

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION FAC
	CORRESPONDENCE SYMBOL OUI/DUIO
	DATE January 4, 2010

ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 11-09, Change 1

TO: STATE WORKFORCE AGENCIES

FROM: JANE OATES /s/
Assistant Secretary

SUBJECT: Federal Additional Compensation Program

1. Purpose. To advise states of findings resulting from an Office of Inspector General (OIG) audit of the Federal Additional Compensation (FAC) program and to remind states of FAC program instructions including: 1) establishing, recovering, and reporting any FAC overpayments, and 2) withholding income taxes from FAC upon a claimant's election to have such taxes withheld.
2. References. Section 2002 ("Increase in Unemployment Compensation Benefits") of Division B, Title II, the Assistance for Unemployed Workers and Struggling Families Act, of the American Recovery and Reinvestment Act of 2009, Public Law No.111-5 enacted on February 17, 2009; Title III, Social Security Act (42 U.S.C. 501 et seq.); Federal Unemployment Tax Act (26 U.S.C. 3301 et seq.); Section 205 of the Federal-State Extended Unemployment Compensation Act of 1970, as amended; Unemployment Insurance Program Letter (UIPL) No. 29-05; UIPL No. 12-87; UIPL No. 12-87, Change 1; UIPL No. 23-08; UIPL No. 23-08, Changes 1, 2, 3, 4, 5, and 6, UIPL No. 11-09; and ET Handbook No. 401, Unemployment Insurance Reports Handbook.
3. Background. FAC is a \$25 weekly supplement provided to individuals who are receiving unemployment compensation. This \$25 supplement is 100 percent funded from Federal general revenues. FAC is payable to individuals who are otherwise entitled under state law to receive regular unemployment compensation for weeks of unemployment and is also payable to individuals receiving the following Federal and other state unemployment benefit programs: Unemployment Compensation for Federal Employees; Unemployment Compensation for Ex-Servicemembers; Emergency Unemployment Compensation, 2008 (EUC08); Extended Benefits; Trade Readjustment Allowances; Disaster Unemployment Assistance; Short-Time Compensation; and payments under the Self-Employment Assistance programs. FAC is not payable as a supplement to State Additional Compensation; states that are paying State Additional Compensation shall not supplement those benefits with FAC.
4. OIG FAC Audit Findings. The OIG conducted an audit of the FAC program in 10 states and found that overall states did a good job in implementing the FAC program. However, the OIG found that some states failed to withhold taxes from FAC payments when claimants elect to have taxes withheld. In addition, one state did not establish and report FAC overpayments.

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The Employment and Training Administration (ETA) staff also found some of the same problems in some states while conducting FAC program reviews. ETA staff is working with the states to address these findings.

5. FAC Program Guidance. UIPL No. 11-09 provided operating instructions to states for the FAC program. These instructions advised states they must establish, recover and report any FAC overpayments. States will establish FAC overpayment(s) when unemployment compensation payments are determined to be overpaid for any week(s) in which FAC was added as a supplemental payment. Also, because the FAC is added to a compensation payment after any deductions are made, including offsets for overpayments, FAC may be used to offset only FAC overpayments.

Additionally, states were advised they must withhold taxes when individuals elect to have taxes withheld from FAC payments. Therefore, states must include FAC when preparing 1099Gs, and must, consistent with section 3304(a)(18) of the Federal Unemployment Tax Act, withhold taxes from the weekly benefit amount, including the \$25 supplement when an individual elects to have taxes withheld.

6. Action Requested. Administrators are requested to provide this information to the appropriate staff.
7. Inquiries. Direct questions to the appropriate Regional Office.