Examples of Using Short-Time Compensation (STC) as a Tool for Reopening Businesses

These five scenarios demonstrate how the STC program may be used as a tool for reopening businesses. State law must conform to all provisions of Section 3306(v) of the Federal Unemployment Tax Act (FUTA). For purposes of this exercise, we highlight three particular provisions for each example, namely paragraphs (2) (*in lieu of layoffs*), (3) (*reduced workweek*), and (8) (*submission of a written plan*). These scenarios do not encompass all possible uses of STC as a reopening tool.

Company A: Employer reopens and brings back all employees with reduced hours.

Company A temporarily closed because of COVID-19. Prior to closing, Company A employed 10 individuals in a single affected unit for a standard workweek of 40 hours. In April 2021, Company A partially reopens by bringing back all 10 individuals at a reduced workweek of 30 hours.

In lieu of layoffs. The employer has enough work (300 hours) for 7.5 full-time employees. The employer is able to avert the continued layoff of 2.5 full-time employees by bringing back all 10 employees for a reduced workweek.

Reduced workweek. The employer reduced the workweek from 40 hours to 30 hours, which is a reduction of 25 percent and permissible under federal law, though state law may vary.

Submission of a written plan. Provided Company A submitted an STC plan and the state approved the plan **<u>prior</u>** to bringing back these 10 individuals, Company A may use STC as a tool for reopening.

Summary. The 10 returning employees would each receive 75 percent of their prior wages from their employer, while also remaining eligible for 25 percent of their respective weekly benefit amounts under a regular Unemployment Compensation (UC) or Pandemic Emergency Unemployment Compensation (PEUC) claim.

Company B: Employer reopens with work sufficient to bring back all employees with reduced hours; however, one employee is unable to return and their position is filled with a new hire.

Company B temporarily closed because of COVID-19. Prior to closing, Company B employed 10 individuals in a single affected unit for a standard workweek of 40 hours. In April 2021, Company B partially reopens by bringing back all 10 individuals at a reduced workweek of 30 hours. However, one individual is not able to return. For purposes of store coverage, the employer decides to hire a new individual to work 30 hours per week in place of the individual who cannot return.

In lieu of layoffs. The employer has enough work (300 hours) for 7.5 full-time employees. The employer is able to avert the continued layoff of 1.5 full-time employees by bringing back nine of the original employees for a reduced workweek.

Reduced workweek. The employer reduced the workweek from 40 hours to 30 hours, which is a reduction of 25 percent and permissible under federal law, though state law may vary.

Submission of a written plan. Provided Company B submitted an STC plan and the state approved the plan **prior** to bringing back these nine individuals, Company B may use STC as a tool for reopening.

Summary. The nine returning employees would each receive 75 percent of their prior wages from their employer, while also remaining eligible for 25 percent of their respective weekly benefit amounts under a regular UC or PEUC claim.

The new employee is not eligible to participate in STC.

Company C: Employer reopens with work sufficient to bring back some employees with reduced hours, while other employees remain fully unemployed.

Company C temporarily closed because of COVID-19. Prior to closing, Company C employed five individuals in a single affected unit, including four full-time workers (standard workweek of 40 hours) and one part-time worker (standard workweek of 20 hours). In April 2021, Company C partially reopens by bringing back three previous full-time employees at a reduced workweek of 24 hours and no part-time workers.

In lieu of layoffs. The employer has enough work (72 hours) for less than two full-time employees. The employer is able to avert the continued layoff of one full-time employee by bringing back three full-time employees for a reduced workweek. When possible, we encourage the employer to bring all employees back at reduced hours.

In this example, the full-time worker and part-time worker who are not called back may continue to file against their regular UC claims and subsequent extensions.

Reduced workweek. The employer reduced the workweek from 40 hours to 24 hours, which is a reduction of 40 percent and permissible under federal law, though state law may vary.

Submission of a written plan. Provided Company C submitted an STC plan and the state approved the plan **prior** to bringing back these three individuals, Company C may use STC as a tool for reopening.

Summary. The three returning employees would each receive 60 percent of their prior wages from their employer, while also remaining eligible for 40 percent of their respective weekly benefit amounts under a regular UC or PEUC claim.

Company D: Employer reopens with work sufficient to bring back some employees with reduced hours, without submitting a written STC plan to the state, while other employees remain fully unemployed. Subsequent to the initial reopening, the employer brings back the remaining employees so that all employees are now working reduced hours.

Company D temporarily closed because of COVID-19. Prior to closing, Company D employed 10 individuals in a single affected unit for a standard workweek of 40 hours. In February 2021, without submitting a plan to the state, Company D partially reopens by bringing back five individuals at a reduced workweek of 30 hours. In May 2021, Company D further reopens by bringing back the remaining five individuals at a reduced workweek of 30 hours.

In lieu of layoffs. In February 2021, the employer has enough work (150 hours) for 3.75 full-time employees. The employer is able to avert the continued layoff of 1.25 full-time employees by bringing back five of the original employees for a reduced workweek, but does not submit a plan prior to bringing back these five employees.

The five full-time workers who are not called back may continue to file against their regular UC claims and subsequent extensions.

In May 2021, the employer has enough work (150 hours) for an additional 3.75 full-time employees. The employer is able to avert the continued layoff of 1.25 full-time employees by bringing back the remaining five original employees for a reduced workweek.

Reduced workweek. The employer reduced the workweek from 40 hours to 30 hours for both groups (those brought back in February and those brought back in May), which is a reduction of 25 percent and permissible under federal law, though state law may vary.

Submission of a written plan. Because Company D did not submit a written plan prior to bringing back the five employees in February 2021, and as a result the state did not approve a plan for Company D, Company D may **not** use STC as a tool for reopening with these employees.

Provided the employer submitted an STC plan and the state approved the plan for Company D **prior** to bringing back the remaining five individuals in May 2021, Company D may use STC as a tool for reopening the five individuals brought back in May 2021.

Summary. The five employees who returned in February 2021 would not be eligible for STC.

The five employees returning in May 2021 would each receive 75 percent of their prior wages from their employer, while also remaining eligible for 25 percent of their respective weekly benefit amounts under a regular UC or PEUC claim.

Company E: Employer retains staff in one affected unit at reduced hours while laying off staff from another affected unit. The employer later brings back laid off individuals from the second affected unit to work reduced hours.

Company E reduced operations because of COVID-19. Prior to this reduction in operations, Company E employed 10 individuals in two different affected units, each for a standard workweek of 40 hours. In October 2020, Company E temporarily laid off five staff from the second affected unit. The remaining five staff in the first affected unit continued to work at a reduced 30 hours per week schedule. In May 2021, Company E brought back the five individuals from the second affected unit who were previously laid off to work at a reduced schedule of 20 hours per week.

In lieu of layoffs. In October 2020, the employer had enough work (150 hours) for 3.75 full-time employees. The employer is able to avert the layoff of 1.25 full-time employees by reducing hours for the five retained employees in the first affected unit.

- If the employer submitted and was approved for an STC plan in advance of the reduction, the five employees in the first affected unit who remained employed with a reduced workweek may have received STC.
- The five employees who were temporarily laid off in the second affected unit may file against their regular UC claims and subsequent extensions.

In May 2021, the employer had an additional amount of work (100 hours) for 2.5 full-time employees in the second affected unit. The employer is able to avert the continued layoff of 2.5 full-time employees by submitting a plan and then bringing back the five original employees who were laid off in October 2020 for a reduced workweek of 20 hours per week.

Reduced workweek. The employer reduced the workweek from 40 hours to 30 hours for the first affected unit of five individuals (those who remained employed in October 2020), which is a reduction of 25 percent and permissible under federal law, though state law may vary.

The employer reduced the workweek from 40 hours to 20 hours for the second affected unit (those who were temporarily laid off in October 2020 and brought back in May 2021), which is a reduction of 50 percent and permissible under federal law, though state law may vary.

Submission of a written plan. Provided Company E submitted an STC plan and the state approved the plan for the first affected unit of five individuals who remained employed in October 2020 prior to the reduction in work hours, these individuals may participate in STC.

Provided Company E submitted an STC plan and the state approved the plan prior to bringing back the five individuals from the second affected unit in May 2021, Company E may use STC as a tool for reopening the five individuals brought back in May 2021.

Summary. STC addresses each affected unit separately. The five employees from the first affected unit who remained employed with a reduced workweek in October 2020 would each receive 75 percent of their wages from their employer while also remaining eligible for 25 percent of their respective weekly benefit amounts under a regular UC or PEUC claim.

The five employees from the second affected unit returning in May 2021 would receive 50 percent of their prior wages from their employer while also remaining eligible for 50 percent of their respective weekly benefit amounts under a regular UC or PEUC claim.