will need to address the priority of withholding when the claimant also elects to have income tax withheld. The Department has previously left to the States the matter of determining priorities when there are two or more deductions made from UC. The Department is currently discussing with the IRS whether the provisions of the IRC which it administers have any bearing on this issue.

Since the issue of priority of withholding has not yet been resolved, Section (4) of the draft language provides that the priority for deductions from UC shall be determined in accordance with State regulations. This will permit the State to accommodate any Federal position on this matter.

f. *Funding.* Costs incurred in withholding Federal, State or local income taxes from UC administrative grants provided under Section 302, SSA.

g. *Effective Date.* Under subsection (d) of Section 702 of P.L. 103-465, the provisions of that section relating to voluntary withholding "shall apply to payments made after December 31, 1996." This means that, as of January 1, 1997, States must have provisions of law in effect providing for the voluntary withholding of Federal income tax and must be permitting the withholding Federal income tax in accordance with this UIPL.

States should note that the effective date refers to "payments." Therefore, as of January 1, 1997, amounts are to be deducted and withheld from payments of UC for Federal income tax, if the individual so elects, even if the payment is for a week of unemployment beginning before January 1, 1997.

States may not implement the withholding of Federal, State or local income taxes prior to January 1, 1997, since the withdrawal standard's limitations remain in effect until that

date. We recommend, however, that States advise individuals filing new claims in the fourth calendar quarter of 1996 that voluntary holding will become available and that the State would, if the claimant so elected, begin deducting and withholding of income taxes as for payments made on and after January 1, 1997.

5. *Action Required.* States must take appropriate action to assure legislation authorizing the voluntary withholding of Federal income tax is enacted by and implemented on January 1, 1997. As noted above in item 4.e., States not enacting legislation using the draft language attached to this UIPL will need to submit a plan to the appropriate Regional Office. To provide adequate time for review and comment, these plans are due on September 30, 1996.

6. *Inquiries.* Inquiries should be directed to the appropriate Regional Office.

#### 7. Attachments.

- I. Relevant Sections of P.L. 103-465
- II. Draft Language to Implement a Voluntary Withholding Program

### Attachment I—Relevant Sections of P.L. 103-465

An Act to approve and implement the trade agreements concluded in the Uruguay Round of multilateral trade negotiations.

Section 1. Short Title and Table of Contents.

(a) SHORT TITLE.—This Act may be cited as the "Uruguay Round Agreements Act".

\* \* \* \* \*

### TITLE VII—REVENUE PROVISION

#### Subtitle A—Withholding Tax Provisions

\* \* \* \* \*

Sec. 702 Voluntary Withholding on Certain Federal Payments and on Unemployment Compensation.

(a) IN GENERAL.—Subsection (p) of section 3402 (relating to voluntary withholding agreements) is amended to read as follows:

“(p) VOLUNTARY WITHHOLDING AGREEMENTS.—

“(1) CERTAIN FEDERAL PAYMENTS.—

“(A) IN GENERAL.—If, at the time a specified Federal payment is made to any person, a request by such person is in effect that such payment be subject to withholding under this chapter, then for purposes of this chapter and so much of subtitle F as relates to this chapter, such payment shall be treated as if it were a payment of wages by an employer to an employee.

“(B) AMOUNT WITHHELD.—The amount to be deducted and withheld

under this chapter from any payment to which any request under subparagraph (A) applies shall be an amount equal to the percentage of such payment specified in such request. Such a request shall apply to any payment only if the percentage specified is 7, 15, 28, or 31 percent or such other percentage as is permitted under regulations prescribed by the Secretary.

“(C) SPECIFIED FEDERAL PAYMENTS.—For purposes of this paragraph, the term ‘specified Federal payment’ means—

“(i) any payment of a social security benefit (as defined in section 86(d),

“(ii) any payment referred to in the second sentence of section 451(d) which is treated as insurance proceeds,

“(iii) any amount which is includible in gross income under section 77(a), and

“(iv) any other payment made pursuant to Federal law which is specified by the Secretary for purposes of this paragraph.”

“(D) REQUESTS FOR WITHHOLDING.—Rules similar to the rules that apply to annuities under subsection (o)(4) shall apply to requests under this paragraph and paragraph (2).

“(2) VOLUNTARY WITHHOLDING ON UNEMPLOYMENT BENEFITS.—If, at the time a payment of unemployment compensation (as defined in section 85(b)) is made to any person, a request by such person is in effect that such payment be subject to withholding under this chapter, then for purposes of this chapter and so much of subtitle F as relates to this chapter, such payment shall be treated as if it were a payment of wages by an employer to an employee. The amount to be deducted and withheld under this chapter from any payment to which any request under this paragraph applies shall be an amount equal to 15 percent of such payment.

“(3) AUTHORITY FOR OTHER VOLUNTARY WITHHOLDING.—The Secretary is authorized by regulations to provide for withholding—

“(A) from remuneration for services performed by an employee for the employee’s employer which (without regard to this paragraph) does not constitute wages, and

“(B) from any other type of payment with respect to which the Secretary finds that withholding would be appropriate under the provisions of this chapter, if the employer and employee, or the person making and the person receiving such other type of payment, agree to such withholding. Such agreement shall be in such form and manner as the Secretary may by regulation prescribe. For purposes of this chapter (and so much of subtitle F

as relates to this chapter), remuneration or other payments with respect to which such agreement is made shall be treated as if they were wages paid by an employer to an employee to the extent that such remuneration is paid or other payments are made during the period for which the agreement is in effect.”

(b) STATE LAW MUST PERMIT VOLUNTARY WITHHOLDING OF FEDERAL INCOME TAX FROM UNEMPLOYMENT COMPENSATION.—Section 3304(a) is amended by striking “and” at the end of paragraph (17), by redesignating paragraph (18) as paragraph (19), and by inserting after paragraph (17) the following new paragraph:

“(18) Federal individual income tax from unemployment compensation is to be deducted and withheld if an individual receiving such compensation voluntarily requests such deduction and withholding; and”

(c) WITHHOLDING FROM UNEMPLOYMENT COMPENSATION OF FEDERAL, STATE, AND LOCAL INCOME TAXES PERMITTED.—

(1) Subparagraph (C) of section 3304(a)(4) is amended by inserting after “health insurance” the following: “, or the withholding of Federal, State, or local individual income tax.”

(2) Subsection (f) of section 3306 is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

“(3) nothing in this subsection shall be construed to prohibit deducting any amount from unemployment compensation otherwise payable to an individual and using the amount so deducted to pay for health insurance, or the withholding of Federal, State, or local individual income tax, if the individual elected to have such deduction made and such deduction was made under a program approved by the Secretary of Labor;”

(3) Paragraph (5) of section 303(a) of the Social Security Act is amended by inserting after “health insurance” the following: “, or the withholding of Federal, State, or local individual income tax.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after December 31, 1996.

#### **Attachment II—Draft Language to Implement a Voluntary Withholding Program**

(1) An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, be advised that:

(A) Unemployment compensation is subject to Federal, State and local income tax;

(B) Requirements exist pertaining to estimated tax payments;

(C) The individual may elect to have Federal income tax deducted and withheld from the individual’s payment of unemployment compensation at the amount specified in the Federal Internal Revenue Code;

(D) The individual may elect to have State income tax deducted and withheld from the individual’s payment of unemployment compensation at the rate of \_\_\_\_ percent;

(E) The individual may elect to have local income tax deducted and withheld from the individual’s payment of unemployment compensation at the rate of \_\_\_\_ percent; and

(F) The individual may elect to have State and local income taxes deducted and withheld from the individual’s payment of unemployment compensation for other States and localities outside this State at the percentage established by such State or locality.

(G) The individual shall be permitted to change a previously elected withholding status.

(2) Amounts deducted and withheld from unemployment compensation shall remain in the unemployment fund until transferred to the Federal, State or local taxing authority as a payment of income tax.

(3) The commissioner shall follow all procedures specified by the United States Department of Labor and the Federal Internal Revenue Service pertaining to the deducting and withholding of income tax.

(4) Amounts shall be deducted and withheld in accordance with the priorities established in regulations developed by the commissioner.

[FR Doc. 95-7487 Filed 3-24-95; 8:45 am]

BILLING CODE 4510-30-M

#### **Employment and Training Administration**

#### **Job Training Partnership Act (JTPA), Title IV-D, Demonstration Program: Diversity in Apprenticeship; Correction**

AGENCY: Employment and Training Administration, DOL.

ACTION: Correction.

SUMMARY: In notice document FR Doc. 95-6660 beginning on page 14454 in the issue of Friday, March 17, 1995, make the following correction: