


TRAINING AND EMPLOYMENT NOTICE	NO . 3-21
	DATE August 20, 2021

TO: STATE WORKFORCE AGENCIES

FROM: SUZAN G. LEVINE 
Acting Assistant Secretary

SUBJECT: Questionable Employment Tax Practices (QETP) Program

1. **Purpose.** To provide information and a reminder regarding the Questionable Employment Tax Practices (QETP) program with respect to state unemployment insurance (UI) tax administration.
2. **Action Requested.** The Department of Labor's Employment and Training Administration (ETA) requests that state administrators provide the information in this notice to appropriate program staff and strongly encourages state administrators to integrate the resources described in this guidance into their state UI tax operations.
3. **Summary and Background.**
 - a. Summary – This notice provides state workforce agencies with a reminder about the information regarding available resources in the QETP program.
 - b. Background – The QETP program, which was initiated by the Internal Revenue (IRS) Small Business /Self Employed Division in 2006, is a federal/state partnership whereby the IRS and state workforce agencies share pertinent information to address employment tax schemes that reduce or evade state and/or federal employment or unemployment insurance taxes. The table below summarizes state audit results in recent years as a result of their participation in the QETP program.

QETP State Audit Results
Fiscal Year: 2015 through 2020

Period	Total \$ Assessed w/o Penalties and Interest	Total Wages Reclassified	Total Workers Reclassified	Number of Businesses Audited
FY 2020	\$5,690,679	\$596,166,156	28,628	3,022
FY 2019	\$24,661,526	\$1,062,472,058	89,091	6,344
FY 2018	\$12,138,757	\$879,598,520	44,058	6,180
FY 2017	\$8,652,375	\$56,004,347	36,321	5,491
FY 2016	\$6,740,557	\$312,315,689	35,513	5,350
FY 2015	\$11,377,274	\$1,035,323,889	48,181	7,130

The IRS and ETA believe that non-participating states would improve their audit results if they would participate in the QETP program.

Some of the information the IRS provides to states under the QETP program includes:

- Listings of referral leads from Form SS-8, Determination of Worker Status for Purposes of Federal Employment Tax Withholding, IRS determinations. Firms and workers file Form SS-8 with the IRS to request a determination of worker status under the common law rules for purposes of federal employment taxes and income tax withholding.
- Employment tax audit referral reports with certain issues including worker reclassification and “under-the-table” payment type of cases.
- Form 1099-MISC extracts that provide non-employee compensation federal tax information. Data provided is limited to form 1099-MISC, box 7. Non-payment information in the extract will include payer and payee entity information.

When the IRS and a state agency share tax return information the state agency may realize the following benefits:

- Identification of misclassified workers (independent contractor vs. employee)
- Flagging potential State Unemployment Tax Act (SUTA) dumping schemes (e.g., employer may have formed shell companies and manipulated UI tax experience to get lower than entitled UI tax rates)
- Identification of new businesses and/or potential non-filers

4. **Requirements for Participation.** A state workforce agency seeking to participate in the QETP program and exchange data with the IRS must have a Basic Agreement and an approved Safeguards Security Report.

To receive the Form 1099-MISC information, state workforce agencies must complete an annual Governmental Liaison Data Exchange Program enrollment each summer. The annual GLDEP enrollment is used by the state workforce agency to designate the extracts it would like to receive in the next year.

State workforce agencies that want to share and exchange audit reports with the IRS and participate in side-by-side examinations, when appropriate, must have a QETP Memorandum of Understanding (MOU) with the IRS. The QETP MOU lists state and IRS contacts, describes state and IRS duties/responsibilities, addresses disclosure, safeguards, and record keeping requirements.

5. **Assistance to Participate.** A state workforce agency seeking to participate in the QETP Program, or otherwise needs assistance, should contact the state's IRS Governmental Liaison. Contact your appropriate ETA Regional Office if you need the contact information for your state's IRS Governmental Liaison.
6. **Inquiries.** Please direct inquiries to the appropriate ETA Regional Office.
7. **Reference.** Unemployment Insurance Program Letter 17-07, *Initiative to Address Questionable Employment Tax Practices*
https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2334
8. **Attachment(s).** Not Applicable.