

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL OWS - DUIO
	DATE April 10, 2007

ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 17-07

TO: STATE WORKFORCE AGENCIES

FROM: EMILY STOVER DeROCCO /s/
Assistant Secretary

SUBJECT: Initiative to Address Questionable Employment Tax Practices

1. Purpose. To inform state workforce agencies (SWAs) about an Internal Revenue Service (IRS) initiative related to “questionable employment tax practices” (QETP) and to encourage SWAs to participate in this initiative.
2. References. Department of Labor (DOL) Annual Report, fiscal year 2006, item 17, “Assisting State Workforce Agencies in the use of IRS Form 1099 data for accurate employee classification;” IRS Publication 1075; IRC section 6103(d); Agreement on Coordination of Tax Administration (Basic Agreement); Amended Implementing Agreement on Coordination of Tax Administration (Amended Implementing Agreement).
3. Background. The IRS and SWAs have worked together in the past on various initiatives to administer their respective tax enforcement responsibilities. DOL has supported many of these initiatives through facilitation of discussions. For example, DOL convened a series of conference calls to promote SWAs’ use of 1099 information obtained from the IRS to identify potential misclassified employees. SWAs provide the IRS with UI audit information when they have discovered unreported wages. A number of states now have information sharing agreements with the IRS for these purposes.

In 2006, the IRS’ Small Business /Self Employed (SB/SE) Division initiated the QETP initiative. QETPs are defined as employment schemes or tax practices designed to evade state and/or Federal employment or unemployment taxes. A federal-state workgroup was established to oversee the QETP initiative. This workgroup is comprised of representatives from IRS, DOL, the National Association of State Workforce Agencies, the Federal Tax Administrators, and four volunteer SWAs (California, Michigan, New Jersey, and North Carolina). The workgroup meets on a regular basis to discuss issues of concern and recommend to

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the IRS ways to improve activities related to this QETP initiative.

4. Memorandum of Understanding (MOU). An MOU has been developed to enhance the information sharing between the IRS and SWAs as a part of the QETP initiative. This agreement is intended to improve information sharing and other collaboration for tax administration purposes to address QETPs. This MOU does not replace existing agreements between the IRS and SWAs but should help to promote further cooperation for employment tax audits beyond merely sharing 1099 information. The parties to the MOU (participating states and the IRS) agree to:
 - a. Mutually share employment tax information. The information will be disclosed in accordance with IRC section 6103, and is intended to be used for civil tax compliance purposes.
 - b. Mutually share either actual copies of Employment Tax reports, or completed Employment Tax report data.
 - c. Participate in coordinated enforcement efforts and meet to discuss planned examinations. Based on mutual agreement, the parties will decide whether the examinations will be performed in a side-by-side setting with both agencies conducting their own individual examinations, or whether the examinations should be conducted independently with results shared at the conclusion.
 - d. Share the results of all joint efforts on a quarterly basis to the extent possible to allow for a tracking mechanism to measure and determine the success of the project.
 - e. Share employment tax training materials.
 - f. Participate in joint outreach events to the extent possible.
5. Department of Labor Endorsement. DOL supports the QETP initiative and believes this collaborative national approach will promote UI tax integrity. DOL also believes the QETP initiative will help reduce the tax gap, a measure of the extent to which taxpayers do not file their tax returns and pay the correct tax on time, for both Federal and state employment taxes. This increased collaboration will also leverage existing resources, achieve increased voluntary compliance, and send a consistent message to all taxpayers. This multi-agency approach presents a united compliance front to taxpayers and their representatives. To date, 11 SWAs have signed a Memorandum of Understanding (MOU) with the IRS, which positions these states to work in partnership with the IRS to better address QETP activities. DOL considers the QETP initiative to be a worthwhile endeavor and encourages SWAs to consider participating in this voluntary initiative.
6. Action Required. SWA Administrators are encouraged to provide this information to appropriate UI staff and take advantage of the QETP initiative by signing the MOU.

7. Inquiries. SWAs may contact their IRS Governmental Liaison (GL) for information about the MOU. The mailing addresses for all GLs may be found at the IRS Web site <http://www.irs.gov/govt/liaisons>. The IRS GL names and telephone numbers will be sent to the SWAs through the Regional Offices. Questions concerning the QETP initiative related to the UI program may be directed to Tom Crowley at crowley.thomas@dol.gov.

