

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	<b>CLASSIFICATION</b> UI
	<b>CORRESPONDENCE SYMBOL</b> DL/DUIO
	<b>DATE</b> August 7, 2012

**ADVISORY:** UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 02-12, Change 1

**TO:** STATE WORKFORCE AGENCIES

**FROM:** JANE OATES /s/  
Assistant Secretary

**SUBJECT:** Unemployment Compensation (UC) Program Integrity – Amendments made by the Trade Adjustment Assistance Extension Act of 2011 (TAAEA) -- Questions and Answers

**1. Purpose.** To respond to questions from state workforce agencies about the UC program integrity provisions of the TAAEA.

**2. References.**

- TAAEA (Pub. L. 112-40);
- Sections 303 and 453A of the Social Security Act (SSA) (42 U.S.C. 503 and 42 U.S.C. 653A);
- Sections 3303, 3304, and 3309 of the Federal Unemployment Tax Act (FUTA) (26 U.S.C. 3303, 3304, and 3309);
- Unemployment Insurance Program Letter (UIPL) No. 26-85, *Interest on Overpayment of Federal Claims*; and
- UIPL No. 02-12, *Unemployment Compensation (UC) Program Integrity – Amendments made by the Trade Adjustment Assistance Extension Act of 2011 (TAAEA)*.

**3. Background.** TAAEA amended sections 303 and 453A of the SSA and sections 3303, 3304, and 3309 of FUTA to:

- a. Require states to impose a monetary penalty (an amount not less than 15 percent of the erroneous payment) on claimants whose fraudulent acts resulted in overpayments;
- b. Prohibit states from providing relief from charges to an employer’s UC account when a UC overpayment results from an employer (or an employer’s agent) failing to respond timely or adequately to a request for information by the state agency (i.e., employer or agent at fault), and, at minimum, the employer (or its agent) has established a pattern of failing to respond to such requests; and

<b>RESCISSIONS</b> None	<b>EXPIRATION DATE</b> CONTINUING
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- c. Expand the scope of employees that employers report to a state directory of new hires as “newly hired employees,” to also include individuals who were previously employed by the employer but who have been separated from the employer for at least 60 consecutive days.

The first two changes may require states to amend their state UC law with respect to penalty assessments on fraud overpayments and noncharging provisions for employers. State provisions implementing these two Federal amendments must apply to overpayments established after October 21, 2013. The Federal amendment on newly hired employees became effective April 21, 2012, unless the U.S. Department of Health and Human Services (HHS), which is responsible for the “new hires” data, determined that the state must amend its state law to meet the new reporting requirement. In that case, the state has until the first day of the second calendar quarter that follows the close of the first regular session of the state legislature beginning after October 21, 2011, to amend its UC law. If the state has a 2-year legislative session, each year of the session is considered a separate session. HHS will be issuing guidance on this requirement.

**4. Action Requested.** State Administrators are requested to provide this guidance to appropriate staff.

**5. Inquiries.** Questions should be directed to the appropriate Regional Office.

**6. Attachment.** Unemployment Compensation (UC) Program Integrity – Amendments made by the Trade Adjustment Assistance Extension Act of 2011—Questions and Answers.