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} REPORT  
No. 479

## CLARIFYING THE FEDERAL UNEMPLOYMENT TAX ACT

JULY 11 (legislative day, JULY 10), 1947.—Ordered to be printed

Mr. MILLIKIN, from the Committee on Finance, submitted the following

### REPORT

[To accompany H. R. 4011]

The Committee on Finance, to whom was referred the bill (H. R. 4011) to amend section 1602 of the Federal Unemployment Tax Act, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

By virtue of this act, the Committee on Finance adopts the report of the Committee on Ways and Means which follows:

#### GENERAL STATEMENT

#### PURPOSES OF THE BILL

The amendment proposed by the bill to section 1602 of the Federal Unemployment Tax Act (subch. C of ch. 9 of the Internal Revenue Code) has these three purposes:

(1) To give express statutory sanction to the administrative interpretation which has permitted voluntary contributions made by an employer to a State unemployment fund, under the provisions of the State law, to be used in the computation of reduced required contribution rates;

(2) To provide for a definite period within which voluntary contributions must be made in order to be qualified to effect reductions in required contribution rates for State contribution years beginning in 1948 or thereafter; and

(3) To provide that, in respect of State contribution years beginning in 1946 or 1947, such voluntary contributions may be made at any time prior to January 1, 1948 (or, if later, within 120 days after the beginning of the rate year).

#### MERIT RATING

The Federal Unemployment Tax Act imposes a tax of 3 percent on "wages" paid by "employers" of eight or more. Against this tax the act allows, under conditions specified, certain credits, which may not exceed in the aggregate a maximum of 90 percent of the amount of the tax. The effect of these credits is to reduce the Federal tax to not less than 0.3 percent. The amounts so credited represent not only contributions actually paid by the employer into the State unemployment fund, under an approved State law, but also any excess thereover

of the contributions he would have been required to pay into the fund had he been subject throughout the year to the highest rate applicable to any employer in the State, or to a rate of 2.7 percent, whichever was lower.

#### VOLUNTARY CONTRIBUTIONS

The unemployment compensation laws of almost all the States provide for merit rating, that is, for preferential rates of contribution required of employers, according to their employment experience. These laws, in the case of some 12 or 13 of the States, also make provision for voluntary contributions by employers, such contributions to be allowed as offsets against benefits charged to the employer's respective accounts. The effect of such offsets, of course, is to better the experience of the employers and to entitle them, therefore, to lower rates of contribution.

The Federal Unemployment Tax Act contains no provision specifically authorizing voluntary contributions of the character and effect described, but their use as an element in determining the "factors bearing a direct relation to unemployment risk," within the meaning of section 1602 (a) (1) of the act, has been recognized administratively.

The amendment made by the bill would expressly permit the use of voluntary contributions in the computation of reduced rates of required contribution.

The Federal law also fails to prescribe the period within which a voluntary contribution, effective as an element in rate reduction, can be made. Your committee is advised that the Federal Security Agency has considered this question from time to time and that its position is that such contributions may be used for rate determination purposes if they are paid before the first due date for required contributions for the new rate period. Thus, for example, if a State law prescribes that a contribution rate is applicable for a calendar year and the first due date for contributions for such calendar year is April 30, voluntary contributions paid on or before that date will be considered timely.

The amendment made by the bill provides in effect, that voluntary contributions for rate years beginning in 1948 or thereafter will be effective if paid within 120 days after the beginning of the rate year.

The amendment made by the bill would also have the effect, with respect to rate years beginning in 1946 or 1947, of providing that voluntary contributions available for rate determination purposes may be made at any time prior to January 1, 1948 (or, if later, within 120 days after the beginning of the rate year). The need for such a provision has arisen from the action of the Federal Security Agency in withholding approval of an amendment made to the Minnesota unemployment compensation law in April of this year. That amendment would permit the use of voluntary contributions, paid on or before June 30, 1947, or within 60 days thereafter, in the determination of rates for the years 1946 and 1947. The contributions so available would not exceed the greater of \$300 or 0.1 percent of the employer's annual pay roll. The amendment was designed to eliminate inequitable differences of rate resulting from the operation of the prior law under the extraordinarily favorable employment experience of the war and post-war periods. Approval was withheld on the ground that the period within which voluntary contributions could be made in respect of the years 1946 and 1947 was unreasonably long.

Your committee is unanimously of the opinion that this bill should be enacted without delay, in order that existing ambiguities relating to the effectiveness of voluntary contributions may be removed from the Federal Unemployment Tax Act. The Federal Security Agency is likewise of opinion that these ambiguities should be removed.

It is believed that all practicable precision in the statutory standards is desirable, from the standpoint of Federal and State agencies as well as of employers.

#### ANALYSIS OF THE BILL

Section 1 of the bill adds a new subsection, designated (d), to section 1602 of the Federal Unemployment Tax Act. Section 1602 prescribes the conditions under which the additional, or merit rating, credit under section 1601 (b) is allowed. Standards to which State laws must conform are set forth in section 1602 (a).

The new subsection provides that a State law may, without being deemed to violate those standards, permit voluntary contributions to be used in the computation of reduced rates if such contributions are paid within 120 days after the beginning of the rate year, or prior to January 1, 1948, whichever is later.

Under section 2 of the bill, the amendment made by section 1 will be applicable only with respect to contribution rate years beginning after December 31, 1945.

## CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes made by the bill in existing law are shown below as follows (new matter is printed in italic and language in which no change is proposed is printed in roman):

## "FEDERAL UNEMPLOYMENT TAX ACT

“(Subch. C of ch. 9 of Internal Revenue Code)

## "SEC. 1602. CONDITIONS OF ADDITIONAL CREDIT ALLOWANCE.

“(a) State Standards.—A taxpayer shall be allowed an additional credit under section 1601 (b) with respect to any reduced rate of contributions permitted by a State law, only if the Federal Security Administrator finds that under such law—

“(1) No reduced rate of contributions to a pooled fund or to a partially pooled account, is permitted to a person (or group of persons) having individuals in his (or their) employ except on the basis of his (or their) experience with respect to unemployment or other factors bearing a direct relation to unemployment risk during not less than the three consecutive years immediately preceding the computation date;

“(2) No reduced rate of contributions to a guaranteed employment account is permitted to a person (or a group of persons) having individuals in his (or their) employ unless (A) the guaranty of remuneration was fulfilled in the year preceding the computation date; and (B) the balance of such account amounts to not less than 2½ per centum of that part of the pay roll or pay rolls for the three years preceding the computation date by which contributions to such account were measured, and (C) such contributions were payable to such account with respect to three years preceding the computation date;

“(3) No reduced rate of contributions to a reserve account is permitted to a person (or group of persons) having individuals in his (or their) employ unless (A) compensation has been payable from such account throughout the year preceding the computation date, and (B) the balance of such account amounts to not less than five times the largest amount of compensation paid from such account within any one of the three years preceding such date, and (C) the balance of such account amounts to not less than 2½ per centum of that part of the pay roll or pay rolls for the three years preceding such date by which contributions to such account were measured, and (D) such contributions were payable to such account with respect to the three years preceding the computation date.

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“(d) *Voluntary Contributions.*—A State law may, without being deemed to violate the standards set forth in subsection (a), permit voluntary contributions to be used in the computation of reduced rates if such contributions are paid prior to the expiration of one hundred and twenty days after the beginning of the year for which such rates are effective, or prior to January 1, 1948, whichever date is the later.”

