

TRAINING AND EMPLOYMENT NOTICE	NO. 11-10
	DATE October 19, 2010

TO: STATE WORKFORCE AGENCIES

FROM: JANE OATES
Assistant Secretary *Jane Oates*

SUBJECT: Selected Unemployment Insurance (UI) Tax Data from Form Employment and Training Administration (ETA) 581 (OMB Approval No. 1205-0178), Contribution Operations for the Calendar Year (CY) Ending December 31, 2009

1. **Purpose.** To provide a summary of selected ETA 581 data with associated charts and tables for CY 2009.
2. **References.** ET Handbook No. 401, 4th Edition, May 9, 2007, Section II, Chapter 2; ET Handbook No. 407, 4th Edition, November 20, 2003; Unemployment Insurance Program Letter (UIPL) No. 14-05, "Changes to UI Performs"; UIPL No. 14-05, Change 1; UIPL No. 28-09, "Government Performance and Results Act (GPRA) Unemployment Insurance (UI) Program Goals: Fiscal Year (FY) 2008 Performance and Performance Targets for FY 2009 and FY 2010"; Form ETA 581.
3. **Background.** The Tax Performance System (TPS) is intended to assist state administrators in improving their UI programs by providing objective information on the quality of their contribution (tax) operations. An important element of the TPS is the calculation and evaluation of 19 computed measures (CMs). CM percentages are based on aggregate information taken from the quarterly ETA 581 Contribution Operations reports, the monthly ETA 2112 UI Financial Transaction Summary reports (OMB Approval No. 1205-0154), and the quarterly wage data from the Quarterly Census of Employment and Wages (OMB Approval No. 1220-0012) that is compiled by the Bureau of Labor Statistics. CMs indicate the timeliness and completeness with which basic and essential UI tax transactions occur.

Aggregate national CMs provide a basis for comparing individual state performance with national performance. Please note that national CMs are aggregate percentages rather than an average of individual state scores. Therefore, large states and small states each affect the national scores in direct proportion to the volume of transactions reported.

4. **Information.** CMs for CY 2009 are presented in this summary report. Although this is a summary of CY 2009 activity, many of the charts in this analysis show quarterly data due to the cyclical nature of tax functions.

State, regional and national CM percentages for each of the 19 measures, along with the raw data used for computation of the percentages, are displayed in 13 CM tables that may be viewed on the Employment and Training Administration Web site at:

http://www.oui.doleta.gov/unemploy/nat_sum_tables_2009.asp.

The information included in this Training and Employment Notice (TEN) and the referenced 13 CM tables are based on data as of April 7, 2010. The charts and tables in this TEN and the 13 CM tables may differ slightly from CM information at:

<http://www.oui.doleta.gov/unemploy/tps.asp> because this web site includes occasional ETA 581 Report adjustments made by states after April 7, 2010.

5. **Action Requested.** State Administrators are requested to distribute this Advisory to appropriate UI tax program staff.
6. **Inquiries.** Inquiries should be directed to the appropriate Regional Office.
7. **Attachments.**
 - A - Summary of National Unemployment Insurance (UI) Tax Performance Data for Calendar Year (CY) 2009
 - B - Analysis of Employment Training Administration (ETA) 581 Data for CY 2009

**Attachment A – Summary of National Unemployment Insurance (UI) Tax Performance
Data for Calendar Year (CY) 2009**

**Summary of National UI Tax Performance Data
Selected Data from State Employment Training Administration (ETA) 581 Reports
CY Ending December 31, 2009**

	Subject Employers – National Totals		
	<u>Contributory Employers</u>	<u>Reimbursing Employers</u>	<u>Total Employers</u>
Totals as of 12/31/2008	7,603,129	99,626	7,702,755
Totals as of 12/31/2009	7,508,603	100,894	7,609,497
Change during CY 2009	(94,526)	1,268	(93,258)

Status Determination Promptness – Computed Measures (CMs) 1-4 (Detailed on ETA Web Site Table 1)

	<u>Determinations</u>	<u>90 Days or Fewer</u>	<u>180 Days or Fewer</u>
New Employers	796,725	84.7%	90.4%
Successor Employers	100,116	62.8%	75.8%

Employer Report Filing - CMs 5-10 (Detailed on ETA Web Site Tables 2-3)

	<u>% Filed Timely</u>	<u>% Secured</u>	<u>% Resolved</u>
Contributory Employers	88.8%	92.6%	96.4%
Reimbursing Employers ¹	93.1%	97.9%	100.2%

Collections Activity – CMs 11-16 (Detailed on ETA Web Site Tables 4-9)

	<u>% Paid Timely</u>	<u>% of Receivables Declared Uncollectible/Doubtful</u>	<u>% of Amt. Due Remaining Unpaid at Year End</u>
Contributory Employers ²	90.7%	1.4%	2.8%
Reimbursing Employers ³	83.9%	0.5%	5.0%

Receivables (Delinquency) (Detailed on ETA Web Site Tables 6-9)

	<u>Beginning Bal (1/1/09)</u>	<u>Ending Bal (12/31/09)</u>	<u>Removed due to Uncollectible & Age -2009</u>
Contributory Employers	\$772,806,609	\$803,876,690	\$394,809,741
Reimbursing Employers	\$70,511,546	\$164,464,793	\$17,319,230
Total Receivables	\$843,318,155	\$968,341,483	\$412,128,971

National Audit Activity CY 2009 (Detailed on ETA Web Site Tables 10-13)

Field Audits Completed ⁴	108,147	% Audit Penetration – Objective 2%	1.4%
Large Emp. Audits completed ⁵	3,463	% of Completed Audits that were Large	2.3%
Number of Change Audits	49,023	% of Audits Resulting in Changes	45.3%
Total Wages Audited (pre-audit)	\$60,963,400,481	% of Total Wages Audited - Annualized	1.2%
Total Wages Changed	\$4,135,895,232	% of Total Wages Changed	6.8%
Total Wages Under Reported	\$3,279,120,322	Contributions Under Reported	\$39,892,088
Total Wages Over Reported	\$856,774,910	Contributions Over Reported	\$6,064,184
Total Wages Audited (post-audit)	\$63,385,745,893	Gross Change (contributions)	\$45,956,272
Average Time Per Audit	7.6 Hours	Average Quarters Audited	4.5 Quarters
Employees discovered in audits that had been misclassified as independent contractors			191,765

Footnotes

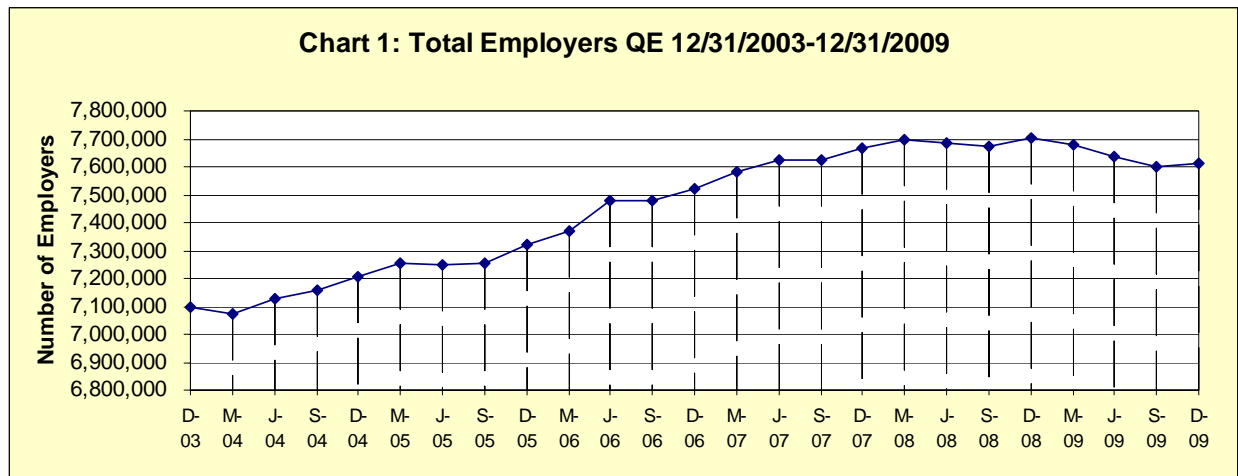
- 1 Computations exclude Massachusetts (MA), since MA did not report data for this item for the entire CY 2009.
- 2 Computation for % Paid Timely excludes unreliable data from Colorado.
- 3 Computation for % Paid Timely excludes unreliable data from Colorado and the Virgin Islands.
- 4 The Employment Security Manual (ESM) requires states to audit 2% of the count of contributing employers taken on 9/30 of the preceding year. Using this formula, the national objective was 151,498 audits for CY 2009.
- 5 The ESM requires that 1% of the above 2% audit objective qualify as large employer audits, which computes to 1,515 audits.

Attachment B – Analysis of Employment Training Administration (ETA) 581 Data for Calendar Year 2009

Analysis of ETA 581, Contribution Operations Data for Calendar Year 2009

Subject Employers

Chart 1 below graphs the number of active employers subject to state unemployment compensation coverage from the end of calendar year (CY) 2003 to the end of CY 2009. The counts include both contributory and reimbursing employers from all 50 states, the District of Columbia, the Virgin Islands, and Puerto Rico.



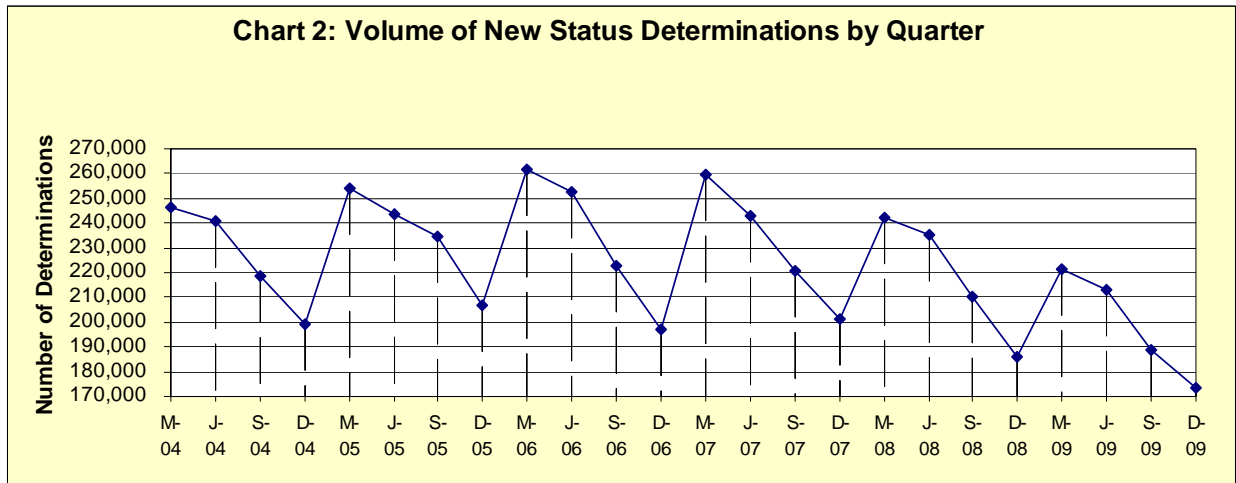
Status Determinations: New Employers

The timely discovery of liable employers and the prompt establishment of new accounts are tax functions vital to the successful operation of a state UI tax program. For example, the functions affect the timely processing of UI claims and payment of benefits to eligible recipients. Computed measures (CMs) 1-4, as shown on Attachment A, concern the timeliness in which states determine liability and establish accounts for new and successor employers. These measures indicate successful state UI tax program management.

For a complete listing of CY 2009 CMs for new and successor determinations, see CM Table 1 at: http://www.oui.doleta.gov/unemploy/nat_sum_tables_2009.asp.

States report new status determinations in item 14 on the ETA 581 report. The count includes all determinations of liability made within the ETA 581 report quarter of employers who have actually met a state threshold of liability, plus determinations that reactivated inactive accounts.

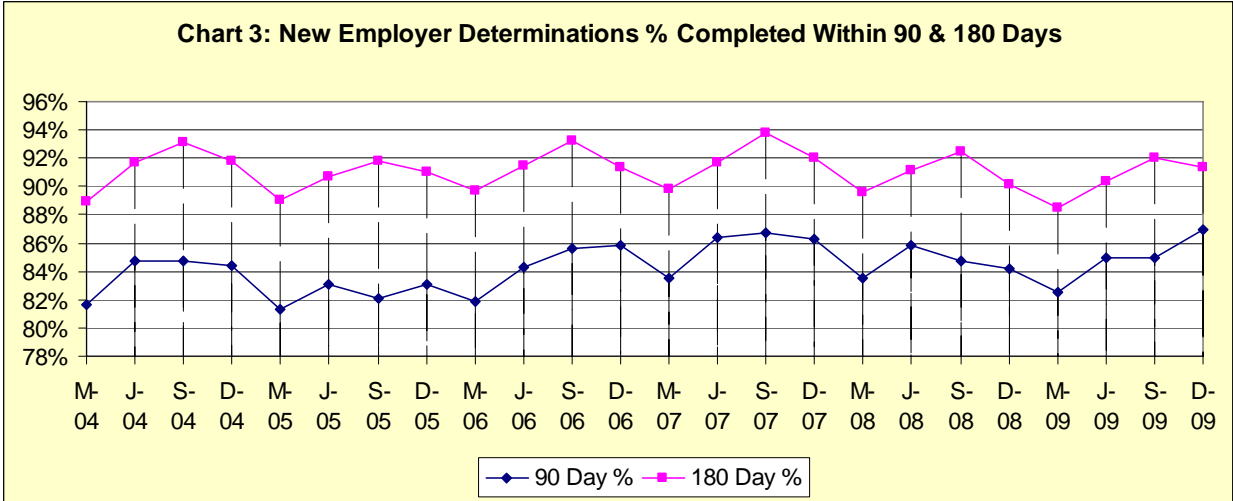
Chart 2 below displays graphically the typical surge in the number of new status determinations that occurs during the January – March quarters, contrasted with the lower count of determinations during the quarters ending in December.



Due to the importance placed on New Status Determinations, UI Performs includes a core measure that sets a minimum level of performance for timely discovery and establishment of new employers. The minimum level of performance for this measure for CY 2009 was to establish 70% of new accounts within 90 days from the last day of the quarter in which the new entities first became liable. For CY 2009, 52 of the 53 reporting State Workforce Agencies achieved the 70% or greater acceptable level of performance. Arizona (67.9%) did not meet the timely determinations measure for CY 2009. Nationally, 84.7% of new status determinations were made within 90 days for CY 2009. Table 1, which appears at the end of the next section “Status Determinations: Successor Employers,” provides a summary of the performance over the last six CYs for both new employer determinations and successor employer determinations.

The U.S. Department of Labor (USDOL) also established a Government Performance and Results Act (GPRA) goal for new determinations on a fiscal year basis (October 1 to September 30 of the next CY). The GPRA goal, in contrast to the 70% UI Performs minimum acceptable level of performance, was set higher at 88.7% for fiscal year (FY) 2009 (10/1/2008 – 9/30/2009). Nationally, the goal was not met for FY 2009 as the actual new employer timely status determination percentage for FY 2009 was 84.1%. The national GPRA goal for FY 2010 (10/1/2009 – 9/30/2010) is 90.0%.

Chart 3 below graphs the percentages for new employer determinations completed within 90 and 180 days. The quarterly fluctuations show why it is more meaningful to analyze computed measures for status determinations on a CY or FY basis. For the GPRA goal of 90% to be met, the quarterly fluctuations for the 90 day performance measurement need to fluctuate nearer the 90% line.



Status Determinations: Successor Employers

Similar to status determinations for new employers, the largest volume of status determinations for successor employers occurred in the first and second quarters of each calendar year. Chart 4 below shows graphically the quarterly fluctuations of status determinations for successor employers.

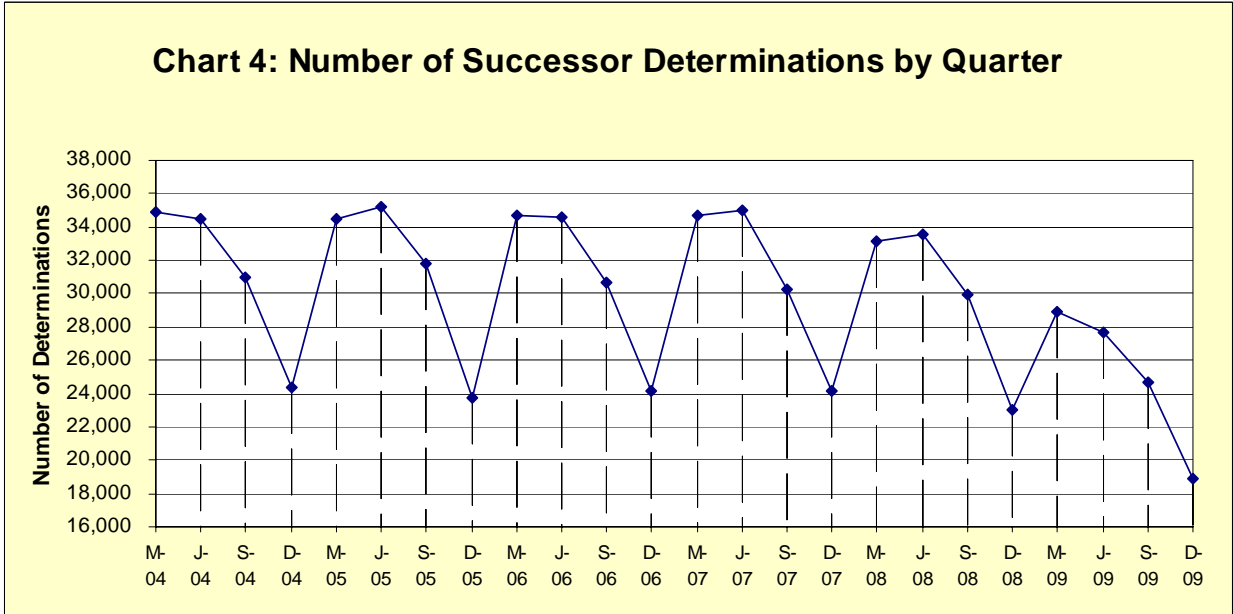
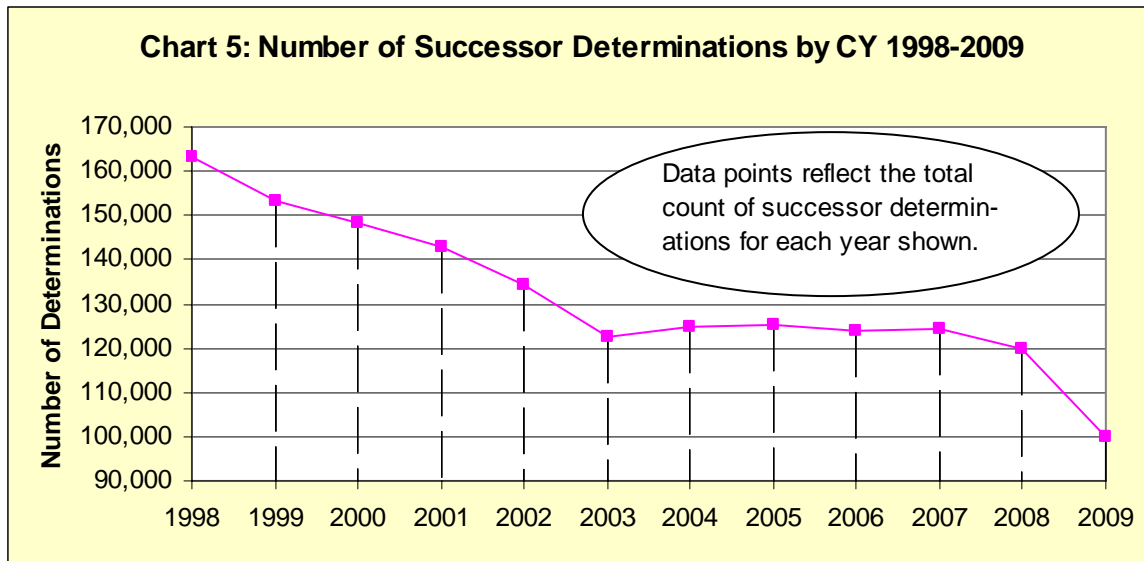


Chart 5 below summarizes the trend of successor determinations made by states since 1998.



There was no change to the tendency for successor determinations to take longer than new liability determinations in CY 2009. This is illustrated in Table 1 below by comparing the percentages in the New within 90 Days column with the Successor within 90 Days column. The percentage of timely successor determinations is lower than new liability determinations for all six of the calendar years shown below.

Table 1: New and Successor Status Determinations						
Year	New Determinations	New within 90 Days	New within 180 Days	Successor Determinations	Successor within 90 Days	Successor within 180 Days
2004	904,784	83.8%	91.3%	124,819	71.2%	83.1%
2005	938,927	82.3%	90.6%	125,276	69.1%	81.6%
2006	933,982	84.2%	91.4%	124,122	68.8%	81.5%
2007	924,378	85.7%	91.7%	124,211	66.6%	79.6%
2008	873,202	84.6%	90.8%	119,638	62.7%	76.2%
2009	796,725	84.7%	90.4%	100,116	62.8%	75.8%

Timely, Secured and Resolved Filing of Contribution Reports

Six CMs show the promptness with which employers file quarterly contribution and wage reports with the states. Three CMs measure contributory employers and three similar CMs measure reimbursing employers. The measures for report filing follow:

- 1) The percentage of timely contribution reports received by the state - This CM measures reports for the quarter immediately preceding the ETA 581 report quarter that were filed prior to the delinquency date during the ETA 581 report quarter.

2) The percentage of secured delinquent contribution reports obtained by the state during the ETA 581 report quarter - This CM measures reports from the quarter immediately preceding the ETA 581 report quarter that are either secured by state staff or voluntarily filed between the date on which the reports first became delinquent and the end of the ETA 581 report quarter. Since the secured report count (items 7 and 10 on the ETA 581 report) includes all of the timely reports, the number of secured reports must always be equal to or greater than the number of timely reports reported in items 6 and 9 on the ETA 581 report.

3) The percentage of delinquent reports that are resolved by the end of the report quarter - This CM measures delinquent reports from the second quarter preceding the ETA 581 report quarter that are resolved by the end of the report quarter. States may count a delinquent report as resolved by: a) determining that the report is no longer due, inactivating the account, or closing the account; b) establishing a judgment or assessment that is legally due and collectable for the estimated amount of tax due; or c) receiving the report through some other means such as voluntarily filing, field auditor contacts, subpoenaing records, etc. Because resolved reports (items 8 and 11 on the ETA 581 report) include all of the secured reports reported for the second tax report quarter prior to the ETA 581 report quarter, the number of resolved reports reported in items 8 and 11 on the ETA 581 report must be equal to or greater than the number of secured reports reported in items 7 and 10 on the previous ETA 581 report.

Additional information about the computed measures for report filing data can be found at: <http://www.oui.doleta.gov/unemploy/tps.asp>.

Filing Reports – Contributing Employers

Table 2 below provides a comparison of the national computed measures for contributory employers for the last six years.

Table 2: Filing Contribution and Wage Reports – Contributory Employers			
Calendar Year	% Timely	% Secured	% Resolved
2004	88.2%	93.1%	97.1%
2005	88.3%	93.1%	97.4%
2006	88.5%	92.8%	97.8%
2007	88.3%	92.3%	97.0%
2008	88.8%	92.5%	96.6%
2009	88.8%	92.6%	96.4%

Filing Reports: Reimbursing Employers

All State Workforce Agencies are now reporting their counts of timely, secured and resolved reimbursing employer contribution reports that are received and processed during the ETA 581 report quarters. Massachusetts began reporting the data in the fourth quarter of 2009. Since Massachusetts did not report data for the entire CY 2009, Massachusetts is excluded from CY 2009 data as shown in Table 3 below. Massachusetts is also excluded from the performance percentages for calendar years 2007 and 2008. However, the performance percentages shown in Table 3 for calendar years 2003 through 2006 include approximately 2,850 Massachusetts

reimbursing employers, but exclude data on the filing of reports by those reimbursing employers. This explains why the national aggregate percentages for those years are lower than the percentages for each of the years 2007 through 2009.

Table 3: Filing Contribution and Wage Reports – Reimbursing Employers			
Calendar Year	% Timely	% Secured	% Resolved
2004	81.7%	86.8%	88.1%
2005	83.7%	88.2%	88.8%
2006	86.3%	92.0%	93.7%
2007	90.2%	95.7%	97.0%
2008	92.2%	97.4%	98.9%
2009	93.1%	97.9%	100.2%

Receivables – Contributory and Reimbursing Combined

Chart 6 below tracks the amount of receivables past due as of the end of each quarter for calendar years 2004 to 2009. The amounts were reported by states on quarterly ETA 581 reports. Chart 6 includes receivables past due from contributory and reimbursing employers.

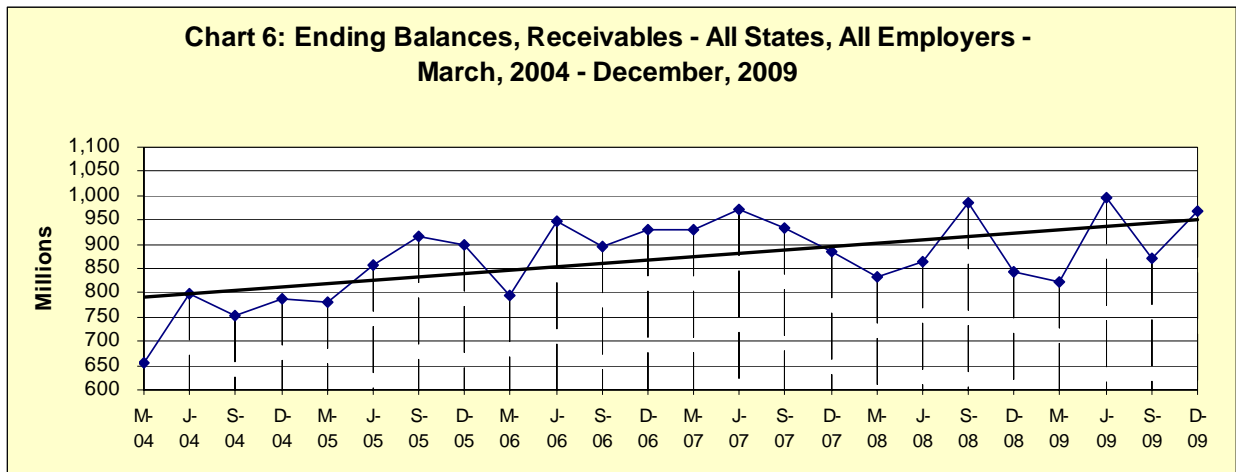


Table 4 below shows the actual amount of past due receivables as of the end of each calendar year and the changes between years.

Table 4: Receivable Balances - All Employers - All States					
Year	CY Ending Balance for Contributory Employers	CY Ending Balance for Reimbursing Employers	Total Past Due Receivables at End of CY	Change in Dollars from Previous CY	Percentage Change from Previous CY
2004	\$699,471,080	\$87,540,250	\$787,011,330	\$91,645,685	13.2%
2005	\$820,906,453	\$75,708,553	\$896,615,006	\$109,603,676	13.9%
2006	\$852,437,577	\$76,673,915	\$929,111,492	\$32,496,486	3.6%
2007	\$812,466,285	\$72,304,638	\$884,770,923	(\$44,340,569)	-4.8%
2008	\$772,806,609	\$70,511,546	\$843,318,155	(\$41,452,768)	-4.7%
2009	\$803,876,690	\$164,464,793	\$968,341,483	\$125,023,328	14.8%

Audit Activity

The data allow for measurement of three state audit functions: 1) the percent of total wage changes resulting from audit adjustments, 2) the percent of contributory employers audited, and 3) the percent of total wages audited (annualized). Although not a computed measure, the number of employees misclassified as independent contractors were counted and reported by the states when discovered in audits, beginning in the first quarter of 2000.

As set out in the Employment Security Manual (ESM), states are expected to audit 2% of their contributory employers each year. The ESM also requires that 1% of the 2% requirement qualify as large employers. The ESM defines “large employer” as an employer with at least 100 employees during the current or preceding CY or with at least one million dollars in taxable wages for the CY preceding the first quarter being audited. To compute the number of audits required per year, states should multiply 2.0% times the number of contributory employers counted at the end of the third quarter of the preceding CY.

Table 5 below shows national totals for each of the three audit computed measures plus additional audit information.

Table 5: Information on Audit Activity							
Year	Audits Complete	Change Audits	% of Contributory Employers Audited	% of Audits Qualified as Large Audits	% of Pre-audit Total Wages Changed	% of Total Wages Audited (annualized)	Employees Misclassified as Independent Contractors
2004	120,243	50,998	1.7%	2.3%	5.1%	1.3%	139,554
2005	116,124	50,088	1.6%	2.3%	5.2%	1.3%	132,965
2006	116,463	50,437	1.6%	2.5%	5.3%	1.2%	160,000
2007	117,487	50,033	1.6%	2.3%	12.2%	1.7%	151,039
2008	108,693	50,915	1.4%	2.2%	6.4%	1.1%	209,067
2009	108,147	49,023	1.4%	2.3%	6.8%	1.2%	191,765

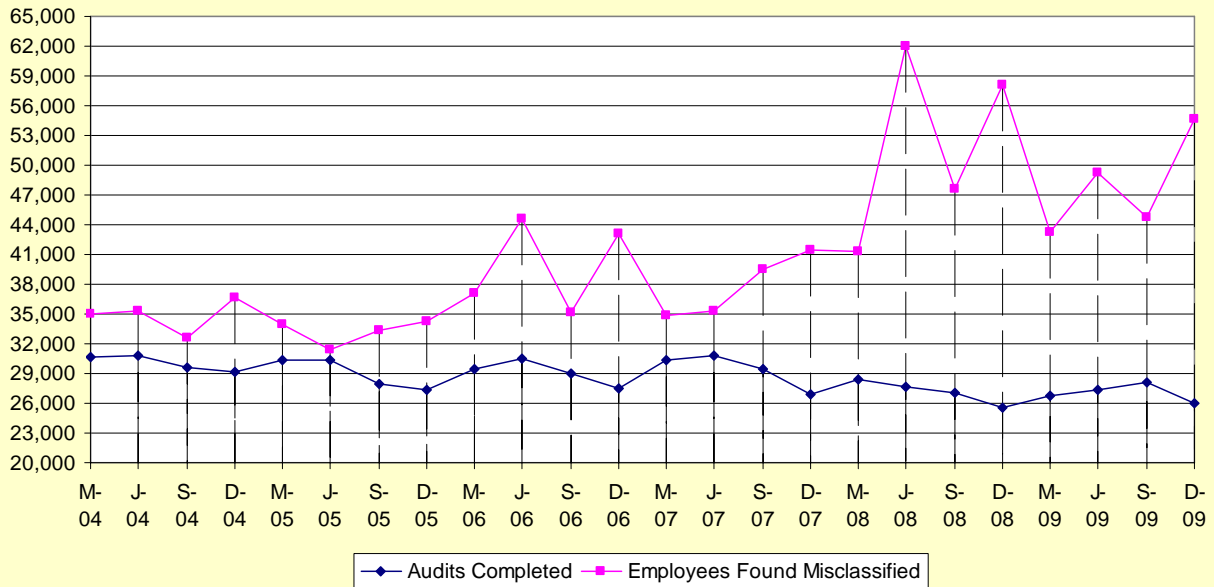
For CY 2009 states completed 108,147 audits, which result in a national penetration rate of 1.4% of the contributory employers reported by states as of September 30, 2008. Discrepancies were found in 49,023 (45%) of the audits, and auditors discovered 191,765 employees that employers had misclassified as independent contractors. The USDOL web site provides detailed information on state audit performance in CM Table 13. It shows that 25 states were successful in meeting the 2% penetration objective for CY 2009. The table may be viewed at: http://www.oui.doleta.gov/unemploy/nat_sum_tables_2009.asp.

As shown in Table 5 above, the percentage of “Pre-audit Total Wages Changed” was 12.2% in CY 2007. The percentage of 12.2% for 2007 is larger than normal because the State of New York discovered a large amount of underreported wages as a result of auditing a high number of large employers. This is also reflected in Table 6 below for CY 2007.

Table 6: Summary of Total Wages Discovered Through Audits - CY 2004- 2009		
Year	Underreported Total Wages	Overreported Total Wages
2004	\$2,242,798,141	\$604,335,021
2005	\$2,235,658,270	\$387,940,990
2006	\$2,570,351,349	\$494,602,132
2007	\$9,290,360,049	\$412,040,928
2008	\$3,006,424,911	\$550,434,537
2009	\$3,279,120,322	\$856,774,910

Chart 7 below provides a quarterly comparison of audits to the number of misclassified employees that were discovered and reported on the quarterly ETA 581. Table 7 below computes the average number of misclassified employees discovered per audit. The chart and table indicate that the number of misclassified employees discovered by states during audits had increased in calendar years 2008 and 2009 from the previous years’ levels.

Chart 7: Audits Completed & Misclassifications Discovered 1/1/2004 - 12/31/2009



**Table 7: Average Number of Misclassified Employees Discovered per Audit
CY 2004- 2009**

Year	Total Misclassified Employees Discovered	Total Audits Completed	Average Misclassified Employees per Audit
2004	139,554	120,243	1.2
2005	132,965	116,124	1.1
2006	160,000	116,463	1.4
2007	151,039	117,487	1.3
2008	209,067	108,693	1.9
2009	191,765	108,147	1.8